

ORGANIZATION OF THE TAX AUDIT AS THE MAIN OBSTACLE TO IMPOSE FINANCIAL PENALTIES

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Abstract: This article is devoted to the consideration of issues related to the prevention of the cases of violating the tax legislation in our republic and their timely elimination. In addition, with the aim of preventing lacks in the tax accounting by introducing the tax audit in practice. On the basis of the research the article provides relevant conclusions and recommendations on the necessity to conduct a tax audit at entrepreneurship entities.

Key words: a tax, tax audit, tax supervision, tax payers.

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Introduction. All the economic sectors are developing in line with the ongoing economic reforms implemented in our country. The development of the sectors of the economy is crucially important for the government and supervisory agencies to prevent the frauds in the financial and economic activity of the entities, eliminate the deficiencies as well as prevent the situations that lead to financial responsibility.

It is well known that in all countries such the concepts such as supervision and examination haven't lost their significance and are changing their organizational structure. If during some periods of time only some measures were applied to the control and drawbacks, currently, financial and economic activities of business entities are being examined with the help of the audit, but the administrative measures are not applied, but the measures of an advisory nature on the accounting issues are undertaken.

Since the early days of independence, the country has been implementing a number of reforms to support the activities of auditors and financial revisers, to apply them in practice, and to make legislative changes in the various controversial situations and contradictions. The Law of the Republic of Uzbekistan "On auditing activities" which was originally based on initial auditing activities and adopted on December 9 1992. Later on to meet the modern requirements of time the new edition of this Law was adopted on May 26, 2000. This Law consists of 29 articles and has brought many new developments into the auditor's activities. This Law is the first in the legislative practice which has provided legal definition of such concepts as an auditor's assistant, auditor's qualification certificate, and the compulsory nature of the audit inspections. The auditor's report, the auditor's conclusion have been considered in compliance with the modern requirements.

The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan № 365 as of September 22, 2000 "On Improvement of Audit Activity and Raising the Role of Audit Inspections" stipulates that the minimum amount of the authorized capital of audit companies should constitute at least 1200 minimum wages. The Resolution of the President of the Republic of Uzbekistan № PD – 615 as of April 4, 2007 "On further improvement of activity of audit companies and increase of responsibility for quality of their services" was also aimed at making

amendments to the amount of the authorized capital of audit companies. These modifications clarify the fact that the companies subject to audit are imposed rather high requirements. Moreover, they must comply with the modern requirements, the need for qualified professionals and the financial sustainability of these entities.

It also testifies to the legal basis of audit in our country and plays an important role in the development of entrepreneurial activity.

In many countries, the classification of audit types plays an important role in representing theoretical issues of the audit because the type of audit determines the nature and peculiarities of the audit process. For example, audit of financial and economic activities is considered to be a general audit, and audit of specific sectors or branches would facilitate the efficiency of the audit process.

Our research is devoted to the analysis of the issues performing a tax audit which has become very popular type of the audit in our republic because of its significance. In the framework of accounting and tax reforms, the functional direction of audit activities changes which enhances the importance of tax audits. In conditions of economic liberalization and deepening reforms, there is a need for tax audits - one of the modern types of audit. Under such circumstances the compliance of the economic entity with tax laws is a crucial factor because one of the requirements of tax policy in the country is the compliance with the tax legislation. We know that each economic entity when carrying out its activities can misuse tax and financial legislation and admit misapplication of tax laws. In such cases it is advisable to perform tax audits.

Literature review. Under “tax audit” many practicing experts understand tax audits carried out by tax authorities. However, if comprehensively research this concept it is obvious that it is used differently in practice. Initially, researchers and scholars on tax audit have commented on this issue.

E.A. Arens and J. K. Lobbler stated that “Taxpayers are obliged to comply with federal tax laws and government has to perform audits to verify tax returns... That tax legislation is very complex and requires profound knowledge of tax audits”.

A.D. Scheremet provided the following definition to the concept of tax audit: “Tax audit is an accurate and complete calculation and payment of taxes, and examination of the compliance with tax policies”.

B.Isroilov, a scholar of the Republic of Uzbekistan, described tax audit as a “Verification of financial activities conducted by relevant authorities for the purpose of supervision over the tax law observance by taxpayers within the framework of terms, procedures and taxpayers’ discipline”.

Z.N. Kurbanov in his research papers comprehensively studied the issues of the tax audit and gave the following definition to this term: “Tax audit is an accurate calculation of taxes, compulsory payments and deductions to the extrabudgetary funds by economic entities, timely and complete payments to the budget, as well as observance over the tax legislation and rendering advisory services on the taxation issues”.

From the point of view of K. Khotamov, “Tax audit is verification of the compliance of all taxes and elements of other compulsory payments, as well as accurate application of all elements and preferences with the legal framework of tax and accounting. Tax audit is performed by independent audit companies”.

The definitions of the tax audit stated above demonstrate that tax audits are an activities that are directly related to the process of auditing by an independent audit company and not by a tax authority, and is aimed at drawing an independent auditor’s conclusion. Therefore, tax audit is not the matter of any penalties, but rather the elimination and prevention of tax drawbacks in business entities, advisory services on taxation issues and other similar “friendly” services.

Discussion. Having analyzed the definitions given by the scientists, it is clear that foreign scholars taxpayers have a profound knowledge about taxation, accurate and complete tax

assessments, and auditing of compliance with tax legislation, while B. Israilov, a national scholar-economist has an opinion that the tax audit is performed with the aim of supervising execution of the tasks imposed on the tax authorities.

In our opinion, the definitions given by foreign scientists E.A. Arens, J.K. Lobbek, A.D. Scheremet, V.P.Suyts are somehow general, as the definition provided by B. Israilov states the tax audit is similar with the tax control in its form, however, it has more “friendly” nature.

The definition of the “tax audit” concept provided by Z. Kurbanov and foreign scientists A.D.Sheremet, V.P.Suyts is aimed at revealing the essence of some types of the tax audit.

K. Khotamov in his definition proposed that all elements of taxes and other compulsory payments (the object of taxation, a taxable base, a tax rate, the order of tax calculation, a tax period, the order of submission tax reports, the order of tax payment) as well as accurate application of tax privileges should be in compliance not only with the tax statutory acts, but with accounting legal documents as well.

Establishment, development and practical application of the tax audit in our Republic is connected with the necessity for the solution of urgent problems. Lack of the statutory documents related to legal regulation of the tax audit, lack of the tax audit methodology, lack of elaboration of the tax audit issues, and most significant fact is that tax audits are not regulated by normative legal acts are among these problems.

Currently, reducing tax audits in some extent restricts the ability to control some of tax laws at economic entities businesses. However, simultaneously the reduction of tax inspections and development of the tax audit ensure the smooth functioning of the business entities and timely elimination of drawbacks by conducting tax audit and without waiting for tax inspections.

Necessity to carry out tax audits, improvement of the legal framework of services rendered by the audit companies has been revealed in the Decree of the President of the Republic of Uzbekistan № 4848 “On additional measures to ensure accelerated development of

entrepreneurship, comprehensive protection of private property and qualitative improvement of the business environment” as of October 5, 2016. In particular, the Decree has once again proven the necessity of conducting tax audits by stating that perfection of legal bases of activity of the audit companies and tax advisers on strengthening of the responsibility for quality of services and reliability of their conclusions as one of the basic mechanisms of the prevention of violations and guarantees of stable activity of lawful business entities.

According to this Decree, beginning from January 1, 2017 all types of unscheduled inspections of business entities are canceled, except for inspections in connection with the liquidation of a legal entity, and also conducted solely by a decision of the Republican Council for Coordination of the activities of controlling bodies of short-term inspections on the basis of appeals from individuals and legal entities about violations of legislation.

Currently by carrying out tax oversight, tax authorities provide supervision, punishment, payment of fines and penalties. This, in turn, lead to restriction of inspections of taxpayers.

The researcher K. Khotamov proposed the authorities which are assigned the right to perform a financial control: the Audit Chamber and the Ministry of Finance which can carry out both audit and financial control simultaneously (Figure 1).

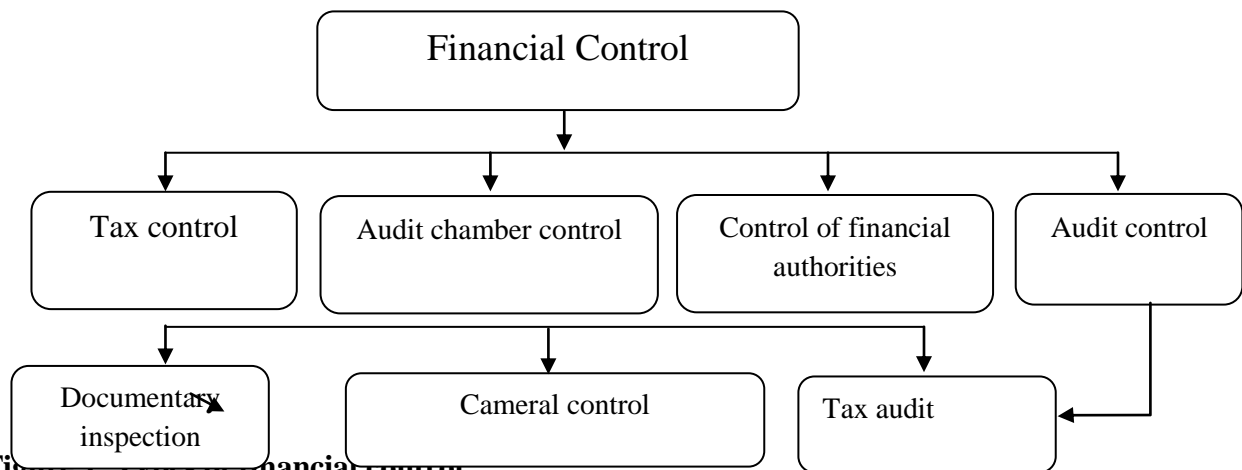


Figure 1. Types of financial control

It should be noted, that tax audit has also been referred to as audit control and tax control. As our researches demonstrate, the process of carrying out tax audit is divided into two stages:

¹Source: K.R. Khotamov “Improving accounting, analysis and audit of indirect taxes”. Dissertation of DSc. Tashkent, BFA, 2016.

The first stage is the initial assessment of the current tax system, the second stage is verification of the tax benefits for budget and extrabudgetary funds.

During the first stage auditors carry out the following actions:

- identify factors affecting the calculated amount of tax;
- verification of taxes and other compulsory payments;
- performance of the units responsible for document circulation and making payments;
- calculation of indicators of economic entities connected with taxation.
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The second stage is devoted to the analysis and assessment of tax privileges and their application. As a result of these analyzes, conclusions on the structure of taxation are prepared, systemic deficiencies are eliminated and optimization options are proposed.

From the conducted research it is obvious that tax audits in foreign countries are widely performed in small businesses. In addition, due to the relatively small size of economic entities, they usually work with executive managers without hiring professional accountants. However, in order not to infringe tax legislation and ensure constant application of changes in the activity of companies, the advice of tax audit companies is being used.

In our opinion, besides above-mentioned statements, we consider necessary to implement the following:

- conducting tax audit at economic entities established as a legal entity, however, performing their activities independently without a chief accountant on the contract basis;
- conducting tax audit at large companies or enterprises on the initiative of a manger when a chief accountant is changed and on the initiative of founders when a manager is changed;
- conducting tax audit at economic entities by main types of taxes on the contract basis.

Implementation of our proposals will facilitate prevention of drawbacks in the processes related to financial and economic activities of businesses and tax legislation.

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