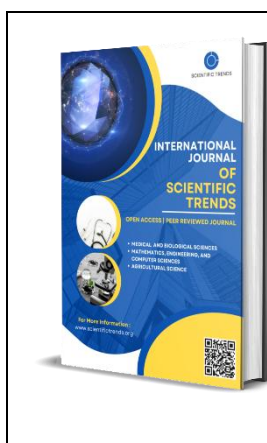


Delict Liability in the System of Legal Protection of Taxpayers: Theoretical and Normative Analysis

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Abstract

This article provides both theoretical and normative analysis of the mechanisms for compensating for damage caused to taxpayers as a result of illegal decisions of tax authorities and illegal actions of tax officials, and restoring violated rights. It examines the public and private regulatory framework for the legal protection of taxpayers within the framework of Uzbek and foreign legislation. At the same time, it studies new developments in the theoretical framework in Uzbekistan.

Keywords: Tort liability; tax authority; tax official; taxpayer; liability of a state authority; damage; public dispute; invalidation of a tax authority's decision; compensation; comparative law.

Introduction

In a market economy, the tax system plays a central role in ensuring the financial stability of the state, the formation of budget revenues and the implementation of social functions. At the same time, tax relations are inherently public-legal in nature, and they reflect the primacy of state authority. This situation makes it an objective necessity to create reliable legal protection mechanisms for the rights and interests of taxpayers.

In recent years, Uzbekistan has been implementing reforms aimed at improving tax administration, digitization and ensuring transparency. In particular, measures are being taken to transform the activities of the State Tax Committee of the Republic of Uzbekistan, introduce electronic tax services and optimize forms of control. However, practice shows that there are also cases of damage caused to taxpayers as a result of decisions and actions (inaction) taken by tax authorities. This requires a deep analysis of the issue of tort liability of state bodies from a scientific, theoretical and regulatory perspective.

Although the institution of delict liability is traditionally studied within the framework of civil law, it has its own characteristics in the field of tax relations. Because here, on the one hand, there is a government body with authority, and on the other, a taxpayer with private interests. Therefore, the issue of compensation for damages caused by illegal decisions of tax authorities appears as a borderline relationship between public and private law.

The institution of liability of state bodies is of great importance in strengthening the trust of citizens and business entities in the state. The existence of a real and effective mechanism of tort liability for illegal actions of tax authorities is a practical expression of the concept of a legal state. In practice, tax disputes are often resolved administratively or judicially, but the issue of compensation for property damage caused is not sufficiently systematized. This requires theoretical substantiation and normative clarification of the tort liability of tax authorities. However, issues such as the legal framework within which relations for compensation for damage in the tax sphere should be regulated, the criteria for determining the fault of a state body, causality, and the amount of damage are the subject of scientific debate.

Article 55 of the Constitution of the Republic of Uzbekistan establishes a Constitutional guarantee of the protection of the civil rights of taxpayers. According to it, "The Everyone has the right to protect his rights and freedoms by all means not prohibited by law. Everyone is guaranteed the right to judicial protection of his rights and freedoms, to appeal to the court against unlawful decisions, actions and inaction of state bodies and other organizations, their officials. Everyone is guaranteed the right to have his case considered by a competent, independent and impartial court within the time limits established by law for the restoration of his violated rights and freedoms. Everyone has the right to compensation from the state for damage caused by unlawful decisions, actions or inaction of state bodies or their officials"[1]. This norm is the "constitutional reference point" for the delict mechanism in tax disputes.

In addition, the Civil Code lists among the methods of protecting rights the recognition of a document of a state body or a self-government body of citizens as invalid, as well as other methods provided for by legislation, which are a private basis for legal protection. Article 15 of the Civil Code establishes that the damage caused as a result of an illegal decision (action) of state bodies (or their officials) shall be compensated at the expense of the state or the relevant body. This norm creates a general tort basis for recovering damage caused as a result of an illegal action of a tax authority[2].

The Tax Code, on the other hand, contains special norms that directly strengthen the rights of taxpayers, including the right to demand compensation for losses caused by unlawful decisions of tax authorities or illegal actions (inaction) of officials. Scholars consider tax legislation to be the main regulatory document in this regard[3].

Article 155 of the Tax Code During a tax audit, it is not allowed to cause damage to the persons being audited or to property in their possession, use or disposal through illegal actions. Damage caused during a tax audit by illegal decisions of tax authorities or actions of their officials must be compensated in full. For damage caused to the persons being audited by illegal decisions of tax authorities, their officials shall be liable in accordance with the procedure established by law[4].

Thus, the Uzbek model combines a general tort (private-FC) and special tax norms. However, unlike tort, there is also a system that protects the rights of taxpayers. This is a mechanism for the recovery of restitution and interest. This mechanism provides for the return of overpaid or overcharged taxes in accordance with the relevant provisions of the Tax Code. In practice, this institution is often limited to "returning excess debt and collecting interest."

If we compare the experience of other countries in this regard, we can observe that the experience of the CIS countries is almost identical. For example, in Russia, the liability of tax authorities, like in Uzbekistan, is regulated by general tort and special tax legislation. The Tax Code of Russia[5]

contains rules that establish liability for damage caused to a taxpayer due to illegal actions of tax authorities. The Civil Code enshrines the rule on compensation for damage caused by illegal actions of state authorities from the state budget[6].

In Germany, if a public authority (official) violates a duty to a third party in the course of performing its official duties, the main civil basis is Article 34 of the Grundgesetz and §839 of the BGB. In practice, liability shifts from the “official” to the “state” (Art. 34 GG) and fault (intention or negligence) is required (§839 BGB)[7]. In tax disputes, however, a tort claim is usually pursued in parallel with the “administrative procedure”. In Germany, one of the important practices of “compensation for financial damage” in the field of taxation is the institution of interest, which is not a direct tort, but serves as a means of ensuring financial justice between the state and the taxpayer[8].

In European Union law, two principles of state liability and taxpayer protection are in effect. These are state liability (Francovich; Brasserie du Pêcheur/Factortame) and state liability for personal injury caused by a breach of EU law[9]. These principles are consistent with the criteria of the Tax Code of the Republic of Uzbekistan. A conceptual comparative analysis is the basis for its assessment and justification of the extent to which tortious damages are required.

In general, elements of a unified and transparent legislative regime for compensation for damage caused by state bodies exist in Uzbekistan. In 2025, a draft law “On Compensation for Damage Caused by an Unlawful Decision, Action or Inaction of a State Body or Its Official” was developed and submitted to the Senate[10].

But this matter has not been brought to an end. In practice, there are more than 10 legal documents on compensation for damages caused by state bodies. These various documents are scattered in the subject of research. It would be appropriate if this document were accepted. The main reason for this is that the "Territorial target funds for compensation of damages to physical and legal entities" provided for in this draft law will be the main source of compensation[11].

According to the draft, there are territorial special-purpose funds for compensation for damages caused to individuals and legal entities, which do not have the status of a legal entity, are established by decisions of the Council of Ministers of the Republic of Karakalpakstan, regional and Tashkent city government and operate under them, which compensate for material and (or) moral damage caused to individuals and legal entities due to an unlawful decision, action or inaction of a state body or its official and are determined by a court decision that has entered into legal force.

Funds of the "Territorial Compensation Fund" were formed in the project The sources are as follows:

respectively of the republican budget of the Republic of Karakalpakstan, funds of the regional budgets of the regions and the reserve funds of the Tashkent city budget in the amount of not less than fifteen percent;

Additional sources of funds from the republican budget of the Republic of Karakalpakstan, regional budgets of the regions and the city budget of Tashkent;

Funds received from the sale of rights to land plots for entrepreneurial and urban development activities on an electronic trading platform, transferred as additional sources to special treasury accounts of the budget of the Republic of Karakalpakstan, regional budgets and local budgets of the city of Tashkent;

part of the funds of extra-budgetary funds of the executive authorities of the republic;
funds provided for compensation of material and moral damage in the parameters of the local budget;

funds recovered from the state body in the recourse procedure;

funds in the form of sponsorship and charitable assistance from legal entities and individuals, including non-residents of the Republic of Uzbekistan;

proceeds from the sale of confiscated property for the benefit of the state (the part directed to regional compensation funds);

other receipts not prohibited by law.

Funds from the sale of property confiscated for the benefit of the state (the part directed to regional compensation funds) provided for compensation of material and moral damage in local budget parameters are directed only to compensation of material and moral damage.

Funds received by regional compensation funds are deposited in personal treasury accounts opened in the relevant territorial divisions of the Treasury Service Committee under the Ministry of Economy and Finance of the Republic of Uzbekistan.

Regional supervisory councils make decisions on the allocation of funds for compensation for losses within administrative-territorial units. Control the receipt of funds to the relevant fund and consider forecasts for the use of funds, as well as approve forecasts for the use of funds for the next year. Consider budget requests for financing compensation for losses.

In conclusion, tort liability in Uzbekistan is not a formal, but a sufficiently strengthened normative mechanism for protecting the civil rights of taxpayers. At the same time, in practice, tort claims are often functionally linked to the resolution of administrative disputes.

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