

## Conference Paper

# Optimization of taxes as a factor of money laundering

Leonov P. Y. and Epifanova O. A.

National Research Nuclear University MEPhI (Moscow Engineering Physics Institute), Kashirskoe shosse 31, Moscow, 115409, Russia

## Abstract

The optimization of the tax base remains a serious challenge for any business entity. At the same time, the challenge to keep economic activities in the legal field remains no less urgent. This paper deals with the issues of optimizing profit tax. Such methods of the tax optimization as the creation of various reserves, depreciation savings, leasing operations are analyzed. Special attention is paid to such negative phenomena as predicate offences. Their features are described, as well as the possible consequences of their commitment.

Corresponding Author:

Epifanova O. A.

leveret15@mail.ru

Received: 11 December 2017

Accepted: 20 January 2018

Published: 13 February 2018

Publishing services provided by  
Knowledge E

© Leonov P. Y. and Epifanova O. A.. This article is distributed under the terms of the [Creative Commons Attribution License](#), which permits unrestricted use and redistribution provided that the original author and source are credited.

Selection and Peer-review under the responsibility of the FinTech and RegTech: Possibilities, Threats and Risks of Financial Technologies Conference Committee.

## 1. Introduction

Every organization, regardless of the type of activity and ownership in accordance with the legislation of the Russian Federation, faces the need to pay taxes. As the Russian tax legislation is controversial in some way, the size of the tax burden can largely depend on the choice of tax strategy laid down in the accounting policies of the organization. Moreover, often the absence of clear criteria and guidelines to distinguish between lawful and unlawful actions in Russian legislation causes the emergence of application of the methods of criminal tax evasion to optimize their tax burden. The effective optimization of taxation is necessary for different organizations. It helps to avoid large losses in their financial and economic activities and to achieve a stable financial position.

## 2. Optimization of income tax

Tax optimization is a set of techniques and approaches to effective planning (minimization) of the taxes listed in the budget. In other words, tax optimization refers to reducing the size of tax liability through the exercise of legitimate action involving the

 OPEN ACCESS

use of all existing benefits provided by legislation, tax exemptions and other techniques and methods within the framework of existing legislation.

The goal of tax optimization is to reduce the size of all taxes in respect of which the taxpayer has responsibilities, to minimize possible penalties, to reduce tax risks. Moreover, the goal of tax optimization can be a deferral of tax payments. It is important to note that in some cases hidden purpose of tax optimization is not only a deferral of tax payments, but also their failure, i.e. committing tax offences.

Income tax is one of company taxes which are most difficult to calculate. In an effort to reduce the pressure of tax burden taxpayers use various methods of taxation optimization, based on legal and illegal provisions. It is necessary to consider the overall strategy of the company in the optimization of income tax, when optimization is aimed at satisfaction of interests of the founders. It is achieved by maximizing net profit, or otherwise, by assessing the impact of the value of tax and, accordingly, the amount of net profit by the amount of efficiency indicators of financial activities of the organization.

In practice, there are specific methods used to reduce the tax burden on profits:

1. The creation of reserves.

This mechanism allows to evenly distribute the tax burden in the organization for tax periods and by doing that to form some kind of reprieve for income tax. The possibility of creating reserves is a tax optimization organization, which should be enshrined in the accounting policies. The formation of reserves leads to a reduction of the tax base for income tax by increasing tax costs.

2. Depreciation savings.

Depreciation tax benefits can be obtained in the case, for example, if it is reasonably proved that this equipment operates in the aggressive environment. Under such circumstances, the taxpayer may be eligible to use the special factor accelerating depreciation twice [1]

3. "Losing" savings.

During its existence every organization regardless of its activity may have a variety of losses and shortages. Such losses are reflected in the composition of the material costs [1], then these costs are included in the tax base in accordance to the limits of norms of attrition. Income can be reduced as a result of material costs, so the tax burden on the enterprise reduces too. Thus, even loss may be for good.

4. Leasing.

Leasing is a special form of credit using for buying costly property in order to improve the financial health of the organization. This tool can be use in order to reduce the tax burden. The owners of organizations create a company-lessor and then a contract leasing is concluded. The lessee acquires the leased property and by means of the lease payments reduces the income tax.

#### 5. Staff training.

The training of employees who have a formal contract of employment helps lawfully reduce taxable base. Such costs may relate to a group of other costs associated with the production and marketing [1].

In addition to the legal actions of the taxpayer to reduce the tax burden, many businesses resort to illegal ways to evade taxes. Tax evasion is a form of tax reduction or other payments, in which the taxpayer intentionally or inadvertently reduces the size of their tax obligations with a violation of applicable laws [2]. First of all, tax evasion is expressed in concealing information about the object of taxation, late payment of taxes, the non-submission or late submission of documents required for the timely calculation and payment of taxes, falsification of documents of tax reporting and accounting, as well as other actions. In the event of such a violation the taxpayer actions may result in administrative or criminal liability, depending on the specific circumstances.

The main goal of any organization is to increase financial performance, and get maximum profits for their owners. In this regard, any taxpayer will seek to preserve as much of the funds as possible after payment of taxes or at least to defer the payment of tax. The decision to use of any methods to optimize taxation should not be made spontaneously, such decisions should be based on a thorough assessment and analysis of each case. Any tax optimization scheme may have some degree of risk, the extent of which is determined individually for each situation. The tax consequences of the optimization of taxation application can be associated with direct violation of requirements of legislation and with imperfection and ambiguous interpretation of the provisions of the Act, as any Interpretation Act may change over time, thus confirming the impossibility to reduce to a minimum the risks of any methods of optimization of taxation.

### 3. Predicate tax offenses

Predicate crime is a crime, which helps to receive "dirty profits". It is often referred to as the "predicate", or "core".

Introduction of changes to the content of art. 174 and 174.1. of The CRIMINAL CODE of the RUSSIAN FEDERATION [3] has created a new legal situation, which enhances the capacities of recognizing of the socially dangerous acts related to obtaining economic benefits due to non-fulfillment of tax obligations as predicate offences.

Changes in the whole money laundering law, which lead to the possibility of recognizing of predicate tax crimes, mean the emergence of a new State approach to countering crimes, which are based on mercenary motivations, involving obtain of undue economic advantage not only as a result of the seizures and treatment in their favor of someone else's property, but also illegal evasion of property responsibilities. This approach inevitably is associated with a change in the well-established doctrine of criminal law which no longer corresponds to the new reality and with the emergence of new practices that would be consistent with the law and, at the same time, would not violate the principles of criminal law, as well as the rights and freedoms of the subjects of tax relations. Tax crimes on behalf of organizations are primarily committed by their managers who perform managerial functions, that's why a reasonable question about additional verification of their acts arises [4].

On the basis of the foregoing, it can be concluded that the use of illegal ways to avoid paying taxes can be classified as predicate tax offence. The fact of tax evasion is a condition that contributes to the Commission of tax offences. Concealment of taxable object can simultaneously execute two illegal functions: concealing the duty to pay tax, and concealing criminal source of income that that is illegally saved despite the obligation to remit it to the State budget.

The following socially dangerous acts are included in a system of tax offences which can be predicate offences for money laundering:

- 1) acts committed with violation of tax legislation which involve obtaining budget funds through fraud and illegal tax refund of allegedly overpaid or overcharged taxes including VAT, penalties, fines;
- 2) acts committed by tax authorities in violation of tax laws, embezzlement of budgetary funds under the guise of returning allegedly overpaid or overcharged taxes, including VAT, penalties, acts committed by employees of tax authorities, responsible for the adoption of such a decision;
- 3) tax evasion and charges made through Active fraud;
- 4) dereliction of duty tax agent [5].

Tax crimes are among those socially dangerous acts, which, as a rule, are planned and implemented in several stages. At the initial stage, the conditions are being created to reduce the taxable base, creating circumstances that determine the tax benefits, and other terms are generated, artificially reducing the amount of tax liability. Separate from the ultimate goals such actions can look externally legitimate. Unlawful set of such operations becomes clear only in connection with subsequent economic actions which prove the purpose of tax evasion. Study of such actions in connection with tax offences and money laundering suggests that at this stage signs of actus crimes under art. 174 of the CRIMINAL CODE and 174.1 of the CRIMINAL CODE of the RUSSIAN FEDERATION show in the actions of a person, since using the same financial transactions and other dealings subject simultaneously seeks to reduce the size of the tax and legalize the portion of the property, which would go into the budget in the form of tax. In this case, the objective time of tax crime preparation or attempted tax crime preparation coincides with legalization of criminal income through illegal savings funds to be transferred to the budget in the form of tax.

Tax offences (irrespective of their types) cause serious damage to the economy and the security of the State, affect negatively its tax and fiscal policy. Decrease in income payments in the budgets, as a consequence, lead to social tensions increasing, political instability, as well as insufficient allocation of funds for the financing of the social sphere, for development of priority industries for the army, etc.

## 4. Conclusion

The increasing role of tax optimization in the conditions of market economy is determined by a number of factors, that include the weight of the tax burden for a particular business entity, the complexity and variability of the tax legislation. Under these circumstance, the probability of committing a predicate crime becomes very high, which raises demands for the control procedures for money laundering AML/CFT.

## Acknowledgements

This work was supported by Competitiveness Growth Program of the Federal Autonomous Educational Institution of Higher Education National Research Nuclear University MEPhI (Moscow Engineering Physics Institute).

## References

- [1] "The tax code of the Russian Federation (part two)" from 05.08.2000 N 117-FZ (ed. by 30.10.2017);
- [2] Burova Lydia Alexandrovna tax Evasion: theory and practice // Vestnik BSU. 2014. No. 2;
- [3] The Federal law from 28.06.2013 N 134-FZ (ed. by 29.07.2017) "On amending certain legislative acts of the Russian Federation with regard to countering illegal financial transactions";
- [4] Tax crimes as predicate in relation to money laundering: approaches to the implementation of international standards/Ni Pikurov-Moscow: of ITMCFM; 2014.- 152 p.;
- [5] "The Criminal Code of the Russian Federation" of 13.06.1996 N 63-FZ (ed. by 29.07.2017) (ALT. and Add., buy-in force since 26.08.2017).