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IMPROVING THE LEGAL REGULATION OF FISCALIZATION OF SETTLEMENTS IN THE REPUBLIC OF UZBEKISTAN AS A FACTOR IN INCREASING THE LEVEL OF TAX DISCIPLINE**

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Subject. The article considers the system of fiscalization of settlements using cash registers in the Republic of Uzbekistan. It is stated that the uncertainty of the legal regulation of this area creates the basis for tax evasion. As a result, the author identifies growth points for increasing the level of tax discipline by improving the legal framework: demarcation of the sphere of fiscalization, revision of the system of tax penalties and the introduction of new types of sanctions and interim measures against violators, improvement of the motivation system of civil control.
The purpose of the study. The purpose of the article is to develop regulatory proposals to eliminate legal uncertainty in the field of fiscalization of settlements in the Republic of Uzbekistan in order to increase the level of tax security of the country.
Methodology. The formal legal and comparative legal methods have been used in the course of the study.
Conclusions. In the course of the research, the author has prepared a number of proposals to improve the legal mechanism of fiscalization of settlements in the Republic of Uzbekistan.

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1. Introduction

Today, it is a generally accepted fact that tax procedures ensure a balance between the fiscal interests of public authorities, on the one hand, and the property interests of owners of funds, on the other hand [1, pp. 13-14]. In this regard, the value of the digital development of tax administration is that it makes it possible to effectively combat tax evasion, increases the certainty of tax rules, and ensures greater stability of public finances with minimal administrative costs. On the business side, digitalization of tax calculation and payment processes increases the transparency of companies' management processes, reduces the costs of doing business related to compliance with legislation, and the risks of tax liability [2, p. 10].

The issues of digitalization of tax administration and the tax system of the state have repeatedly been the subject of consideration by modern scientists of both legal [3-8] and economic orientation [9-18], including in relation to the states of Central Asia [19-21]. However, special attention has not been paid to fiscalization of calculations by modern methods of tax administration, namely, using cash register equipment (CRE). Meanwhile, the latter is one of the key areas of digitalization of tax procedures that ensure tax discipline.

In the Republic of Uzbekistan (hereinafter also referred to as the Republic of Uzbekistan), among the main regulatory legal acts concerning the application of CRE, it is worth noting the following:

1) The Tax Code of the Republic of Uzbekistan[1];

2) Resolution of the President of the Republic of Uzbekistan dated October 4, 2021 No. PP-5252 "On measures to introduce modern information technologies into the settlement system in the field of trade and services, as well as to strengthen public control in this area"[2];

3) Decree of the President of the Republic of Uzbekistan dated September 6, 2019 No. UP-5813 "On additional measures to improve the use of cash registers in the retail trade and provision of services"[3];

4) Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated November 23, 2019 No. 943 "On measures to ensure the use of online cash registers and virtual cash registers"[4].

Despite the high level of regulatory legal regulation from the point of view of legal force, the key issues and provisions on the application of the CRE remain a sufficient degree of uncertainty. In order to increase the level of tax discipline, it is important to fine-tune the legal regulation of the fiscalization of settlements in the following areas.

2. Demarcation of the sphere of fiscalization of settlements

The current version of the Tax Code of the Republic of Uzbekistan does not contain a direct indication of the taxpayer's obligation to apply the CRE, which is a clear omission by the legislator. This obligation is indirectly indicated only by certain provisions of the Tax Code of the Republic of Uzbekistan.

In particular, the fourth paragraph of Article 22 of the Tax Code of the Republic of Uzbekistan states that a taxpayer is obliged "to provide invoices, checks or other equivalent documents to the buyer when selling goods (services)." Although here, too, there is uncertainty: what kind of checks are we talking about – cash receipts that are generated at the CRE? But even if it is purely about them (although this provision is controversial, since other articles of the Tax Code of the Republic of Uzbekistan speak specifically about "cash receipts"), the content of the norm indicates the equal status of checks and other documents. Thus, the obligation to apply CRE in the sale of goods (services) is

[1] URL: https://lex.uz/docs/4674893 (date of application: 25.05.2025).

[2] URL: https://lex.uz/docs/5665877 (date of application: 25.05.2025).

[3] URL: https://lex.uz/docs/4502384 (date of application: 25.05.2025).

[4] URL: https://lex.uz/docs/4603340 (date of application: 25.05.2025).

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called into question: can the check be replaced by some other document, the formation of which does not require the use of CRE and, therefore, CRE may not be applied in such a calculation? It is precisely this logical chain that will be justified by an unscrupulous taxpayer in court.

A reference to the need to apply CRE is contained in the third paragraph of Article 139 of the Tax Code of the Republic of Uzbekistan regarding the possibility of verifying its application as part of an on-site tax audit. This is also indicated by the tax liability for non-application of CRE in the form of sanctions provided for in Article 221 of the Tax Code of the Republic of Uzbekistan (specialized) and certain provisions of Article 223 of the Tax Code of the Republic of Uzbekistan.

However, the by-laws do not contain a direct indication of the fundamental obligation to apply the CRE and, no less importantly, the outline of the sphere of fiscalization. The relevant conclusions can be drawn only from the totality of the provisions of Resolution No. 943 and the Procedure for using online cash registers approved by it, according to paragraph 3 of which the obligation of business entities to switch to using cash registers within the prescribed period is established. This deadline is set by Decree No. UP-5813, in which the corresponding schedule is called "the schedule for the phased transfer of business entities with cash proceeds to use online cas h registers or virtual cash desks," because the marker is cash revenue, although the very text of Decree No. UP-5813 states the introduction, along with the online CRE, of a data exchange platform (virtual cash registers) with the function of transmitting online data on settlements with the population through retail outlets (service delivery po ints) in cash and (or) by means of bank cards. In such circumstances, is it possible to assume that there is no obligation to apply CRE if cash settlements with the public are not carried out by the taxpayer? At the same time, according to Resolution No. 943, the calculation should be understood as information about the receipt or payment of funds using cash and (or) electronic means of payment for goods sold (work performed, services rendered).

According to the first paragraph of Article 34 of the Law of the Republic of Uzbekistan dated November 1, 2019 No. ZRU-578 "On Payments and Payment Systems"[5], an electr onic means of payment (EMP) is a bank card or other electronic medium that allows the payer to make payments and perform other operations. Co nsequently, in the context of regulatory uncertainty, it can be concluded that in the Republic of Uzbekistan, CRE is used for cash payments or payments using EMP by all business entities, i.e. all organizations and indivi dual entrepreneurs. Individuals do not belong to such entities, since by virtue the second paragraph of Article 31 of the Tax Code of the Republic of Uzbekistan. In this regard, it is advisable to bring the regulatory legal acts of the Republic of Uzbekistan to a single definition: for what actions the taxpayer is obliged to apply the CRE, for which it is proposed to use the term "calculation" as the main term, and the obligation to apply the CRE is linked specifically to the implementation of such a calculation. In this case, regulatory legal acts will no longer need to describe the transaction (goods are paid for in cash or electronic money, or in any other way). This will also make it possible to quickly make changes in terms of expanding (narrowing) the scope of fiscalization. Also, this will shield the tax authorities from claims and lawsuits regarding challenging tax liability for non-application of the CRE under the pretext, for example, of using the EMP only at one stage of the calculation, which will not be the only stage. Although this approach of using the term "using an electronic means of payment" is objectively controversial, but the regulation of the issue: what is an EMP is still in the sphere of banking legislation, and

[5] URL: https://lex.uz/docs/4575788 (date of application: 25.05.2025).

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the current legal structures do not unambiguously define the use of EMP: is the payment using EMP such if non–cash payments are involved in the chain from buyer to seller without its use, or does the final receipt occur in cash, etc.

Moreover, today it is not justified to provide an advantage in the form of exemption from the use of CRE (with financial and administrative costs) to persons accepting funds, for example, solely by transferring to a checking account, over persons accepting payments through a POS terminal. In other words, if the purpose of using CRE is to control revenue accounting, then why are 2 taxpayers conducting the same type of business in the same territory and in the same volumes, but one taxpayer is required to apply CRE, because does it accept bank cards for payments, and the second taxpayer has the right not to apply CRE, since it allows payment exclusively through a checking account (bank transfer)?

The proposed extension of fiscalization to non-cash payments will help whitewash the market and equalize competitive conditions, which is currently being requested by businesses, primarily online commerce.

The legal technique in this matter is quite simple. Based on the provisions of Article 790 of the Civil Code of the Republic of Uzbekistan[6] on the existence of two types of settlements: cash and non-cash, all those settlements that do not involve cash (from the moment the calculation begins until it is completed) are non-cash settlements. In this regard, for the purpose of universal coverage of fiscalization of monetary settlements, it is sufficient to amend the term "settlements" used in Resolution No. 943, replacing the words "electronic means of payment" with "non-cash".

The proposed approach provides a kind of legal foundation for the future: when new payment methods appear, they will automatically fall under the application of CRE, being non-cash payments. In addition, the refusal to clarify the method of calculating the buyer and seller will significantly ease the burden of proving the facts of non-use of CRE, since it will not require determining the presence or absence of the use of EMP.

In general, in the Republic of Uzbekistan, the regulatory legal regulation of the fiscalization of tax procedures requires not only changes in approaches to legal technology in certain structural units of the current legal regulation, but also a conceptual revision of the relevant acts.

3. Responsibility in the field of CRE application

In the Republic of Uzbekistan, liability in the field of CRE application is directly provided for in Article 221 of the Tax Code of the Republic of Uzbekistan and in certain provisions of Article 223 of the Tax Code of the Republic of Uzbekistan. When considering these norms, the various amounts of fines are misunderstood if the CRE is not applied (even if it exists) (a fine of 5 million soums), and the CRE is not registered with the tax authorities (a fine of 7 million soums). In the latter case, information about the calculations is not received by the tax authorities in exactly the same way as if the taxpayer does not have a CRE in principle. Even if a more serious fine is imposed for the use of unregistered CRE as an offense involving consumer deception, then in this case it is important to correlate the amount of the fine for the use of CRE, which does not meet technical requirements. In our opinion, circumstances such as not registering with the tax authorities or not being included in the register should be equated to the absence of a cash register.

And at the same time, it seems excessively high to equate the non-issuance of a check with the actual non-application of the CRE. Thus, the legislator's approach to the fine for non-use of the CRE and non-issuance of a check requires differentiation, provided that the CRE is applied, since not in all cases the check is not issued only when the cash register itself is not used.

Further, the Tax Code of the Republic of Uzbekistan defines the use of CRE that

[6] URL: https://lex.uz/docs/1180550 (date of application: 25.05.2025).

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do not meet technical requirements or with violation of the electronic service program as illegal behavior, the fine for which is 3-4 times higher than the fine for non-use of CRE and amounts to 20 million soums. In our opinion, this type of tax offense also requires differentiation depending on the consequences of non-compliance with technical requirements: whether this leads to an underestimation of revenue or, for example, only the settlement address is incorrectly printed in the receipt. It seems that such consequences create different categories of threats to the tax security of the state, which should be reflected in the line of fines.

The Uzbek legislator also identifies as a separate action the illegal introduction of changes to the program of maintenance of the fiscal memory of the CRE (Article 223 of the Tax Code of the Republic of Uzbekistan), which led to concealment (underestimation) of the tax base. The penalty for such an action is 20% of the hidden (undervalued) revenue. The question arises as to the relationship of this sanction, as well as the composition of the offense, with the previously mentioned use of CRE that does not meet technical requirements, or with a violation of the electronic service program. What is the difference between these trains when the algorithm of the maintenance program is broken in both cases? Moreover, in one situation, the guilty person will be liable in the form of a fine of 20 million sums, and in another – only 20% of the tax amount, depending on the appropriate qualification by the tax authority. In our opinion, such uncertainty needs to be eliminated.

The use of a CRE that does not meet technical requirements or with a violation of the electronic service program also requires a clear distinction from the incorrect reflection in the CRE receipts of the identification codes of the nomenclature of goods (services) provided for in Article 223 of the Tax Code of the Republic of Uzbekistan, for which the legislator imposed a sanction in the amount of 1% of the cost of goods (services) sold. Obviously, incorrect printing of identification codes is a violation of the established requirements for the CRE and an incorrect configuration of the maintenance program. But, again, it is possible to apply different sanctions for one action.

From the point of view of legal technique, it seems effective to combine articles and exclude individual compositions, depending on the public danger of an unlawful act. Therefore, it is proposed to differentiate fines downward, starting with the most serious offense, as a result of which the proceeds are hidden from the state, to a less dangerous one:

1) non-use of CRE (actual absence of CRE, non-use or use of CRE for a smaller amount, use of CRE unregistered with the tax authority);

2) violation of the rules and conditions of the CRE (violations not related to underestimating the fixed amount of payments: for example, incorrect payment address);

3) non-issuance of a cash receipt (provided that the information about the payment is reflected in the CRE).

Non-fixation of the calculation poses the greatest threat to state-protected values, since failure to provide information about the calculation to a government agency is highly likely to mean hiding the proceeds in order to evade taxation. In other words, we are talking about a complete disregard for government regulations and rules of conduct, which also negatively affects the environment of bona fide taxpayers. This should be accompanied by the most severe sanction and, if financial sanctions are taken into account, then, accordingly, it should be punished with the most serious fine.

Today, according to Article 218 of the Tax Code of the Republic of Uzbekistan, financial sanctions are imposed in the form of monetary penalties (fines) for committing a tax offense in the Republic of Uzbekistan. However,

taking into account the specifics of operational control, it is necessary to provide for specialized types of tax sanctions, namely:

1) suspension of the taxpayer's activities (in the case of operating in stationary locations);

2) cancellation of the domain name of the website through which the trade is conducted or the order and payment of services (in the case of activities on the Internet).

Despite the fact that such sanctions are not fully characteristic of tax legislation, however, their introduction is a necessary condition for effective tax administration, which will allow physically stopping violations of tax legislation. To do this, the application of punishments should be carried out as quickly and simply as possible: without the involvement of courts, approvals by the prosecutor's office and other bureaucratic nuances that delay the adoption of an appropriate decision and contribute to the continuation of the work of unscrupulous taxpayers to make a profit.

Blocking a website is a "painful" means of influence for an unscrupulous market participant, since it blocks the most stable communication between the seller and the buyer (client) – a domain name, for the popularization and recognition of which significant financial resources and time are invested, and which attracts traffic that is converted into purchases and brings profit to its owners. At the same time, the impact on the domain name will free the tax authorities from searching for the beneficiary of the site owner in order to apply penalties to him.

4. Interim measures for settlements through payment terminals

Special attention should be paid to the issue of the prompt suppression of illegal behavior in the form of settlements without the use of CRE through payment terminals. Practice shows a number of difficulties in holding the owners of payment terminals accountable, related, in some case s, to the inability to identify the owners' data. In addition, operation parameters are changed remotely for a number of payment terminals, including the details of the person on whose behalf the cash is being accepted. There is a situation in which, after documenting the violation of legal requirements, the payment terminal continues to accept cash.

Sometimes it is physically possible to disconnect the payment terminal from the power source (as a rule, these are payment terminals located in stationary ret ail outlets, such as shopping malls). In such a situation, even the most unscrupulous terminal owner identifies him self as soon as possible, since the tax authorities have influenced the entrepreneur' s ability to earn income. This scenario is used when it is not possible to determine whether a payment term belongs to a specific taxpayer (there is no information about the owner printed on the body of the payment terminal or reflected on the screen).

Of course, the legislation of various countries suggests scenarios in which, in so me cases, the suppression of the described offense is possible.

For example, in the Republic of Uzbekistan, there is such a security measure as the seizure of property (Article 114 of the Tax Code of the Republic of Uzbekistan), and Article 290 of the Code of Administrative Responsibility[7] provides for the seizure of things and documents.

Due to the fact that one of the main tasks of using the withdrawal or seizure of a payment terminal is to stop accepting cash, it is preferable to block the operation of the banknote receiver when sealing and sealing.

It should be noted that the seizure of a payment terminal, unlike the seizure, does not require an initial inspection procedure followed by the preparation of a protocol. In case of arrest of the payment terminal, there is no potential need to move the payment terminal to a specialized location, which requires additional fin

[7] URL: https://lex.uz/docs/97661 (date of application: 25.05.2025).

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ancial costs (evacuation of the payment terminal, transportation and storage). During the process of arrest, the payment terminal may be transferred for safekeeping to a person authorized by the tax authorities without approval of a special procedure.

Obviously, such procedures (arrest and seizure of a payment terminal) are possible in the Republic of Uzbekistan on the basis of current legislation, but they involve a number of complex procedures that make such a procedure "unprofitable" (the time and cost of it significantly exceed the effect of preventing an offense). We are talking about the need to hire specialists for loading/unloading a payment terminal on a carrier vehicle, concluding a contract for responsible storage, etc.

It seems that, like many aspects of monitoring the use of CRE, the procedure for implementing an interim measure should be simplified and expeditious as much as possible, and therefore it seems advisable to introduce a separate article in the Tax Code of the Republic of Uzbekistan directly regulating the procedure for blocking the operation of a payment terminal.

This is also justified by the fact that sometimes a payment terminal cannot be physically de-energized: for example, it can be embedded in a wall in an underpass and in any way it cannot be disconnected from the power supply and removed as part of the appropriate procedure. This makes it impossible for the tax authorities to stop the identified offenses in the form of accepting funds without using CRE.

Thus, it is precisely the blocking of the bill receiver of the payment terminal using a mechanical device that will need to be provided to tax inspectors involved in monitoring the use of CRE that will significantly increase the effectiveness of the fight against unscrupulous taxpayers.

5. Improvement of the motivation system of civil control

It is an indisputable fact that consumer motivation is an important factor in creating an effective civil control system. In this regard, the idea of 1% cashback for purchases when the buyer scans the QR code of the receipt, as well as 20% cashback from the amount of the fine when the buyer reports to the tax authorities about the violation of the rules of cash discipline by the user, implemented by the Republic of Uzbekistan in accordance with paragraph 1 of Resolution No. PP-5252, is positively assessed.

This, of course, will eventually have the desired effect on entities that are required to apply CRE in their activities, in terms of increasing their cash discipline.

However, it is proposed to consider options for changing this model:

1) increase the cashback to 50-60%, subject to the seller's agreement with the alleged offense. At the same time, cashback should be waived in the opposite situation (if the seller does not agree with the alleged violation), i.e. only encourage what significantly reduces the labor costs of the tax inspector;

2) differentiate the amount of cashback depending on the amount of information received by the tax authority: the minimum percentage if only the place of the offense is reported and the buyer is anonymous, and the maximum cashback for a detailed complaint with possible evidence attached (for example, an incoming cash order issued by the seller) and the buyer's willingness to be a witness, i.e. legally participate in the consideration of the case the offense;

3) a related option.

Thus, in general, the administrative burden on entrepreneurs will be reduced, since virtually any buyer who benefits from either receiving a cash receipt or, if not received, reporting this fact to the tax authorities will be a tax inspector.

6. Conclusion

Despite the continuous improvement of the scope of CRE in the Republic of Uzbekistan, there is a narrow approach to understanding the meaning of CRE, which, however, is typical of other countries [22-23].

The point is that the current Resolution No. 943 mentions the category "taxes" only once, and that is in the context of the duties of the fiscal data operator to "develop automated analysis systems that identify potential tax evasion situations," and the entire mechanism of fiscalization of calculations is tied to how to apply the CRE as a mechanical device, but transition, shifting focus from the application of the cash register to the fixation of the calculation, under which it would be possible to legally define actions, transactions carried out by the taxpayer using automation tools for the formation of fiscal documents using CRE or settlement docu ments in the information resource of the tax authority [24, p. 164] have not occurred. I n this regard, only a full-fledged integration of the duty of applying the CRE into the tax duty will answer the conceptual question about the meaning of the cash register and control over its application and conso lidate the paradigm according to which the application of the CRE is about taxes and taxes [25, p. 989]. This will make it possible in the future, while maintaining uniform approaches in tax administration, to add other tools for fixing calculations: a taxpayer's personal account, a mobile application, etc. Up to this point, the ideas proposed in this article for implementati on will be able to ensure an adequate level of tax discipline in today's challenges of digitalization.

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