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EXERCISING PROSECUTORIAL SUPERVISION OVER THE IMPLEMENTATION OF LEGISLATION IN THE BODIES OF THE STATE TAX SERVICE

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ABSTRACT

The theses analyse the issues of the direct exercise of prosecutorial supervision over the implementation of legislation in the bodies of the State Tax Service. Substantiating that a uniform approach and uniform inspection criteria should not be applied to all objects of supervision, the author proposes determining the subject of an inspection on the basis of the legal status, tasks and special powers of each object. On this basis, the issues common to all objects of supervision are identified, together with the special issues characteristic of the activity of the Tax Committee, the interregional inspectorates for large taxpayers and for digital marking, territorial tax administrations and district (city) tax inspectorates.

The direct exercise of prosecutorial supervision comprises verifying the implementation of laws, giving a legal assessment of the circumstances established and applying the necessary measures of prosecutorial response[1]. The issues subject to verification must be determined on the basis of the legal status, tasks and special powers of each object of supervision. Alongside the position of the object within the organisational structure, account must also be taken of the nature of the tasks and functions it performs. In particular, since the exercise of tax control, the recovery of tax debt, the use of information systems and the consideration of taxpayers' applications each involve distinct legal relationships, they call for the examination of different issues in the course of an inspection. Such an approach makes it possible to focus on the issues carrying a high risk of a breach of legality without unjustifiably broadening the scope of the inspection.

At the same time, irrespective of the particular tasks and powers of the objects of supervision, the following issues, common to all of them, are to be verified:

[1] Law of the Republic of Uzbekistan No. 257-II of 29 August 2001 «On the Prosecutor's Office» (new version), Articles 4 and 22.

– the conformity of the legal, organisational and internal documents adopted by the object with the Constitution of the Republic of Uzbekistan, the laws and other legislative acts;

– compliance with the established procedure and time limits in the consideration of applications of natural and legal persons, as well as with the requirements concerning the State language;

– where a legal service is in place, whether decisions, orders, contracts and other documents of legal significance are subjected to legal expert examination, whether the adoption of documents contrary to law is prevented and whether measures are taken to eliminate the legal conflicts identified;

– compliance with the requirements of legislation in matters of personnel, corruption and conflict of interest, budget funds, public procurement and the use of State property.

As regards individual objects of supervision, rather than repeating these general requirements, it is expedient to examine the issues arising from their legal status, tasks and special powers. In doing so, the task of a prosecutorial inspection should be not to assess the economic or managerial efficiency of the activity of a tax authority, but to establish whether its decisions, acts and omissions conform to the requirements of legislation. For this reason, in determining the issues to be inspected, attention should first of all be paid to whether the tax authority and its officials hold the relevant powers, whether the decisions and acts have a lawful basis, whether the established procedure and time limits have been observed and whether the rights and legitimate interests of taxpayers have been secured.

Such an approach has also found expression in national research. In particular, A. Komilov characterises prosecutorial supervision over the implementation of laws aimed at the legal protection of entrepreneurs as a special activity directed at the timely detection of violations of law, giving them a legal assessment, eliminating the causes and conditions of such violations and preventing them[2]. The author also substantiates the need to ensure transparency in obtaining information affecting the rights and interests of entrepreneurs as a means of enhancing the effectiveness of prosecutorial supervision[3]. Proceeding from this, on the basis of the general criteria and taking into account the legal status and powers of each object of supervision, the issues requiring attention should be specified.

In an inspection conducted at the Tax Committee of the Republic of Uzbekistan:

– whether the Committee and its officials have carried out their activity within the tasks and powers conferred by legislation and whether powers have been distributed among the structural subdivisions and officials in the established manner;

– whether the established procedure and limits have been observed in exercising the powers relating to the implementation of tax policy, the assessment and collection of taxes and levies and the formation of budget revenues, and whether the data are generated on a lawful basis and are reliable in the registration of taxpayers, objects of taxation and the tax base and in the maintenance of registers and databases;

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[2] Komilov A.B. Improving the organisational and legal foundations of prosecutorial supervision over the implementation of laws aimed at the legal protection of entrepreneurs: dissertation for the degree of Doctor of Philosophy (PhD) in Law. – Tashkent, 2020. – p. 18.

[3] Komilov A.B. Op. cit. – p. 8.

– whether the powers of the Committee and the rights of taxpayers have been observed in the measures aimed at detecting the shadow economy, activity carried on without tax registration and the understatement of taxable indicators;

– whether the applicable criteria, impartiality and the guarantees afforded to taxpayers have been observed in identifying and assessing tax risk, in pre-audit analysis and in planning tax control measures;

– whether the lawful grounds, the subject matter, the time limits and the scope of powers have been observed in ordering and conducting desk tax audits, on-site tax inspections and tax audits, and whether control actions such as requesting documents and information, inspecting premises, conducting inventories and obtaining explanations have been carried out solely within the limits established by law;

– whether control has been organised lawfully in the fields falling within the competence of the Committee, including tax and customs privileges, export and import operations, excisable goods and cash register equipment;

– whether, in the recovery of tax debt, the demand for payment, the collection order, the suspension of banking operations, the seizure of property and other enforcement measures have been applied in accordance with a lawful basis, the established procedure and the principle of proportionality;

– whether, in considering cases of tax offences and applying financial sanctions, the facts of the offence, the evidence, the grounds for liability, the amount of the penalty and the competence to adopt the decision have been duly established, and whether, in administrative cases, the procedural rules, the time limits and the rights of the persons concerned have been secured;

– whether the lawful grounds, the procedure and the time limits have been observed in applying to the courts, transferring goods and material assets to State revenue, forwarding materials containing indicia of a crime to the competent authorities and in offsetting or refunding overpaid amounts, granting deferrals of payment and providing services;

– whether the requirements of legislation are ensured in the storage, processing and interagency exchange of tax secrets, personal data and other restricted information; whether the Committee has acted within the scope of its powers in coordinating the activities of the territorial tax authorities and in exercising departmental control; and whether there has been any unjustified interference with the lawful powers of subordinate authorities.

At the Interregional Tax Inspectorate for Large Taxpayers:

– whether the powers of the Inspectorate, the criteria for large taxpayers and the procedure for their inclusion in the register and for their tax registration have been observed and whether their accounting and tax data are maintained reliably;

– whether the criteria, the lawful basis, the subject matter, the time limits and the guarantees afforded to taxpayers have been observed in assessing tax risk and in conducting tax monitoring and inspections, and whether the powers to request documents and information, obtain explanations, inspect property and premises and use information systems have been exercised only to the extent necessary and lawful;

– whether the control tasks assigned to the Inspectorate in respect of export and import operations, the zero-rated value added tax and tax privileges have been performed lawfully;

– whether, in the recovery of tax debt, the demand for payment, the collection order, the suspension of operations on bank accounts, the seizure of property and other measures have been applied on justified grounds and within the scope of its powers;

– whether the evidence, the amount of the penalty, the competence and the procedural requirements have been observed in considering cases of tax and administrative offences and in applying financial penalties and administrative measures;

– whether the requirements of legislation have been observed in applying to the courts, forwarding materials containing indicia of a crime, refunding overpaid amounts, providing practical assistance to taxpayers and protecting restricted information.

At the Interregional Tax Inspectorate for Supervision of Compliance with Digital Marking Rules:

– whether the tasks and special powers of the Inspectorate have been exercised solely within the limits established in the field of digital marking, and whether control at the stages of importation, production, storage, transportation, wholesale and retail sale of goods subject to mandatory marking has been carried out within the scope of its powers, on lawful grounds and in the established manner;

– whether the reliability of the data on marking codes, the movement of goods and the participants in the system has been verified when such data are used for control purposes, and whether the warning of taxpayers of the risks identified and the opportunity to remedy shortcomings have been ensured in accordance with legislation;

– whether the lawful basis, the subject matter, the time limits and the necessary scope have been observed in conducting tax inspections relating to marking, requesting documents and information and involving specialists;

– whether, in considering cases of offences against the marking rules and applying financial penalties, the offence has been confirmed by reliable evidence, the penalty has been calculated correctly and the decision has been adopted by a competent official, and whether the requirements concerning the forwarding of materials containing indicia of a crime and non-interference with the powers of other tax authorities have been observed.

At the tax administrations of the Republic of Karakalpakstan, the regions and the city of Tashkent:

– whether the powers of the administration and its officials have been exercised within the established limits, whether unjustified interference by local authorities and the assumption of the powers of the specialised inspectorates have been prevented, and whether the lawful instructions and requests of the Tax Committee have been executed in good time and the reports submitted are complete and reliable;

– whether reliable data on the implementation of tax legislation, tax debt and risks in the territory concerned have been used in planning tax control measures, and whether the administration has acted within the scope of its powers in coordinating and exercising departmental control over the activities of the district and city tax inspectorates;

– whether the lawful basis, the subject matter, the time limits, impartial criteria and the rights of taxpayers have been secured in desk and on-site inspections, tax audits, control actions and the assessment of tax risk;

– whether the elements of the offence, the evidence, the grounds for liability, the amount of the penalty, the procedural rules and the rights of the persons concerned have been observed in considering cases of tax and administrative offences falling within the competence of the administration and in applying sanctions;

– whether the lawful basis, the amount, the procedure and the principle of proportionality have been observed in measures for the recovery of tax debt, including the collection order, the suspension of banking operations and the seizure of property, and whether applications to the courts and measures in respect of materials containing indicia of a crime have been carried out lawfully;

– whether the rights of taxpayers and the protection of information have been secured in refunding overpaid amounts, exchanging information with State bodies and considering complaints against the decisions of subordinate tax authorities, and whether there has been any interference with the powers of the specialised interregional inspectorates.

At the district (city) tax inspectorates:

– whether the activity of the Inspectorate is organised in accordance with the approved model regulation, organisational structure and job descriptions, and whether the rights and powers of officials are exercised within the established limits;

– whether the established powers, grounds and procedures have been observed in carrying out tax administration and control measures in respect of markets and shopping complexes, trade, public catering, service and agricultural enterprises, individual entrepreneurs and self-employed persons, and whether the powers pertaining to the specialised interregional inspectorates have not been assumed without justification;

– whether the reliability of data and the protection of information are ensured in the registration of taxpayers and objects of taxation and in the use of cadastre, banking, electronic invoice and cash register data;

– whether control measures over compliance with the requirements concerning cash register equipment, virtual cash registers, payment terminals, the issuance of receipts and the recording of proceeds in markets and in the trade and service sectors have been carried out within the established powers and procedure;

– whether, in respect of discrepancies or errors identified in the course of pre-audit analysis, a notice has been sent to the taxpayer in the prescribed form, and whether the taxpayer has been afforded the opportunity to submit an amended tax return or a statement substantiating the discrepancies within ten days from the date of receipt of the notice[4];

– whether the lawful basis, the subject matter, the time limits and the procedures have been observed in ordering and conducting desk tax audits, on-site tax inspections and tax audits, whether unjustified or repeated inspections have been prevented, and whether the requirements concerning the video recording of control measures and the formalisation and storage of video materials have been complied with in on-site inspections and tax audits[5];

[4] Regulation on the procedure for organising and conducting tax audits, approved by Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 1 of 7 January 2021, paragraphs 21^{3}–21^{4} (version in force as at 21 July 2026).

[5] Annex 2^{1} to Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 1 of 7 January 2021 – Regulation on the procedure for video recording of tax control measures carried out by the bodies of the State Tax

– whether the powers to request documents and information, inspect premises, conduct inventories and control measurements, apply seals, seize documents and objects and obtain explanations have been exercised within the grounds and restrictions established by law;

– whether the inspection report and the decisions set out the legal basis of the violation, the evidence and the calculations, whether the taxpayer's rights to examine the materials and to submit objections and complaints have been secured, and whether the outcome of the consideration of an amended tax return or a statement substantiating the discrepancies submitted following a desk audit has been communicated by notice in the prescribed form and manner[6];

– whether the elements of the offence, fault, the evidence, the grounds for liability, the amount of the penalty, the protocol, the procedural time limits and the person's rights to defence and appeal have been observed in considering cases of tax and administrative offences;

– whether materials containing indicia of a crime have been forwarded to the law enforcement authorities in full and in good time and whether the concealment or unjustified aggravation of the circumstances has been prevented;

– whether, in the recovery of tax debt, the demand for payment, the collection order, the suspension of banking operations, the seizure of property and the levying of execution on receivables have been applied in accordance with a lawful basis, the actual amount of the debt, the established procedure and the principle of proportionality, and whether the filing of claims and applications with the courts and the transfer of goods and material assets to State revenue have been duly substantiated;

– whether the rights of taxpayers have been secured in offsetting or refunding overpaid amounts, granting deferrals of payment, providing services to taxpayers and communicating notifications in good time, and whether tax secrets and personal data have been protected.

It should be noted that the activity of the information technology, service, educational and health organisations within the system of the Tax Committee, as well as of the Public Council and the special fund, may also be examined within the framework of prosecutorial supervision. However, the legal status and lines of activity of these entities differ from the powers relating to tax administration. For this reason, in assessing the state of legality in them, the legal status and tasks of each object and the requirements of the relevant sectoral legislation must be taken into account.

Proceeding from the subject matter of the inspection and the characteristics of the object of supervision, it is expedient, where necessary, to involve qualified specialists from the State Financial Control Inspectorate of the Department for Combating Economic Crimes, the Bureau of Compulsory Enforcement, the Central Bank, the Customs Committee, the Cadastre Agency, the National Statistics Committee, the State Labour Inspectorate and the Ministry of Digital Technologies. The tasks of each specialist involved should be defined precisely on the basis of their field of expertise and the subject matter of the inspection, and, where necessary,

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Service in the activities of taxpayers; as amended by Resolution No. 154 of 9 April 2026.

[6] By Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 393 of 20 July 2026, the Regulation on the procedure for organising and conducting tax audits was supplemented with Annexes 7a–7e.

the issues to be examined may be formalised in the inspection plan or in a separate questionnaire. This serves to ensure the thorough examination of matters requiring special knowledge, the full coverage of the subject matter of the inspection and the generation of the information necessary for the prosecutor to give a reasoned legal assessment of the circumstances established.

In conclusion, in exercising prosecutorial supervision in the bodies of the State Tax Service it is expedient not to apply identical inspection issues to all objects of supervision, but rather, while establishing general criteria of legality, to formulate the subject matter of the inspection for each object in accordance with its legal status, tasks and special powers. Such an approach makes it possible to exclude repetitive issues and issues not directly related to the subject matter of the inspection, to cover the special powers of the object in full and to direct the prosecutorial inspection towards the areas carrying a high risk of a breach of legality. As a result, the completeness and impartiality of the inspection are ensured, and the grounds necessary for eliminating the violations identified and for applying the measures of prosecutorial response provided for by law in respect of their causes and of the conditions that facilitated their commission are formed.