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TAX CRIMINAL OFFENCES IN SERBIA

Introduction. The question of revealing and processing of *tax evasion* and *other criminal offences* from the group of incriminations against economy is more of a practical nature, since, in Serbia, out of 100 % of tax offences committed in one year, only 3% is processed and the verdict is reached. Such a high rate of tax (economical) criminality destabilizes national economy, devaluates legal and social order of our country and causes citizens' distrust in legal institutions and state organs. (legal, executive and judicial authorities)

In practice tax criminal offences are connected to other incriminations against economy from chapter XII of the Criminal Code of Serbia (counterfeiting of currency, falsification and abuse of credit cards, falsifying of value marks, smuggling, laundering of money, unauthorized using of another firm, unconscientious work in economical transactions, causing of false bankruptcy, damaging of creditor, abuse of authority in economy, revealing of business secret, prevention of maintaining control, production without permission, trade without permission, deception of customers) which often appear as forms of organized criminality or they are tightly connected with the incriminations of corruption. Criminal offences that were listed were motivated by only one criminal motive — **utility**.

Legislative regulations. Criminal law of Serbia (Official gazette of the Republic of Serbia, 88/2005 and 107/2005), article 229, part 1, prescribes the content of *Tax evasion* — *Anyone who having intention to completely or partly evade paying tax, contribution or other prescribed duties, gives false data about legally acquired profit, files or other facts influencing the prescribing of these duties, or the person who with the same intention but in another way conceals the data related to prescribing of these duties, and the amount of duty for which payment was avoided is above one hundred fifty thousand dinars, will be punished with three years of imprisonment and pecuniary sentence.* The second and third part prescribes qualificatory forms of *Tax evasion* — *If the amount of the duty from part one of this article, whose paying is being evaded is over one million five hundred thousand dinars, the perpetrator will be sentenced to 1 to 5 years of imprisonment and to pecuniary sentence. (part 2). If the amount of the duty that was not paid is over seven million five hundred thousand dinars, the perpetrator will be punished by the sentence of imprisonment from one to eight years and by pecuniary sentence (part 3).*

Having in mind that the levying of taxes in any legal state provides settling of its public expenses, that it provides means for satisfying the common needs of the citizens and accomplishing of the basic state functions, it is clear that Tax evasion is one of serious criminal offences against economy in general and national economy.

Tax evasion has three alternatively set acts of committing. The first act is giving false data of legally gained profit, of files or other facts valid for determining the duty of paying tax, contributions, and tributes. The second act is not reporting of legally gained profit, files and other facts influencing the duty of paying tax, contribution or tribute. Finally, the act of committing is also, concealing in another way, the data referring to the duties that were mentioned. The listed forms of committing the offence of Tax evasion refer only to the legally acquired profit. Giving false data, not reporting or giving false data referring to fixing of the duties is usually present in tax report but also in another way in tax proceedings (for example, by giving a false statement in front of Inland Revenue). The law of tax proceedings and tax administration (Official gazette of Republic of Serbia 80/02, 23/03, 70/03, 55/04, and 61/2005) prescribes the duty of the tax payer to give exact and valid data of his incomes and of the facts relevant for determining the amount of tax.

The subjective side of tax evasion is the existence of willful guilt and the intention of evasion of tax, contribution and other tributes. The criminal offence is committed by performing the act which means that it is not necessary that the perpetrator actually succeeds in avoiding the duty of tax paying, contribution or other tributes.



The objective element of committing Tax evasion is evading the tax obligation which surmounts one hundred fifty thousand dinars. If the tax payer wouldn't pay the tax of 149.999 dinars it wouldn't be an offence. But the question that remains is: What happens when the tax payer doesn't pay the sum of 149.999 dinars for dozens or hundreds of times. Is there a crime or an offence in that case? Our legislator and judicial practice don't have exact answer to this question. Maybe the following text of the commentary of the Criminal Code of Serbia offers a temporary solution — *For existence of a criminal offence of tax evasion it is necessary that there are objective conditions of the incrimination. The amount of the duty that was avoided has to surmount one hundred fifty thousand dinars. If there are more duties or amounts whose payment was avoided and they are grounded on the same basis (for example tax and contribution to pension invalid insurance fund) for determination of the existence of objective conditions of incrimination, these sums are not analyzed separately but altogether (The Supreme Court of Serbia, I 32/78)*¹.

This raises following questions- Is there offence, *tax evasion* when there are several kinds of duties whose paying was intended to be avoided by one of the prescribed acts of committing, and they are on a different basis. The solution of this problem can be looked for in judicial practice. Also we think that the tax payer can commit the offence of not paying tax in the amount of 149.999 only once. Any repetition of this kind of offence leads to a conclusion that this behavior is willful and intentional, planned and motivated by utility, so that in these cases the offence can turn into criminal offence of *Tax evasion* no matter whether these duties are grounded on the same or separate basis.

For example, after having bought the Tobacco Factory Nis, Factory of tobacco, joint stock company Nis, the company Philip Morris Products has undertaken legal obligations for carrying out the social programme. The company Philip Morris has carried out dismissal compensation of formerly employed in the factory of tobacco, Nis, after the privatization has taken place. The payment has been carried out on the basis of the act of termination of employment by consent, from act 179, pat 1, item 9 of the Labour Relations Act (Official gazette of the Republic of Serbia, nb 24/05 and 61/05) and article 81, part 3 of the Labour Relations Act, Official gazette of the Republic of Serbia, nb 70/01 and 73/01) According to the opinion of the Ministry of Labour, employment and social politics of the Republic of Serbia nb 011-00-008/2005-02 dating from the 22.09.2005. this payment has the characteristics of salary by mutual agreement on the termination of employment according to article 177 of the Labour Relations Act (official gazette of the Republic of Serbia, 24/05 and 61/05) and are liable to tax burden of 10 % according to Payroll tax law (Official gazette of Serbia 24/01, 80/02, 135/04) so called *Annual payroll tax*. Also these incomes should be entered into M-4 form so that they can be taken into consideration for employment and pension length of service during settlement of pension. Philip Morris Company issued confirmation to the employed who accepted this programme and in these confirmations labeled these dismissal compensations as incomes, and advised the employed to go to the Inland Revenue of Serbia — branch office Nis, with the aim of paying tax burden for payroll tax. Over 2000 employees who got the dismissal compensation paid the tax. After filling the M-4 form, Philip Morris Company didn't enter the amounts of dismissal compensation by which this company evaded paying tax and contribution with the tax burden of 20% and the dismissal compensation paid in the form of income of the formerly employed in Factory of Tobacco, Nis, wasn't taken into account in calculating, work and pension length of service. The center for large tax-payers, part of the central of the Inland Revenue of Serbia who has a legal obligation of tax paying control of large tax-payers among which is also Philip Morris Company, hasn't made any relations to the demands of the local tax administration in Nis (Regional center in Nis) to correct the mistake. From these facts it is clear that the Philip Morris Company committed the criminal offence of Tax evasion. During 2005 and 2006 ex-employees of the "Factory of Tobacco, Nis" have many times turned to the Ministry of Finance, Ministry of Labour, employment and social politics in the Government of Serbia, asking for help according to the articles 15-28 of the Law on free access to the information of public importance "Official gazette of the Republic of Serbia, 120/2004).

¹ Stojanovic Z. The Commentary of the Criminal Code, Belgrade, 2006, p. 549.



Till the present day none of these executive organs accepted its legal and social responsibility for enabling the Philip Morris Company to commit the offence of tax evasion².

The person accused of *tax evasion* can be any person that has the status of tax-payer, but also persons who are legal representatives of certain natural persons (for example guardian of a person incapable for work) or legal personalities (article 15, LTPTA).

However, our legislator couldn't free himself from the old habits-prescribing criminal acts by accessory criminal legislation. Consequently, the Law on tax proceedings and tax administration (Official gazette of the Republic of Serbia, 80/02, 84/02, 23/03, 70/03, 55/04, 61/2005; in the further text LTPTA) prescribes another five criminal tax offences.

Not paying the tax by deduction from article 173, part 1 happens when responsible person in legal personality-tax payer, as well as entrepreneur-tax-payer, having the intention of not paying the tax doesn't pay the amount fixed as a tax by deduction, to the prescribed paying account for public incomes. The prescribed sentence is three years of imprisonment and pecuniary sentence. The second part prescribes first qualified shape of this tax criminal offence that exists when the tax that was not paid is 1.000.000 and the punishment in that case is 6 months to five years of imprisonment and pecuniary sentence, and the second shape qualified by the third part that exists when the tax that was not paid surmounts 3.000.000 dinars and the punishment is one to ten years and financial punishment. The fourth part prescribes creating the safety measures of prohibiting of self-employment, profession, work or duty to the person who committed offence in the period of 1-5 years.

Ungrounded reporting of the amount for the return of tax money and tax credit from the article 173a, part 1 LTPTA exists when someone having the intention to gain right to illegal return of tax money and tax credit, submits tax report of false content, in which he shows the return amount bigger than 100.000 dinars. The prescribed sentence is imprisonment from six months to five years and pecuniary sentence. Part two prescribes qualified form of this crime offence and it exists when the amount of return money and credit is bigger than 3.000.000 dinars and the sentence is one to ten years of imprisonment and pecuniary sentence. The third part prescribes safety measures of prohibiting professional work, occupation or duty from one to five years for the person who commits this criminal offence.

Endangering of tax paying and tax control from the article 175, part 1 of the LTPTA is defined as follows- Any person, who, having the aim to disturb paying of tax that was not yet due to be paid or that was not fixed, but the process of determining or control started, or tax that was fixed to that or other person, after establishing a temporary measure for securing the paying of tax according to law, or that in the process of paying by means of coercion or by tax control, alienates, hides, damages, destroys or makes useless the object of temporary measure for providing tax paying, or object of tax paying by coercion or of tax control, will be sentenced to one year of imprisonment and by pecuniary sentence. The sentence of imprisonment from the part 1 of this article will also be the punishment for those who give false data about facts of importance for executing paying of tax by coercion or tax control.

Illegal sale of products liable for tax from article 176, part 1 of LTPTA exists when person who commits offence, sells products that are not specially labeled by the prescribed control tax marks, according to law.

The prescribed sentence is 6 months to 5 years of imprisonment. The second part prescribes punishment of 6 months to three years to the entrepreneur or the responsible person in legal personality who performs production or import of the products that, according to law, have to be specially labeled by tax marks, when they didn't take measures to label these products with tax mark before their sale. Part 3 and 4 prescribes enforcement of security measures of prohibiting professional work, economic activity or duty from 1-5 years for the perpetrators (entrepreneur or person in charge or legal personality) of the criminal offence from the part 1-2 of this article. Part 5 prescribes taking confiscation of goods that are not specially labeled by prescribed control tax marks and property gained by this criminal offence.

² These facts about committed tax evasion by the Philip Morris Company, can be justified by the written documents of the author: M4-form; the answer of the Ministry of Labour, employment and social policy from 14.04.2006.; the answer of Inland Revenue of Serbia from 03.04.2006; the list of compensation money of the DIN 'TOBACCO FACTORY' joint-stock company, NIS; The confirmation on paid gross income of the DIN for 2004; The report of the data-M4 form; The answer of the government's creditors from the Government of Serbia from 2007.



Illegal storage of these goods from article 176a, part 1 of the LTPTA happens when goods that is liable for tax is stored in premises that are not registered for that purpose or if the storing of goods is allowed and the premises weren't registered for that. Prescribed sentence of imprisonment is 3 months to 3 years and pecuniary sentence. *Punishment from the part 1 of this article will be enacted for everyone who in the premises registered for storage, stores goods that are liable for tax but for which there are no documents of their origin and of paid tax* (part 2). Part 3 prescribes carrying out *safety measures of prohibiting professional work, economic activity or duty in the period from 1 to 5 years for the perpetrators (entrepreneur or person in charge in legal personality) of this criminal offence*. Part 4 prescribes confiscation of goods that was stored.

Common characteristic of the criminal offences from LTPTA is the existence of willful guilt and intention of the perpetrator. At the same time willful guilt and intention is also a subjective element of the body of these incriminations, while the motive is utility.

In practice the act of Tax evasion appears very often in cumulation with the acts of committing some other similar, criminal offences (*smuggling, abuse of authority, deception of customers, forging of official documents*) and other from the group of incriminations against Economy.

For example, cumulation of *Tax evasion* on one hand and *abuse of authority* on the other hand (article 359 of the Criminal Code of Serbia) and *deception of customers* (article 244 of the Criminal Code of Serbia) on the other hand—the inspectors of tax police have in cooperation with the Ministry of Interior found and confiscated the goods from the warehouse of firm OD “Stari” in village Ugljarevo in the municipality of Trstenik. On that occasion they confiscated 1.689 l of Rubin brandy with forged control tax marks. On the basis of the analyzed situation, the manager and owner of this firm was sued on the based assumption that he committed tax criminal offences of tax evasion from article 172 and illegal use of tax marks from article 176 of the law on tax proceedings and tax administration as well as for the criminal offence of deception of customers from the article 146 and abuse of authority from article 242 of the Criminal Code of Serbia.³

The cumulation of *Tax evasion and forging of official documents* (article 357 of the Criminal Code of Serbia) — tax police reported to the public prosecutor in Paracin, Dusan Bulatovic from Zemun, the owner and manager of the d.o.o. “DV Inter Bulat” from Paracin on the based assumption that he committed the criminal offence of tax evasion and forging of official documents. Having the intention to evade paying value added tax, in the period from 01.03.-31.05.2006. he used a number of fictive factures of the firm “Marketforce Commerce” d.o.o. from Belgrade. These factures were referring to a fictive purchase of goods in the total amount of 156.250.600 dinars, with value added tax of 28.777.923 dinars. The reported person illegally used his right to the previously paid value added tax shown in the fictive factures and evaded paying it in the prescribed amount. Also, having the intention to avoid paying tax, Bulatovic made a number of fictive receipts of repurchase of agricultural products from natural person from Montenegro, and on the basis of these receipts he raised almost all money from current account of his firm in the amount of 103.804.800 dinars. The reported person kept the raised money for his personal needs, and he didn't calculate and pay the tax on individual earnings in the amount of 19.772.339 dinars. By these illegal acts Bulatovic damaged the budget of Serbia for the amount of 48.550.262 dinars.⁴

The cumulation of *tax evasion and smuggling* (article 230 of the Criminal Code of Serbia) — In coordinated activity of Inland Revenue, Ministry of Interior, Customs Administration, Market inspection of the Republic of Serbia, these institutions analyzed the amount of imported oil derivatives which can be get from oil fractions that have the span of destillation up to 380 C and which can be used for producing paint and polish. The tax inspectors of the Inland Revenue branch in Sid and Pirot brought binding decision of confiscating from the “Pyramid petrol” from Sid, diesel fuel D-2 in the amount of 461.026 l (16 cisterns) whose value was 14.259.534 dinars. As a matter of fact, after performing analysis of quality it was concluded that these were not the so called oil derivatives for producing paint and polish but diesel fuel D-

³ www.mfin.sr.gov.yu — The Ministry of Finances of the Republic of Serbia, Inland Revenue Communication sector — Public announcement dating from the 14th of May, 2006. Author's comment- In the announcement above given the criminal offences of Abuse of authority and Deception of customers are legally classified according to the Criminal Code of Serbia valid at the time.

⁴ www.mfin.sr.gov.yu — The Ministry of Finances of the Republic of Serbia, Inland Revenue Communication sector — Public announcement dating from the 22nd of September, 2006.



2 for final consumption. Also the oil derivatives were confiscated from the “Classis color” from Sid which was previously reported as gas oil, in the amount of 99.290 kg (4 cisterns) of which the value was 3.516.730 dinars. These derivatives were confiscated for collection of one part of the tax that “Classic color” owed on the total amount of 254.426.297,08 dinars. On the basis of the previously stated, Inland Revenue and the Ministry of Interior planned to arrange transport of the confiscated amount of oil derivatives stored in the industry of paint and polish “Suko” from Sukovo, municipality of Pirot to the oil refinery in Novi Sad, where the confiscated amount of oil derivatives was to be stored. The cisterns with confiscated oil derivatives (21 cisterns) started from Sukovo to Novi Sad today, December the 11th, 2006, in the morning. The Ministry of Interior will report to court all people responsible for this offence⁵.

Lately, there were also many cases of *complicity in tax evasion*, since, when including complicity, this incrimination appears as an occurring form of organized criminality. The tax police submitted to the municipal Public Prosecutor in Valjevo the criminal report against Dragan Marinkovic, the owner and the person in charge of the firm “Drancy” d.o.o. from Lazarevac, Aleksandar Djuricic, the owner of the agricultural property “Aleksandar Djuricic” from Lazarevac and against Zivomir Matic from Mionica, the owner and person in charge of the firm “Nudcy” from the same town and the firm “27th October” from Kotesica near Valjevo on the based assumption that in complicity, they committed criminal offence of tax evasion. In the period July 2005 — February 2006, Marinkovic raised the sum of 129.725.893,53 dinars from the current account of his firm and used it for personal needs. On that occasion he didn’t calculate and pay the income tax in the amount of 24.709.694 dinars. After raising this sum Marinkovic forged the data in business books and justified them by forged repurchasing documents and receipts of buying fruit and vegetables from the agricultural property “Aleksandar Djuricic” with stated and falsely shown as paid value added tax in the amount of 6.097.091 dinars. Marinkovic used that as a previous tax, and avoided paying value added tax in the same amount. Forged documents of repurchasing fruit and vegetables was made in complicity with Aleksandar Djuricic, who verified the repurchasing papers and receipts with his signature and official stamp of his agricultural property having knowledge he neither produced nor repurchased them or sold them to the firm “Drancy”. Also the reported person, Matic, in the period January 2005 — February 2006, gave Marinkovic the factures of false content about selling goods and services in the sum of 220.318.712,467 dinars. Value added tax stated in this way served Marinkovic to use it as a previously paid tax and so he evaded paying value added tax in the same amount. By these listed illegal acts, Marinkovic and the accomplice damaged that budget of Republic of Serbia for the amount of 63.512.252,42⁶.

The problems of revealing and processing. The question of revealing and processing of tax criminal offences, as well as other economy incriminations, is closely connected with organizational and personnel structure of executive organs (competence Ministries-Government) of a state. The quality of law execution in a state depends on the level of organization, the level of team work and efficiency of the executive authorities of a country have to respect and execute laws themselves. Serbian executive authorities are organized, ore theoretically than practically, to execute the valid legislation and prevent violation of valid legislation. It has effect on the content and efficiency of revealing and judicial proceedings for the committed tax criminal offences. That is the reason why tax evasion and other tax criminal offences in 97 % remain in the zone of the so called *dark number of criminality*.

*Tax authorities are in charge of revealing tax criminal offences (besides tax evasion, they are also regulated by articles 173, 173a, 175, 176 and 176a of the law on tax proceedings and tax administration. Tax police has the same authority in preliminary criminal proceedings like the organs of Ministry of Interior*⁷. However, practical procedure of revealing and processing the tax criminal offences is aggravated by the existing **legal provisions on the property and legal jurisdictions of the state organs that are in charge of that** (the terrain control of the revenue authorities and tax authorities Ministry of Finance of the Republic of Serbia, the Sector for criminality in economy of the Ministry of Interior of the Republic of Serbia, State

⁵ www.mfin.sr.gov.yu — The Ministry of Finances of the Republic of Serbia, Inland Revenue Communication sector- Public announcement dating from the 11th of December, 2006.

⁶ www.mfin.sr.gov.yu — The Ministry of Finances of the Republic of Serbia, Inland Revenue Communication sector — Public announcement dating from the 14th of July, 2006.

⁷ Stojanovic Z. The Commentary of the Criminal Code, Belgrade, 2006, p. 549.



prosecutor and jurisdiction Ministry of Justice of the Republic of Serbia. For example, when the inspector of the terrain control of the local tax administration reveals during the control of tax payer that the tax evaded is 150.000 or more dinars, according to law he has to immediately send to the Regional department of the local tax authorities the papers of the performed control of the tax payer. After that the employees of the Regional department of the local tax authorities conclude from the documents of the case if in the concrete case there are elements of the body of the Tax evasion, and if they decide that the incrimination exists they send the same documents to the Section for criminality in economy of the local police. After that the Section for criminality in economy of the local police in cooperation with the Regional department of the local tax authorities, sends the cases to the local public prosecutor who according to the facts that have been gathered gives a final opinion of the existence or the non-existence of the described tax incrimination. In practice it often happens that the Inland Revenue, Tax authorities or the sector of the criminality in economy gather detailed data of the existence of the prescribed tax incriminations, but that the local state prosecutor, not being acquainted with the tax regulations, in agreement with the local judge rejects to put into procedure the same criminal case, excusing himself by the fact that there are no detailed data-facts that indicate that the concrete incrimination has been committed. In these cases, most of the state organs in Serbia proceeds by letting somebody else solve their problems, so that the Inland Revenue, the tax authorities and the section for processing the criminality in economy point out that there is enough evidence for processing the concrete tax criminal offence, while the prosecution and the court claim that that there are no exact facts indicating that the tax incrimination for which the tax payer was charged, was at all committed. **In the state based on the rule of law** these oversights of the executive organs are neither allowed, nor tolerable, because they directly threaten the principle of legality and the principle of the legal security of the citizens. For example, in Germany or France the revealing and processing of the tax incriminations is performed solely by the inspectors of the Inland Revenue, until the judicial proceedings begin. We think that Serbia has to simplify the procedure of the revealing and processing of the tax incriminations, looking up to for example Germany.

Another problem that occurs during the revealing and processing the tax criminal offences is **insufficient professional degree of training and the practice of the state prosecutors and judges in criminal cases** in our courts. From 2.286 criminal reports submitted to the prosecution by the Inland Revenue during year 2005, 104 have been rejected as ungrounded, 287 was processed in court, and only seven criminal reports resulted in the sentence of imprisonment lasting from two to six months. During the year 2006, the Inland Revenue submitted all in all 738 criminal reports for tax evasion, in the amount of 8,5 milliards dinars, which twice larger sum in comparison to the same period in the year 2005. Observing the structure of the tax evaders it can be seen that 158 criminal reports were against owners and simultaneously managers of the firms, 488 against managers, 114 against person in charge, 53 against entrepreneurs and the remaining 39 against natural person which are employed by or in connection with these persons. The first serious, unconditional court verdict for tax evasion, lasting 4,5 years of imprisonment was reached during the year 2006. Commenting on the given data of tax evasion a former manager of the Inland Revenue of Serbia V. Ilic points out that the state shouldn't act as an alcoholic who doesn't admit that he has a problem. Out of 300 firms founded daily in Serbia 1/3 are the so called phantom firms that are being formed as a means for committing tax criminal offences⁸.

The third problem in revealing and processing criminal cases is the **high percent of organized criminality and corruption** in the whole society of Serbia, and consequently in the state organs of Serbia. In the world rank order of the corrupted states (the rank order was made according to the method from the less serious to the most serious corruption) from the 163 states all in all, Serbia is on the 90th place⁹. In case it gives a certain kind of relief, 73 states are more corrupted than Serbia. Analyzing from this standpoint the causes of the committed tax evasion in the case of Philip Morris Company, a legal question that occurs is — **Does Serbia indeed have a sovereignty over all its subjects that exist on its territory and on the whole of its main territory, in the sense of a state governed by he rule of law? Do the corruption and the organized criminality in Serbia**

⁸ www.mfin.sr.gov.yu — The Ministry of Finances of the Republic of Serbia, Inland Revenue Communication sector — Public announcement dating from the July, 2006, with the title TAX EVASION-SOCIAL EVIL.

⁹ The data was taken over from the TV-5 Morning program, 28.02.2007.



threaten the principle of legality, the sovereignty of the Serbian state, the principle of citizens' equality in front of the court, the principle of the legal security of the citizens and other vital principles of the economical legal order? Why has the group of criminal offences of corruption been excluded from the special part of the Criminal Code of Serbia? How and how much do the organized criminality and corruption influence the national economy of Serbia?

Instead of conclusion. Preventing Tax evasion and other tax criminal offences is an essential matter of the state criminality policy. A number of well planned and organized measures, for example through educational system and media it is possible to influence creating social consciousness and philosophy about the damage made by the tax criminal offences as a form of economy and organized criminality.

The announced *Cross-sectional assessment of property* that started in August 2006 encourages. The difference between the growth of property in the analyzed year, more precisely the state of property on the 1st January and the 31st of December that year will serve as a basis for taxation in this case. The difference is the accession of property that the tax payer is obliged to account for through the legal incomes. This control will also refer to those who on the 1st of January, 2003. reported having property larger than 20 million dinars as well as to those who had the property larger than 20 millions but didn't report it. The assessment of the Inland Revenue is that the number of citizens who haven't reported property larger than 20 million dinars is between 10.000 and 20.000¹⁰.

The cross-sectional assessment of property is only one of possible and valuable measures of prevention against tax criminal offences, namely economical incriminations as a form of organized criminality and corruption. Whether this measure will be used thoroughly by the Inland Revenue and other state organs of Serbia that is executive organs of Serbia and whether it will be carried out on the whole territory according to the principle of equality and identically for all citizens-remains to be seen. In any case, we think that a number prevention and repressive measures should be undertaken in order to prevent organized and economy criminal on the whole territory of Serbia and according to the principle of equality and identical criminal law principles for all citizens. There should be no legal obstacles and disabilities in relation to revealing and tax and other criminal offences who threaten the economical and legal order of our state, and in relation to potential perpetrators. Any citizen and his personal interests or interests of the social group to which he belongs, can't be above the valid legislations and common state interests of Serbia no matter what state or political position that person occupies.

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¹⁰ www.mfin.sr.gov.yu — The Ministry of Finances of the Republic of Serbia, Inland Revenue Communication sector — Public announcement dating from the 26th of July, 2006, with the title From August-Cross-sectional assessment of property.



ПОРЕСКА КРИВИЧНА ДЕЛА У СРБИЈИ

Резиме

Чланак Александра Б. •ури• а “ПОРЕСКА КРИВИЧНА ДЕЛА У СРБИЈИ“ посве•ен је истраживању пореске утаје и других пореских инкриминација које су извршене на територији Србије током 2005. и 2006. године. Од 100 % извршених пореских кривичних дела у току једне године у Србији се само 3 % истих открије од стране полиције и од суда процесуира и пресуди. Тако велика годишња стопа пореског криминалитета поткопава националну економију, девалвира правни и социјални поредак државе Србије, те изазива неповерење гра•ана у државне институције и државне органе. Често су пореска кривична дела повезана са другим инкриминација против привреде и инкриминацијама корупције. Појављују се као форме организованог криминалитета, мотивисана користољубљем и извршена умишљајном кривицом.

Кључне речи: *пореска утаја, пореске инкриминације, умишљај, намера, кривица, користољубље, организовани криминалитет, корупција.*

ЗЛОЧИНИ У ПОДАТКОВИЈ СФЕРИ ЗА КРИМИНАЛНИМ ЗАКОНОДАВСТВОМ СЕРБИЈИ

Резюме

Стаття Олександра Джурича присвячена дослідженню ухилення від сплати податків та інших податкових злочинів, які вчинені на території Сербії протягом 2005 та 2006 років. Всього лише 3 із 100 відсотків злочинів у податковій сфері на протязі року виявляються поліцією. Такий високий щорічний рівень податкових злочинів підриває народне господарство, посягає на політичний та суспільний лад Республіки Сербія. Таким чином підриває довіру громадян до державних інституцій та урядових організацій. Податкові злочини часто пов'язані з іншими порушеннями у сфері корупції, спрямованими проти економіки. Вони можуть вчинятися організованими групами, з корисливих мотивів та умисно.

Ключові слова: *ухилення від податків, податкові порушення, умисел, мотив, вина, організована злочинність, корупція.*

