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## **Fight Against Tax Frauds and Tax Evasion from the Viewpoint of Tax Administrations in Bosnia and Herzegovina**

Detection of tax crimes can be defined as detection of frauds based on false representation of important facts or concealing them. According to international auditing standards, under the term of *fraud* we consider an intentional act of one or more persons among management of a business subject or people in charge of managing employees or third parties in order to gain illegal advantage or benefit.

Most of the highly developed countries are extremely sensitive to tax crimes and tax frauds, and they mitigate that sensitivity by prevention and large number of criminal cases and sanctions for breaking the tax laws. Here, we need to distinguish tax crimes from tax offences.

Tax offences are inoffensive and unintentional mistakes in documenting tax-related business events, simple mathematical errors that are subject to relatively small fines or even not punishable at all. Then, negligence in book-keeping and other business documentation, moonlighting which is subject to medium fines, and administrative tax evasion in smaller amounts which is subject to high fines.

Tax crimes are described in criminal laws and are related to tax evasion or tax frauds that are subject to court judgments and include high fines and/or imprisonment.

The significance and complexity of tax fraud problems are especially intensified in transition countries that are changing their legal systems in a short period of time as well as the business and economic environment, which favours specific characteristics of such criminal activity.

Bosnia and Herzegovina is a transition country with a very complicated political system, which is the reason for a complex taxation system in the country.

Considering the transition process, specific constitutional model and fragmentation in territorial, legal and economic aspects (two entities and ten cantons, where each entity and canton has its own administration, including parliaments, prime ministers and corresponding ministries performing government activities, and police and prosecutor), it is clear that Bosnia and Herzegovina represents a convenient ground for tax fraud and

money laundering. Furthermore, the authorities have limited opportunities for preventing tax frauds, money laundering and business crimes.

Tax frauds occur in numerous and various forms. Based on the experiences of the federal tax administration, the most common areas of tax fraud, with the severest impact on the economy and the society, are:

- **Goods and services market** (illegal imports of goods and services; trade of non-registered domestic and import goods and goods with no origin; fictitious, inaccessible and parallel companies; fictive goods transport through the country; irregular book-keeping and turnover reporting; unauthorized conduct of goods and services trade; unregistered turnover; tax evasion through fictive contracts and fictive goods deliveries to non-existent companies; marketing of goods without evidence of origin, or without proof of payment of customs, excise and taxation; trade of goods with the recorded purchase price significantly lower than production and market prices; multiple documents for the same goods in different places and at different stages of transport; unauthorized trade in goods and services (unregistered traffic); purchase of goods at lower customs and tax rates, and placing on the market at the price of goods for which are prescribed higher tariffs; hiding profits through transfer prices; etc.)
- **Money transactions** (mutual paying of obligations “in cash” with no documentation required by the law; sale for cash with no tax registration and paying of taxes; creating illegal money market outside the business accounts of participants in money transfers – money from daily sales; trade from black market; uncontrolled and unregistered payments in foreign currency in and outside the country; etc.)
- **Labour market and working relations** (no registration of workers (moonlighting); parallel payroll systems: lower wages in book-keeping to avoid payment obligations and pay the unregistered part in cash; fictive registration of a large number of seasonal workers to avoid payment obligations outside season; etc.)
- **Other** (creating false financial statements; recording of non-existent expenditures; operations with related companies – concealing of income through transfer pricing; fictive reporting of bigger costs with the intention to avoid income tax; inappropriate income declaration, i.e. declaring under a lower tax category; various forms of sports organizations, political parties, religious communities sponsorship and other similar sponsorships by taxpayers who are not specified by regulations; issue of fiscal receipts or billing, but subsequent reversal of transactions and destruction of accounts or complete avoidance of fiscalization; speculation in real estate transactions to decrease the actual value of property and to avoid paying taxes on the transfer of ownership; non-submission of tax reports on real estate income and income from self-employment – internet business, freelancers, etc.)

The Tax Administration of Bosnia and Herzegovina is taking regular preventive and repressive actions in order to prevent tax frauds and grey economy, for instance:

- **Making new legal propositions and amendments to existing legislation in order to make their implementation simpler and more efficient and to have**

**better control of adherence to laws.** For example, the initiative for change of unique registration, control and collection of contributions law. This law originally included a deadline of seven days from the start of the job to register the employees. Some employers misused it by having employees for a long time without registering them on time and claiming that they had hired them less than seven days ago. Amendments to the law introduced the obligation for employers to register every employee one day after the start of employment at the latest. In addition, amendments were made to the law that regulates the rate of penalty interest on public incomes, introducing an easement for taxpayers who pay their taxes on time (penalty interest was dropped in such cases).

- **Introducing new technologies, facilitating access to information, regulations and tax statements, permanent and two-way communication with taxpayers and citizens.** The federal Tax Administration has enabled electronic access to all tax legislations, tax reporting forms and submitting online tax statements for taxpayers using different internet applications and services. Moreover, free helpline numbers and e-mail addresses have been provided for taxpayers and citizens, where they can get information, give recommendations and submit anonymous information about tax crimes or other offences.<sup>1</sup>
- **Introducing an act on limited right to access assets on accounts of commercial subjects.** The federal Tax Administration issued this act for commercial subjects who have larger amounts of tax debts, which enables them to continue their business and, in agreement with the Tax Administration, pay all their obligations related to their core business (regardless of the type of obligation): making profits, exercising social functions or paying tax obligations. At the same time, any payment that is not related to profit or business in general (term deposits, buying stocks, shares or other financial assets, sponsoring, marketing, donations, etc.) is blocked. In this way, commercial subjects can continue normal business operations without making unnecessary expenses and with better financial discipline, which has resulted in a decrease of tax debt.
- **Increased control of implementation of the income tax law.** In mid-2018, based on data acquired by local banks, the federal Tax Administration came to a conclusion that there has lately been an increase in the number of citizens who receive income from abroad and collect it through PayPal or other online payment services, or directly to foreign currency accounts or other kind of accounts registered at the bank. These incomes are not being reported in accordance with the income tax law. In order to enforce the implementation of this law, the federal Tax

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<sup>1</sup> Further information (not available in English):

- <http://www.pufbih.ba/v1/zakoni>
- <http://www.pufbih.ba/v1/stranica/5>
- <http://www.pufbih.ba/v1/kontakti>
- <http://pufbih.ba/v1/stranica/32>
- <https://docs.google.com/forms/d/e/1FAIpQLSfMsBymlZmWH6wgda0LSBZ3b8ZM1NvxOXjmg-cETu5arzTJeA/viewform>

Administration invited all resident citizens who receive income from abroad to report the income and pay taxes.<sup>2</sup>

- **Continuous targeted inspectoral supervision of the high-risk group of taxpayers (catering, construction, goods and services trading, etc.).** During the first six months of 2018, the federal Tax Administration conducted 2,047 partial inspectoral supervisions (the so-called fast control) and found that 204 taxpayers are doing business without authority approval. Furthermore, the inspections revealed 532 unregistered employees. In 345 cases, it was been found that the tax subjects had not reported their transactions through a fiscal device. As a result of detected irregularities, tax inspectors issued 305 decisions for temporary suspension of business activities and 1,740 misdemeanour warrants.<sup>3</sup>

Criminal frauds in commercial business are usually not committed by persons who are members of the criminal society in the classical sense, but persons with a high social status conducting high-level social functions. Typically, such criminal activities cannot be performed by a single person, so there is usually a group of people, who are connected and organized by common interests, and such activities are known as organised economic crime.

Organised economic crime is one of the most common type of crimes in the world as well as in Bosnia and Herzegovina. Considering the characteristics of the organizers and conductors of this type of crime, and lack of specialized personnel for detecting these crimes, it can be concluded that frauds in business activities are easier to conduct and harder to discover and persecute, compared to other regular crimes. Even the public cannot perceive such acts easily and take a clear position.

Frauds in business activities remain uncovered in a large number of cases, and the problem is that the criminal money is eventually included in legal business flows. There is a great number of activities under doubt, whereas it is difficult to trace down the source of money. That is why the fight against organised economic crimes should be intensified and qualified teams should be formed, which would be able to uncover and persecute the organisers and conductors of criminal activities in commercial business.

The federal Tax Administration includes the Department of Intelligence and Investigations that is responsible for uncovering, prevention, collecting documentation and reporting crimes. In addition to their responsibilities under the Act on Tax Administration of the Federation of Bosnia and Herzegovina, the inspectors of this department have jurisdiction under the Law on Criminal Procedure, which stipulates that within the framework of the Tax Administration there are officials who have the authority provided by this Act to take legal measures and actions for conducting criminal investigations in the field of taxation, under the supervision of the prosecutor.

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<sup>2</sup> Further information (not available in English): <http://www.pufbih.ba/v1/novosti/1177/poziv-poreznim-obveznicima-koji-ostvaruju-prihode-iz-inostranstva>

<sup>3</sup> Further information (not available in English): <http://www.pufbih.ba/v1/novosti/1175/u-416-kontrola-otkriveno-130-neprijavljenih-radnika-i-zapeaeno-78-objekata>

During the past few years, the country has witnessed an increase in the number of uncovered tax frauds and reports submitted to the prosecutor's office by inspectors of the Department of Intelligence and Investigations of the federal Tax Administration. Most of the official reports are related to different crimes or reasonable doubt that taxpayers have committed crimes of benefit (tax evasion and false tax office or tax evasion and falsification or destruction of business and transaction books, etc.)

From January 2016 to June 2018, altogether 88 criminal reports were submitted to district attorneys. The reports describe reasonable doubt about committed crimes, based on the Criminal Law, and assess the damage to federal budgets to be 30,433,215.69 BAM (15,560,256.20 EUR).

Year	Total official reports	Assessed budget damage	Crime
2016	39	20,660,252.21	Tax evasion: 17
			Abuse of power in business operation: 8
			Irregular asset extraction of legal entities: 7
			Falsification of documents: 1
			Submission of false tax reports, or falsification of tax reports: 6
			Criminal organisation: 1
			Breach of seal or sign: 1
			Illegal trade or unauthorized practice of certain business: 4
			Signing harmful contract: 1
2017	32	6,913,992.59	Tax evasion: 20
			Abuse of power in business operation: 18
			Irregular asset extraction of legal entities: 10
			Falsification or destruction of business and transaction books/documents: 3
			Submission of false tax reports, or falsification of tax reports: 3
			Creditor fraud: 1
I-VI 2018	17	2,858,970.89	Tax evasion: 11
			Abuse of power in business operation: 13
			Irregular asset extraction of legal entities: 4
			Illegal trade or unauthorized practice of certain business: 1
			Submission of false tax reports, or falsification of tax reports: 1

From 2016 to June 2018, the investigative inspectors of the Tax Administration of the Federation of Bosnia and Herzegovina, independently and in cooperation with other state and entity investigative and prosecution bodies, took measures and actions to detect, prevent and suppress all illegal activities in numerous cases. Among those are the most complex cases of organized crime related to tax evasion and tax fraud.

1. "Holiday Inn" – an indictment has been filed against 12 persons charged with having committed the criminal offense of organized crime in connection with criminal offenses in the period from June 2014 to June 2015: tax evasion,

threats to security, serious theft, damage to others and organization of resistance. In the current course of the proceedings of these 12 persons against whom an indictment was filed, eight persons have reached an agreement with the competent prosecutor's office on the recognition of the perpetrators, and for four persons (the organizer and the closest associates) a court verdict is expected in the near future.

2. "University of Pharmacy" – Sarajevo Canton Prosecutor's Office issued an indictment for the criminal offense of tax evasion and misuse of position against the former Head of Accounting at the University of Pharmacy in Sarajevo, initials R.A., who was charged with damaging the budget of Canton Sarajevo and the Federation of Bosnia and Herzegovina by 4.5 million BAM, and University of Pharmacy for 902,264 BAM. The verdict is expected soon.
3. "MRKVA" – an indictment was filed against five citizens and two legal entities from Sarajevo for the criminal offense of organized crime in conjunction with the criminal offenses of tax evasion and money laundering. A person with initials A.M. is charged for organizing a criminal group who, by avoiding the payment of taxes and contributions and money laundering, damaged the budget of the Federation of Bosnia and Herzegovina by more than 3.3 million BAM from 2012 to 2015 and gained unlawful material gain in the same amount. The verdict is expected soon.
4. "ZADRUGA" – in mid-2018, after many months of work on detecting perpetrators and documenting criminal offenses, under the orders and under the supervision of the Prosecutor's Office of Canton Sarajevo, investigations were started regarding several dozens of legal entities, and responsible persons were arrested for the criminal offense of organized crime with criminal offenses of abuse of office or power and money laundering. The Prosecutor's Office of Canton Sarajevo suspects them of organized crime, abuse of office, money laundering, and tax evasion by drafting fictitious employment contracts for students and pupils and laundering several million BAM. The Prosecutor's Office admitted that the organizers of the mentioned acts are held in detention.
5. In mid-2018, the Cantonal Court in Sarajevo pronounced the first-instance verdict for Emir Šarić and Hasib Bjelić for 13 years in prison for the criminal offense of organized crime in conjunction with the criminal offenses of tax evasion and money laundering. Ferida Hasić was sentenced to three years in prison. At the same time, at the suggestion of the Prosecutor's Office of Canton Sarajevo, they were deprived of multilateral assets and money in the amount of approximately 2 million BAM. Among the confiscated assets are a company and University Hotel Emiran, the UMAX GROUP petrol station, a large land area, a few flats and cars. The Prosecutor's Office of Canton Sarajevo charged them for representing Special Security Vehicle Trading from Dubai and Munster LTD from Seychelles, in tax evasion of more than 4 million BAM. On the basis of fictitious contracts with the mentioned companies, money was paid to their foreign currency accounts in several banks. They used it for private purposes for the

purchase of many real estate, companies (UMAX GROUP petrol station, Emiran Company and University Hotel Emiran etc.), cars and many other things. With commission of these criminal offenses the perpetrators are charged with the criminal sanctioning of laundering more than 20 million BAM.

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### **Suggestions for possible solutions**

- Harmonization and adoption of uniform tax laws at the state level;
- Adopting the legal solutions of EU member states and other developed countries;
- Implementing efficient and systematic activities through anti-corruption measures; reform and rationalization of the massive administrative apparatus;
- Improvement of research methods by the model of modern tax administration in the world;
- Networking and integration of administration and institutions responsible for taxes;
- Tighter inter-institutional cooperation and cooperation with citizens and taxpayers, computerization and training;
- Increasing the number of inspectors in investigating tax administrations;
- Adopting legislation that would allow verification of the origin of property;
- Raising awareness and tax discipline among citizens;
- Involving the international community through different means of support and cooperation.

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