

Abstract

The diploma thesis deals with the problematics of tax evasion, charge and similar mandatory payments under § 240 of the Criminal Code. This crime is the most common and at the same time the most serious tax crime which is significant by high rate of latency. The aim of this thesis is to present complex overview of current tax fraud legislation problematics. Several parts of this thesis are dedicated to the basic features of tax fraud. Given by the high latency of tax fraud by which is tax fraud characterized and also by the fact that many of its forms of committing are not yet known, part of the work is devoted to ways how to reduce tax in relation to the most important taxes within the Czech tax system. That means in relation to income tax, VAT and excise tax. Some parts of this thesis deal with the general issues of developmental stages of a crime or its punishment, but always in relation to the crime of tax evasion, charge and similar mandatory payments. The thesis then focuses on current problems of the crime of tax evasion, charge and similar mandatory payments. These problems are the *ne bis in dem* principle, the *nemo tenetur se ipsum accusare* principle, the question of effective regret and tax optimization. The current problem of the *ne bis in idem* principle emerged from the decision of the European Court of Human Rights according to which, under certain circumstances, there is a possibility that both proceedings take place and end up with sanctions (both criminal and tax) without violating the *ne bis in idem* principle. The problem with the *nemo tenetur se ipsum accusare* principle is that there is a prohibition on forcing the offender to report crimes committed by him by filing a tax return related to his unlawful activity. Effective regret is associated with a problem arising from the excessive finding of the Constitutional Court of the Czech Republic, according to which a special effective regret is to be applied under § 242 of the Criminal Code also in relation to the crime of tax evasion, charge and similar mandatory payments under § 240 of the Criminal Code. Tax optimization brings with it the problem of setting a limit where legal tax optimization ends and tax optimization made by illegal means begins. The conclusion of the thesis is devoted to the foreign legislation of tax offenses in Slovakia, Germany and Austria.

Keywords: Crime of the tax reduction, principle of *ne bis in idem*, principle of *nemo tenetur se ipsum accusare*, tax optimization