

Tax crimes

Abstract

This thesis deals with the topic of tax crimes. Its goal is to analyze the current legislation regarding tax offences in the Czech Republic, that is both from a general perspective and from the perspective of specific types of tax crimes, and identify the weaknesses of the legislation. These weaknesses were found mostly in the rigid reaction of the legislator to legislative changes in the law, which causes these changes not to be reflected in the penal code. Some sections are dedicated to general topics about taxes and tax offences, such as the reporting of tax crimes and their preparation and attempt. Furthermore, sections of the penal code were interpreted with a focus on parts that might pose a problem during interpretation. Such problems are for example the extent of a committed tax fraud, the recent extension of the crime in Section 227 of the penal code to include duties during tax governance or the examination of the connections that the penal code has to tax legislation. The following part compared the Czech legislation regarding tax crimes to those in Slovakia and in Austria.

Then it focuses on the examination of current problems in the field of tax crimes, mainly the principle of *ne bis in idem*, the principle of *nemo tenetur se ipsum accusare* and the problem connected to effective repentance. It deals with probably the most important issue of the interpretation of the principle of prohibition of dual prosecution for the same case in tax proceedings and criminal proceedings. About this problem, it is stated that it is possible when the conditions set in case law by the European Court of Human Rights to have simultaneous tax and criminal proceedings without infringement of this principle. The next problem is the prohibition of self-implication connected to the taxation of income that originated from criminal activities, where it was come to the conclusion that the perpetrator cannot be forced to report his own criminal activity by stating his earnings there from in his tax declaration. Finally, the wrong reasoning of the Constitutional Court was shown in regards to the use of analogy in the special effective repentance in Section 242 of the penal code and its application on cases of tax fraud. It cannot be used in this way because it would violate the legislator's will to use the general clause of effective repentance on tax fraud cases.