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## CONSTRUCTING OF VERSIONS AND PLANNING OF INVESTIGATION OF ORGANIZED CRIMINAL ACTIVITY IN THE SPHERE OF TAXATION

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### SUMMARY

Article is devoted to characteristic of typical investigative versions which put forward at investigation of organized criminal activity in the sphere of taxation. The essence of investigative versions at the beginning of a pretrial investigation reveals. Besides classification criteria of typification of investigative versions of ways of formation of organized criminal communities in the sphere of taxation with further planning of their investigation are analyzed and defined.

**Key words:** investigative version, typical version, planning, organized criminal activity in the sphere of taxation.

## ПОСТРОЕНИЕ ВЕРСИЙ И ПЛАНИРОВАНИЕ РАССЛЕДОВАНИЯ ОРГАНИЗОВАННОЙ ПРЕСТУПНОЙ ДЕЯТЕЛЬНОСТИ В СФЕРЕ НАЛОГООБЛОЖЕНИЯ

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### АННОТАЦИЯ

Статья посвящена характеристике типичных следственных версий, которые выдвигают при расследовании организованной преступной деятельности в сфере налогообложения. Раскрывается сущность следственных версий в начале досудебного следствия. Кроме того, проанализированы и определены классификационные критерии типизации следственных версий способов формирования организованных преступных образований в сфере налогообложения с дальнейшим планированием их расследования.

**Ключевые слова:** следственная версия, типичная версия, планирование, организованная преступная деятельность в сфере налогообложения.

**Statement of a problem.** Promotion of investigative versions as investigation planning bases always assumes the difficult analytical activity connected with thinking, penetration into logic of events which focus in themselves the mystery of human passions, motives, the purposes. It represents special complexity at investigation of tax crimes where the investigator deals only with separate fragments of an event from which it is necessary to take information allowing to define the direction of investigation, the organization of investigative and operational search actions, to develop own position in formation of model of an event. It not always works well as investigation of the tax crimes committed by organized criminal groups has the features connected with specifics of such acts made in the sphere of the economic relations in particular concerning various parties of economic and financial activity. Therefore constructing of versions and planning of investigation is one of the most important elements of a technique of investigation of these types of crime.

The substantial contribution to development of problems of investigation

of the crimes committed by organized criminal groups is made in scientific works of domestic and foreign scientists, in particular Yu.P. Alenin, R.S. Belkin, V.I. Vasilinchuk, V.O. Glushkov, V.G. Goncharenko, V.Ya. Gorbachevsky, A.Ya. Dubinsky, V.S. Zelenetsky, N.S. Karpov, V.V. Lysenko, E.D. Lukyanchikov, V.T. Malyarenko, A.R. Mikhaylenko, Yu.Yu. Orlov, V.L. Ortinsky, B.V. Romaniuk, S.M. Smokov, S.M. Stakhovskiy, M.P. Strelbitsky, A.Yu. Tatarov, V.V. Tishchenko, P.V. Tsybal, K.A. Chaplinsky, S.S. Chernyavsky, M.E. Shumylo and others. The big contribution to a research of the questions connected with investigation planning was made by such famous scientists as: O.M. Bandurka, A.F. Volobuyev, A.P. Gel, V.D. Zelensky, O.M. Larin, O.M. Litvinov, G.A. Matusovsky, V.A. Obraztsov, O.G. Filippov, M.P. Yablokov and others.

**The purpose of article** is definition of typical versions which are characteristic of investigation of organized criminal activity in the sphere of taxation.

**Statement of the main material.** Constructing of investigative versions is

an important stage of definition of a system of the purposes in criminal proceedings. Each version is analyzed from what logical conclusions about a possibility of existence certain circumstances are drawn provided that the version is right. A part of such consequences can be known at the time of creation of the investigative version, the majority – no. The investigator by conducting investigative and other legal proceedings has to prove or disprove the put-forward versions. The list of the circumstances which are subject to establishment in proceedings (the circumstance entering a proof subject and also the intermediate facts by means of which the first are established) has to be exhaustive (in a concrete situation) [4, p. 313].

In criminalistics questions of operating by versions and planning of investigation of the crimes connected with official plunders that gives the grounds to consider this technique as basic are most fully developed.

Making use of experience of planning of investigation of this type of crime and practice of such activity in production by new types of tax crimes, it is possible



to define the main directions of development of the doctrine about planning of investigation of the tax crimes committed by an organized criminal group.

Constructing of investigative versions in productions of this category, the nature of their action, other circumstances and planning of the main directions of their investigation begin with a test stage in process of identification of signs of crime. At criminal proceedings of this category various actual data can be the basis for versions. In some cases the crime scene (its certain episode) is known, but it is not clear how and where the property has been sold; in others – the investigator of data on realization of material values in a certain place, however is unknown a source of their receiving. Circumstances can develop and so that known are only facts of informal realization, for example raw materials from manufacturer, or the facts transportation of finished goods without appropriate registration while at once there will be its producer and the recipient. It is especially characteristic of the uniform products manufactured by various enterprises and delivered to numerous recipients.

From the beginning of investigation, carrying out investigative (search) actions, criminalistic operations, investigative and operational and organizational actions are widely implemented, checked for knowledge and skillful use when planning investigation, promotion of versions – data of criminalistic characteristic of the tax crimes committed by an organized criminal group.

The general questions of constructing of versions and planning of investigation were a subject of a number of scientific researches and are rather in detail stated in literature [3; 5; 7].

In general under the investigative version it is understood proved by actual data of the assumption of the investigator of an event of crime, its participants, motives, other circumstances, explains the facts established in criminal proceedings. Most of researchers of this problem consider the version as a knowledge method, and planning – as a method of the organization of investigation. They are interconnected as promotion and verification of versions is the main content of planning of investigation.

As basis for promotion of versions and planning of their check serve the actu-

al data which are contained in materials of primary information about crime. Depending on the nature of the specified information, its volume and reliability these or those versions which are subject to check by the investigator can be put forward. For the correct assessment of actual data, reasonable promotion of versions, definition of a circle of the circumstances which are subject to establishment during preliminary investigation knowledge the investigator of criminalistic characteristic of the tax crimes committed by an organized criminal group, and its elements is important:

- ways of commission of the specified crimes;
- situations of types of organized criminal organization and their structure;
- types and forms of corruption communications;
- ways of legalization of income gained from organized criminal activity, etc.

The analysis of practice shows that ways of commission of tax crime, an investigative situation which developed matter at promotion of versions and their checks.

Undoubtedly, the investigative situation defines tactics of specific investigative actions, the choice of the direction of investigation, volume and the sequence of carrying out the investigative actions, operational search, organizational measures necessary for the solution of problems of investigation, and find the reflection in planning. Moreover, “one of the principles of planning of investigation – the principle of dynamism – which is defined by constantly changing investigative situation. The identity of planning follows from identity of a concrete situation on each investigated crime. The principle of reality of planning, certainly, is connected with the correct assessment of an investigative situation. The principle of concreteness assumes accurate formulation of tasks of an investigative situation” [7].

At the heart of planning as earlier it was already noted, promotion of the version and definition of methods of its check lies. The actual data necessary for creation of the version are included also into the maintenance of an investigative situation. Stated influence of a concrete situation on investigation planning demonstrates interrelation and interdependence

between investigative situations and versions, namely.

In criminalistics it is accepted to differentiate versions on the general and separate, typical, concrete, working. The general are the versions which are put forward for a crime event explanation in general, and separate such which explain separate circumstances and the facts [6, p. 48].

So, at investigation of the concrete tax crime committed by organized group the following general versions can move forward:

- about existence of organized criminal group without corruption communications;
- about presence of organized group with corruption communications;
- about the purposes of organized group, its structure, a way of commission of tax crime by it, etc. The given circumstances and the facts can move forward also in the separate version.

In a technique of investigation of the tax crimes committed by organized criminal groups the problem of standard versions which is insufficiently developed in the theory deserves attention. Some authors consider what typical versions is a kind of investigative versions [3, p. 21]; others deny this fact [5, p. 8].

Typical versions as result of scientific synthesis of practice are stated (covered) in the relevant methodical documents on investigation of crimes. During conducting investigation on concrete criminal offense the investigator puts forward the concrete versions based on his materials, but are constructed on the basis of standard versions.

R.S. Belkin under the usual version understands the possible explanation of the fact or an event in general is most characteristic of this investigative situation from the point of view of generalized investigative or judicial practice [1].

According to us, typical versions have features which are that the assumption of a crime event, its subject, and a subject of criminal encroachment, a situation and other circumstances of criminal activity are based on the data obtained as a result of synthesis of investigative practice that is details of criminalistic characteristic, and reflect characteristic features of crime of this type. The direct purpose of standard versions is to help the investigator to choose the direction of investigation of concrete crime, the shortage of the avail-



able data. Being a kind of the investigative version, the typical version about investigation of a concrete criminal offense contains perhaps knowledge, and following conclusions of their check have conditional character. Or the point of view of A.N. Larin who considers that the typical version gives reliable knowledge is not indisputable and does not serve knowledge single in this situation, so, and is not a kind of the investigative version [5, p. 9]. We consider the standard version as result of synthesis of investigative practice of separate type of crime. It gains character investigative in concrete criminal proceedings when the investigator considers that in this situation it is possible and it should be checked [3, p. 22].

The analysis of theoretical provisions and investigative practice allows considering typical versions as the most typical an assumption of explanations the facts, crime events in general, taking into account the experience of investigation of concrete types of crime accumulated by investigative practice.

The investigative version on concrete tax the crime committed by an organized criminal group defines its image. The way of crime connected with the sphere of organized criminal activity, a look and features of production and economic operations, the performed works; with a subject of criminal encroachment; with the developed situation; with a look organized criminal groups and way of its formation (creation), role functions of members of criminal collective, their criminal skills, social, official position and other factors.

Typical versions have scientific and practical value as explain ways of formation of organized criminal groups in the sphere of taxation:

1) about the subject structure of organized criminal groups:

– a tax crime is committed by organized group of officials of the state or collective enterprise or enterprise with the mixed form of ownership;

– a tax crime is committed by organized group of workers credit and financial or bank institutions;

– a tax crime is committed by organized group of businessmen of commercial structures;

– a tax crime is committed by organized group of officials, public servants of power and administrative bodies;

2) about the head (leader) of organized group of mercenary and economic orientation:

– the head of criminal collective – the official of enterprise structure;

– the head of criminal collective – the leader of criminal structure (“authority”);

– the head of criminal collective – the official of public authorities;

– the head of criminal collective – the official of the state (collective) enterprise.

At investigation of the tax crime of a concrete type committed by organized criminal group taking into account criminalistic characteristic and typical versions given above in development of each of them and also a way of commission of crime the separate versions based on the actual data collected in proceedings can be put forward as the general. The certain signs of ways of tax crimes, actual data established as a result of carrying out initial investigative actions form the basis for promotion of versions.

In particular except versions about a way of crime at investigation of the specified crimes it is possible to put forward versions about time and the place of commission of crime, a situation, the reasons and conditions promoting formation of organized group, commission of economic crime about a role of each of accomplices in this crime, about material damage, ways of legalization of income gained in the criminal way, possibilities of bribery of officials of public authorities of the power and management, tax police, law-enforcement bodies, and prosecutor’s offices.

Verification of versions is made by planning of carrying out investigative actions, criminalistic operations, operational search and organizational actions.

At the general planning it is important on the basis of the available materials in due time and to correctly plan specific objectives of investigation of crime at this stage which first of all, are directed to establishment of all members of organized group and all crimes committed by them, to define the list of the investigative actions or other actions necessary for implementation of the tasks.

At the same time when planning special attention is paid to identification of the organizer of criminal group (to the organization, communities). He, as a rule, is an initiator of creation of crim-

inal collective which operates its criminal activity. In this case knowledge of subjective structure of economic organized crimes is important that will allow defining methods of identification of the organizer of criminal group in the general plan. Besides, for achievement of goals, from methodical positions important that all actions of the investigator were carried out in a section of standard versions, were constantly interpreted and filled with concrete contents taking into account specific circumstances of the investigated criminal offense.

Therefore, from above stated it is possible to draw a conclusion that operates on the initial stage of investigation of the tax crimes committed by organized criminal group the investigator on specially developed plan which is under construction, proceeding from a concrete investigative situation which develops, and the versions which are put forward by it. On the basis of the available information there is a construction and verification of criminalistic versions, the circle of tactical tasks for ensuring effective work, including the sequence and an order of conducting separate investigative, legal proceedings and investigation and search operations is defined.

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## ОПЫТ ОСУЩЕСТВЛЕНИЯ РЕФОРМЫ ДЕЦЕНТРАЛИЗАЦИИ В НЕКОТОРЫХ СТРАНАХ СНГ

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#### АННОТАЦИЯ

Статья посвящена освящению опыта некоторых стран СНГ в сфере проведения муниципально-правовой реформы, а также разработке предложений относительно возможностей его использования в процессе осуществления реформы децентрализации в Украине. Автором исследуются особенности организации местного самоуправления в республиках Казахстан, Молдова, Грузия, которые устоялись вследствие проведения указанной реформы. Определены модели децентрализации, которые используются в практике осуществления соответствующей реформы в странах СНГ. Автором обоснованы предложения относительно возможности использования позитивного опыта некоторых постсоциалистических стран с целью повышения эффективности осуществления муниципально-правовой реформы в Украине.

**Ключевые слова:** территориальные общины, местное самоуправление, реформа децентрализации, зарубежные страны.

## THE EXPERIENCE IN IMPLEMENTING DECENTRALIZATION REFORM IN SOME POST-SOCIALIST COUNTRIES

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#### SUMMARY

The article is devoted to the consecration of the experience of some the CIS countries in the field of municipal law reform, as well as the development of proposals for the possibilities of its use in the process of decentralization reform in Ukraine. The author examines the features of the organization of local self-government in the republics of Kazakhstan, Moldova, Georgia, which are settled as a result of the implementation of this reform. Decentralization models have been identified that are used in the practice of implementing the relevant reform in the CIS countries. The author substantiates proposals regarding the possibility of using the positive experience of some post-socialist countries in order to increase the effectiveness of the implementation of municipal legal reform in Ukraine.

**Key words:** territorial communities, local self-government, reform of decentralization, foreign countries.

**Постановка проблемы.** Большинство стран постсоциалистического пространства успешно осуществили муниципально-правовые реформы либо пребывают в процессе их завершения, что позволяет вести речь об использовании положительного опыта некоторых государств в указанной сфере. Такой опыт является наиболее ценным в отношении его применения в Украине, поскольку страны СНГ пребывали в схожих исходных условиях, что обусловлено историческими, правовыми, политическими особен-

ностями их развития. Таким образом, исследование опыта некоторых стран СНГ в сфере проведения муниципальной реформы позволит перенять положительные аспекты, а также даст возможность избежать ошибок в процессе реализации соответствующей реформы в Украине.

**Актуальность темы исследования** обусловлена тем, что вопросы проведения муниципально-правовой реформы в странах СНГ в контексте возможности использования опыта таких государств в процессе реализации