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# Tax Evasion: The Case of the Republic of North Macedonia<sup>3</sup>

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## Abstract

The topic of this paper is the analysis of legal regulations in the Republic of North Macedonia that sanction criminal conduct related to tax evasion and tax concealment. At the same time, using specific examples, the paper explains the forms and methods most commonly used in committing the criminal offence of fiscal evasion. The main purpose of this paper is to identify the key elements that must be fulfilled for the imposition of criminal sanctions. From an academic perspective, the paper addresses a problem that has a direct impact on the state budget, and the analysis allows conclusions to be drawn that help identify existing problems. From a practical perspective, the paper contributes to understanding criminalistic methods used to detect, clarify, and document this type of criminal offence. The methodology is based on analytical methods, statistical analysis, case-study analysis, and observation.

**Keywords:** criminal offence, taxes, budget, fiscal evasion, tax concealment.

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# Uchylenie się od opodatkowania: przypadek Republiki Macedonii Północnej<sup>4</sup>

## Streszczenie

Przedmiotem niniejszego artykułu jest analiza regulacji prawnych obowiązujących w Republice Macedonii Północnej, które penalizują zachowania przestępcze związane z uchylaniem się od opodatkowania oraz ukrywaniem podatków. Jednocześnie, na podstawie konkretnych przykładów, w artykule omówiono formy i metody najczęściej stosowane przy popełnianiu przestępstwa uchylania się od obowiązków podatkowych. Głównym celem opracowania jest identyfikacja kluczowych elementów, które muszą zostać spełnione w celu zastosowania sankcji karnych. Z perspektywy naukowej artykuł podejmuje problem mający bezpośredni wpływ na budżet państwa, a przeprowadzona analiza umożliwia sformułowanie wniosków służących identyfikacji istniejących problemów. Z perspektywy praktycznej opracowanie przyczynia się do pogłębienia wiedzy na temat metod kryminalistycznych wykorzystywanych do wykrywania, wyjaśniania oraz dokumentowania tego rodzaju przestępstw. Metodologia badawcza opiera się na metodach analitycznych, analizie statystycznej, analizie studiów przypadków oraz obserwacji.

**Słowa kluczowe:** przestępstwo, podatki, budżet, uchylanie się od opodatkowania, ukrywanie podatków.

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## Introduction

### The Meaning of Taxes

In the literature dealing predominantly with finance, there are numerous definitions proposed by various authors, depending on their perspective and analytical approach. One of the most precise definitions of taxation is the following: a tax is an obligatory monetary payment of a part of income or property to the state intended to cover general public expenditure, without any direct reciprocal service.<sup>5</sup>

Taxes are the main source of public revenue, through which a modern state finances its public expenditure.<sup>6</sup>

Modern states use various types of taxes in their tax systems.<sup>7</sup>

A comparison of the tax systems of different states shows that there are no two states that apply identical forms of taxation, nor do the same taxes perform the same role and occupy the same position in all systems.<sup>8</sup> This is because states differ significantly in their economic structures, social objectives, and approaches to macroeconomic and social policy.<sup>9</sup>

Despite these differences, there are also similarities, especially among states participating in integration processes, such as the European Union.<sup>10</sup>

Today there are tax systems based on direct taxes, such as income tax, and indirect taxes, such as turnover tax or value added tax.<sup>11</sup>

Despite changes in tax systems and their structures, they all share one common feature: this area is regulated by legal norms that express state sovereignty and impose an obligation on taxpayers to fulfil their tax liabilities.<sup>12</sup>

<sup>5</sup> S. Komoni, *Financat Publike* [Public Finances], Prishtina 2008.

<sup>6</sup> R. Weigel, D. Hessing, H. Elffers, *Tax Evasion Research; A Critical Appraisal and Theoretical Model*, "Journal of Economic Psychology" 1987, pp. 2015–2235.

<sup>7</sup> Ch. Edwards, D. Mitchel, *Global Tax Revolution: The rise of Tax Competition and the Battle to Defend It*, Cato Institute, 2008.

<sup>8</sup> V. Braithwaite, *Defiance in taxation and governance: Resisting and dismissing authority in a democracy*, Edward Elgar, 2009.

<sup>9</sup> T. Porcano, *Correlates of Tax Evasion*, "Journal of Economic Psychology" 1998, pp. 47–67.

<sup>10</sup> V. Braithwaite, *Responsive regulation and taxation: Introduction*, "Law and Policy" 2007, pp. 3–11.

<sup>11</sup> L. Oats, P. Tuck, *Corporate tax avoidance: is tax transparency the solution?*, "Accounting and Business Research" 2019, 495, pp. 565–583.

<sup>12</sup> A.G. Gurinovich, M.A. Lapina, A.E. Ivanov, *Ways of Restricting the Rights of Taxpayers under Agreements for the Avoidance of Double Taxation in National Legislation*, SAGE Open, 2020.

Practice has shown that taxpayers continuously attempt to avoid tax obligations, either fully or partially, the forms of which will be explained later in the text. Regardless of the methods used, legal systems provide for sanctions against such conduct, which may be of an administrative or criminal nature. Since the subject of this article is the criminal-law aspect of legal tax regulation in the Republic of North Macedonia<sup>13</sup>, the remainder of the text examines this legal framework.

## Methodology

The article analyses the legal regulation in the Republic of North Macedonia, using specific examples that explain the forms and methods most commonly used in committing the criminal offence of fiscal evasion, as provided for in Article 22 of the Criminal Code of the Republic of North Macedonia. The paper also presents tabular data relating to the share of this offence within the group of criminal offences regulated under Chapter XXV of the Criminal Code of the Republic of North Macedonia. From an academic perspective, the paper addresses a problem that has a direct impact on the state budget, and draws conclusions that help identify problems from both a judicial and a criminalistic perspective. The methodology applied in this paper is based on analytical methods, statistical analysis, case-study analysis, and observation. In addition, multiple sources are used to present the issue of tax evasion and its relevance to the specific case of North Macedonia.

## Research and results

### Legal Norms of a Criminal Nature

In the Republic of North Macedonia, the issue of tax concealment and fiscal evasion is systematised in Chapter XXV of the Criminal Code, as a criminal offence provided for in Article 279 of this Code.<sup>14</sup>

Article 279 provides as follows:

The one who intentionally or through another person tries to avoid, fully or partially, the payment of tax, contributions, or other public charges to

<sup>13</sup> In the following parts of the text, the Republic of North Macedonia will be referred to as NMK.

<sup>14</sup> Osmani, A. *Kodi Penal i Republikës së Maqedonisë së Veriut* [Criminal Code of the Republic of North Macedonia], Furkan Ism, Skopje 2010, p. 218.

which they are legally obliged, by providing false information on income, property, or other relevant facts, either concerning themselves or a legal person, for the purpose of determining the amount of the obligation, or who intentionally fails to report income, where the amount of the obligation is substantial, shall be punished by imprisonment from six months to five years.

If the amount of the obligation referred to in paragraph 1 is significant, the offender shall be sentenced to a minimum of four years' imprisonment.

If the act referred to in this Article is committed by a legal person, a fine shall be imposed.

From the analysis of paragraphs 1 to 3 of this Article, several conclusions may be drawn, including the following:

The act is directed against the taxation system, excise duties, and other obligations provided for and regulated by relevant legislation.

This conduct most commonly occurs in two forms, namely situations involving full or partial avoidance of taxation.

Causation of harmful consequences constitutes another element characterising this offence. These consequences include a reduction in public revenue, which hinders the financing of planned public expenditure, and the creation of unequal competitive conditions among economic operators.<sup>15</sup> The consequences of this offence are particularly severe when it is linked to criminal acts of money laundering.

The incriminating act is intentional, meaning that the offender acts with intent to avoid tax obligations, either fully or partially.

Another defining element is that the objective condition for classifying the act as a criminal offence is that the amount of the obligation must be large or considerable. This raises the question of what constitutes a "large" or "considerable" amount. The answer can be found in Article 122, paragraphs 34 and 35, of the Criminal Code of North Macedonia. According to paragraph 34, "large damage" or a "large amount" is defined as an amount equal to five average salaries in North Macedonia at the time the offence is committed, whereas paragraph 35 defines a "considerable amount" as an amount equal to 50 average salaries in North Macedonia at the time of the commission of the criminal offence.<sup>16</sup>

Liability for this offence extends beyond natural persons to legal persons, for whom the prescribed sanction is a fine. For the avoidance of doubt, the liability of

<sup>15</sup> N.G. Mankiw, *Real business cycles: a new Keynesian perspective*, "Journal of Economic Perspectives" 1989, 3(3), pp. 79–90.

<sup>16</sup> We should pay special attention in calculating the average salary, which should be taken in the period of the act, whereas the data concerning the average salary in NMK should be taken from the Statistical Office of NMK.

a legal person arises when tax evasion is committed by entities registered in the commercial register. This means that in addition to the liability of responsible individuals acting on behalf of legal persons, sanctions are also imposed directly on legal persons as economic entities. Tax concealment constitutes a criminal offence provided for in the Criminal Code of North Macedonia, and is also regulated in other laws within the field of taxation. Under the current legal framework,<sup>17</sup> it is also addressed in the Law on Value Added Tax, Article 60 a,<sup>18</sup> which provides that:

The responsible person in a legal entity, as well as a natural person acting as a taxpayer, who fails to submit a tax return within the prescribed time limit, submits a tax return containing false information, or fails to pay the tax due after submitting a tax return, with the aim of obtaining unlawful gain, shall be punished by imprisonment from six months to five years or by a monetary fine.

An analysis of Article 60-a of the Law on Value Added Tax leads to the conclusion that its content largely corresponds to that of Article 279 of the Criminal Code, which regulates tax concealment. For this reason, a separate analysis of this provision is not undertaken, as the relevant issues have already been addressed earlier in the text.

## The Manner of Concealing Taxes

As already noted, the phenomenon of tax concealment or tax evasion can be observed in almost all countries. This occurs for a number of reasons, but primarily because taxation reduces the disposable income and social standing of taxpayers. The category of taxpayers includes both natural and legal persons, as defined by legislation regulating the tax system.<sup>19</sup> These entities employ various methods to conceal taxes, examples of which are presented below. In the financial and criminalistic literature, two types of tax concealment are commonly distinguished: illegal tax evasion and legal tax avoidance. Since the subject of this article is fiscal evasion as

<sup>17</sup> During the review of this issue and other issues, it is also important to consider the verification of the data collected since from the historical point of view, the laws that regulate this field tend to evolve. For example, the fiscal evasion, as a criminal offence, apart from being covered under the law on value added tax, can also be found in other laws as well. The law on personal tax, law for profit tax, excise law, etc. That is why we should always take into consideration the law in force because there is a chance that certain articles can sometimes be omitted or added during the adoption and amendments of laws.

<sup>18</sup> Official Gazette of NMK, 19/04;33/06;45/06;101/06;114/07;103/08;114/09;133/09;95/10;102/10;24/11;135/11, 155/12;12/14;112/14;130/14;15/15;129/15;225/15;23/16;189/16;198/18;98/19;124/19;275/19

<sup>19</sup> For example, the law on value added tax, law on profit tax, law on personal income tax, etc.

a criminal offence from a penal and criminalistic perspective, the following analysis focuses on illegal fiscal evasion,<sup>20</sup> for which criminal sanctions are envisaged, while legal forms of tax avoidance are addressed only to the extent necessary, as they do not give rise to penal liability.

## Illegal Tax Evasion

When a taxpayer avoids a tax provided for by specific legal provisions regulating a given field, this is referred to as illegal tax evasion.<sup>21</sup> This type of evasion occurs in two forms:

- full tax evasion, and
- partial tax evasion.

Full tax evasion refers to a situation in which the taxpayer fails to report income earned in accordance with applicable tax regulations.

Partial tax evasion refers to a situation in which the taxpayer fails to submit complete or accurate information to the competent state authorities,<sup>22</sup> instead providing false or incorrect data regarding business results. Whether tax evasion is full or partial, the perpetrator is subject to sanctions prescribed by law, which may be of an administrative or criminal nature, as such conduct causes damage to the state budget.

In the relevant literature, various factors affecting full tax evasion can be identified.<sup>23</sup> Particular emphasis should be placed on the inefficiency of the authorities responsible for combating this phenomenon, including the Public Revenue Directorate, Customs Administration, and other bodies involved in the fight against economic crime, such as the Financial Police, relevant units within the Ministry of Internal Affairs, and the Financial Intelligence Directorate. Instances are frequently

<sup>20</sup> Full fiscal evasion is a situation when the taxpayer does not respect the law in force. This type of evasion occurs in many cases, such as when there is legal void that regulates a given problem. Such regulations are not complete, not precise, and cross-contradictory. Tax evasion can be addressed by law, and there are some circumstances that ease certain situations on purpose, so that this can be of advantage to the taxpayer. (S. Konomi, *op. cit.*, pp. 110–113).

<sup>21</sup> J. Murray, *What Is the Difference Between Tax Avoidance and Tax Evasion?*, The Balance, 2018. Available from: <https://www.thebalancesmb.com/tax-avoidance-vs-evasion-397671> (accessed: 03.2025)

<sup>22</sup> In the NMK, the body to declare the data is the Directorate for Public Revenues, part of the Ministry of Finance.

<sup>23</sup> Example: Reducing the financial-economic power of the taxpayer, The Increase of Tax Load, Taxpayers' consciousness, Tax Load, etc.

observed at border crossings where taxes are not paid,<sup>24</sup> and there are also enterprises that conduct business activities without reporting any income to the competent authorities. Such occurrences are often linked to corruption, including bribery, where officials responsible for combating this type of crime become involved in criminal activities, thereby enabling taxpayers to evade tax obligations.<sup>25</sup>

Partial tax evasion may arise for similar reasons, but particular importance is attached to the level of professional expertise of authorities responsible for controlling financial documentation. Relevant officials must be familiar with the legal framework, standards and procedures, accounting principles, and possess the analytical capacity to examine and compare financial cases and transactions.<sup>26</sup>

The manner of committing the criminal offence of tax evasion is often associated with other criminal acts, such as fraud, bribery, money laundering, forgery, and the destruction of accounting records, which in some cases take the form of organised crime.<sup>27</sup> These types of criminal activities are typically reflected in business financial records, whether domestic or international, and are sometimes registered in the names of unaware, undereducated, financially unstable, or deceived individuals.

In the following section, an example drawn from professional practice is presented, illustrating a criminal case of this nature.<sup>28</sup>

*Example: in 2009, the Sector for International Cooperation of the Republic of Slovenia requested the Ministry of Internal Affairs of North Macedonia to verify certain individuals with regard to property they owned in North Macedonia, and to interview them, inter alia, to determine whether they were capable of paying taxes in the Republic of Slovenia, since those individuals were listed as founders and managers of certain enterprises in Slovenia.*

*The Slovenian authorities obtained this information as a result of verifications conducted in the offices of two lawyers in Slovenia, B.K. and B.V., where notarised*

<sup>24</sup> This activity of avoiding taxes is also known as smuggling, part of the Penal Act of NMK, Article 278 (A. Osmani, *op. cit.*, p. 235).

<sup>25</sup> J. Alm, J. Martinez-Vazquez, Ch. McClellan, *Corruption and firm tax evasion*, "Journal of Economic Behavior & Organization" 2016, pp. 146–163.

<sup>26</sup> M. Mocanu, S. Constantin, V. Raileanu, *Determinants of tax avoidance – evidence on profit tax-paying companies in Romania*, "Economic Research – Ekonomska Istraživanja" 2021, 34(1), pp. 2013–2033.

<sup>27</sup> The definition of organised crime according to the European Council is: Illegal activities committed in structures groups or three or more persons, which do exist for longer periods, and do aim to commit serious crimes through coordinated actions, that do consists threats, violence, corruption, other means, in order to directly or indirectly realize financial or material gain.

<sup>28</sup> H. Halili, *Kriminolosko-kriminalistički aspekti na zloupotrebi i ovlastuvanja vo Republika Makedonija [Criminological-criminalistic characteristics on the Misuse of the official position and authorization in the Republic of Macedonia]*, Faculty of Security, Skopje 2013, pp. 76–77.

*powers of attorney were found, signed by citizens of NMK and the Republic of Kosovo. Under these authorisations, the lawyers were empowered to register companies, purchase businesses, and represent the principals where necessary.*

*Following the verification of the property status of individuals from the Gostivar region, police officers from the Sector of Internal Affairs – Gostivar concluded that those persons were in an extremely poor financial condition. During interviews, they stated that companies had been registered and purchased in their names in the Republic of Slovenia. With regard to the powers of attorney, they explained that each of them had been contacted by an interpreter in NMK, who promised to assist them in completing documentation for obtaining social assistance, on the condition that they present their identity documents and sign the relevant authorisations. The individuals lacked formal education and did not speak the Macedonian language, and therefore signed the documents believing that this would enable them to regularise their documentation in order to receive social assistance.*

*After undertaking concrete measures and activities in response to the request of the Republic of Slovenia, the Sector of Internal Affairs in Gostivar informed the Slovenian authorities of the results of the verification. At the same time, a criminal charge for fraud was filed against the interpreter with the Basic Public Prosecutor's Office in Gostivar.*

*Fraud related to taxation can also be identified in situations involving claims for the refund of value added tax (VAT). Value added tax is a form of tax levied on the value added by the seller to the price of goods or services at each stage of the production and distribution cycle. The tax base for VAT is the difference between the purchase price and the selling price.<sup>29</sup>*

During the last decades, value added tax (VAT) has become a fundamental innovation in the tax systems of many states worldwide.<sup>30</sup> Tax fraud related to VAT is most frequently carried out in the VAT refund process. In this regard, the Public Revenue Directorate should be professionally prepared and sufficiently knowledgeable to assess and verify the factual situation, particularly when examining applications for VAT refunds. The Public Revenue Directorate should reject a VAT refund request if it concludes that the turnover to which the request relates has not been reported at all, is fictitious, or is not economically justified in the relationship between the supplier and the buyer. Unfortunately, practice in North Macedonia has shown that those who should combat this type of crime sometimes fail to do so as a result of negligence, insufficient professional preparation, or intentional

<sup>29</sup> K. Komoni, *op. cit.*, p. 46.

<sup>30</sup> *Ibidem*, p. 146.

assistance in the commission of such criminal activities. A specific example illustrating this problem is presented below.

*In the Sector of Internal Affairs in Tetovo – the Unit for Economic Crime, an anonymous person<sup>31</sup> reported the following case: an economic entity XX was granted a VAT refund, despite not being entitled to it, since in its VAT refund application it submitted false data, indicating the existence of a significant quantity of raw materials for window production allegedly stored in its warehouse, which did not correspond to the actual situation. The responsible inspector, although in a position to doubt the accuracy of the submitted information, failed to undertake any measures to verify the factual situation and allowed the economic entity to amend the records and re-register its inventory. The director of the economic entity subsequently recorded a shortage of inventory amounting to EUR 200,000, which should have been transferred to the company's giro account or subjected to personal income tax in accordance with the applicable law. No such measures were taken, resulting in damage to the state budget, to the benefit of a private interest. In this situation, in addition to the criminal offence of tax concealment and document forgery, the criminal offence of abuse of official position and authority was committed by the public revenue inspector.*

Many economic sectors, particularly the hospitality sector, provide services without issuing fiscal receipts, or issue receipts that are fictitious, while the services are in fact provided outside the accounting records. Such practices are used to avoid the payment of taxes stipulated by laws and regulations governing taxation, including VAT.

In addition to VAT, personal income tax is another tax of particular relevance. Article 2 of the Law on Personal Income Tax<sup>32</sup> in NMK provides that personal income tax is paid annually on the total amount of net income from all sources, except for income explicitly exempted from taxation by law.

According to Article 3 of the abovementioned law,<sup>33</sup> personal income earned domestically and abroad is subject to taxation and includes income from employment, income from independent activities, income from the sale of agricultural products, property income, copyright income, income from industrial property

<sup>31</sup> There are often cases of economic and financial crime in which the denunciator remains anonymous. This is because the person who reports the case has access to the institution concerned and does not wish to disclose their identity, in order to avoid potential negative repercussions against them.

<sup>32</sup> Official Gazette of NMK no. 80/93, 3/94, 70/94, 71/96, 28/97, 8/01, 50/01, 52/01, 2/02, 44/02, 96/04, 120/05, 52/06, 139/06, 160/07, 159/08, 20/09, 139/09, 171/10, 135/11, 166/12, 187/13, 13/14, 116/15, 129/15, 199/15, 23/16 and 190/17

<sup>33</sup> *Ibidem.*

rights, capital income, capital gains, income from games of chance, and other income. An analysis of Articles 7, 8, and 9 of this law shows that the taxpayer for personal income tax is any natural person resident in NMK, in respect of income earned both domestically and abroad, as well as sole traders, individual entrepreneurs, and natural persons engaged in agriculture, crafts, and other independent activities. A taxpayer for this tax also includes a non-resident natural person who earns income within NMK. The obligation to pay this tax also applies to natural persons who earn income from activities not registered with the competent authorities.

Under Article 12 of this law,<sup>34</sup> the personal income tax rate is set at 10%. Where there is avoidance of tax payment, and this is established by the competent authority, penal sanctions may be imposed. Criminal liability arises when the amount of tax evaded reaches a considerable level.<sup>35</sup> Under the current legal framework in NMK, Article 122, paragraph 34, of the Criminal Code defines a large amount as an amount equal to five average salaries in NMK at the time the offence is committed, while paragraph 35 of the same Article defines a considerable amount as an amount equal to 50 average salaries at the time the offence is committed.<sup>36</sup>

An important role in detecting the avoidance of this type of tax, in addition to the Public Revenue Directorate, is played by the Financial Intelligence Directorate, which is part of the Ministry of Finance. This institution implements a reporting strategy across organisations involved in financial transactions and money transfers, enabling it to identify transaction parties and amounts through the submission of appropriate documentation to the body responsible for verification.

Although this institution primarily operates in the field of detecting criminal activities related to money laundering, practice has shown that it also enables the identification of persons involved in the concealment of personal income tax. In particular, Article 118, paragraph 4, of the Law on the Prevention of Money Laundering and Financing of Terrorism<sup>37</sup> obliges this institution, where there are grounds to suspect offences other than money laundering or terrorist financing, to prepare and submit an information report to the competent state authorities for the purpose of taking appropriate measures.

In the following text, a concrete example is presented, characterised by incriminating elements of this nature:

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<sup>34</sup> *Ibidem*.

<sup>35</sup> Article 279, paragraphs 1 and 2 of the Criminal Code of NMK.

<sup>36</sup> A. Osmani, *op. cit.*, p. 125.

<sup>37</sup> Official Gazette of NMK no. 120/18.

*The Financial Intelligence Directorate, acting within its statutory competences and legal authorisations, conducted an analysis of certain financial transactions involving natural persons in the Tetovo region. During the analysis, it concluded that a person identified by the initials K.D. had received funds in his giro account and through money transfer agencies from various persons located abroad, outside NMK. During 2020, he continuously received funds in the total amount of EUR 29,505.00. The senders of these funds were located in Germany and Italy, while no purpose of the transactions was specified. On the basis of these findings, the Financial Intelligence Directorate, acting pursuant to Article 118, paragraph 4, of the Law on the Prevention of Money Laundering and Financing of Terrorism, prepared a report concerning the identified transactions and submitted it to the competent authorities, namely the Ministry of Internal Affairs, Unit for Organised Crime. The latter concluded that the case did not involve organised crime and referred the matter to the Sector of Internal Affairs – Tetovo, Unit for Economic Crime, for the purpose of detecting and documenting the case. Following the verifications carried out, a criminal complaint was submitted against the person or persons involved.*

*In this case, there were no elements constituting the criminal offence of money laundering, which required an assessment of whether elements of the criminal offence of tax concealment were present. This assessment proceeded as follows. The first step was to formally request, in writing, information from the Public Revenue Directorate as to whether the person had submitted an annual personal income tax return for 2020,<sup>38</sup> and, if so, whether the tax had been paid and in what amount. In this specific case, the Public Revenue Directorate replied that K.D. had not submitted any tax return for 2020, which indicated avoidance of the obligation to pay personal income tax at the rate of 10%, as provided for in Article 12 of the Law on Personal Income Tax.<sup>39</sup> The second step involved calculating the amount of tax that should have been paid, in order to determine whether the statutory threshold for criminal liability had been exceeded. Under the applicable legal framework, this threshold is defined as five average salaries in NMK.<sup>40</sup> In the present case, the calculation showed that the taxpayer was obliged to pay tax in the amount of EUR 2,950,<sup>41</sup> or MKD 181,425.00.<sup>42</sup>*

<sup>38</sup> For more on the procedure of submitting annual tax statement and other characteristics, see Articles 52, 53, 54, 55 and 56 of the Law on Tax Procedures in NMK, Official Gazette of NMK 13/2006, 88/2008, 159/2008, 105/2009, 133/2009, 145/2010, 171/2010 and 53/2011); 39/2012, 84/2012, 187/2013, 15/15, 97/15, 129/15, 154/15, 23/2016, 35/18 и 275 from 27.12.2019.

<sup>39</sup> Official Gazette of NMK no. 80/93, 3/94, 70/94, 71/96, 28/97, 8/01, 50/01, 52/01, 2/02, 44/02, 96/04, 120/05, 52/06, 139/06, 160/07, 159/08, 20/09, 139/09, 171/10, 135/11, 166/12, 187/13, 13/14, 116/15, 129/15, 199/15, 23/16 and 190/17.

<sup>40</sup> A. Osmani, *op. cit.*, p. 238.

<sup>41</sup> 29,505.00 x 10% = EUR 2,950.

<sup>42</sup> 2,950 x 61.5 = MKD 181,425.00.

*Since this amount exceeded the threshold of five average salaries in NMK, the statutory elements triggering criminal liability for tax concealment were fulfilled, as provided for in Article 279 of the Criminal Code of NMK.*

In cases involving this type of tax, there are situations in which individuals de facto exploit such arrangements and receive funds indirectly. The money is not received directly by them, nor is it transferred in their own name, but in the name of another person, typically someone in a very poor economic and financial situation. In practice, such persons are offered small amounts, usually between 1,000 and 3,000 denars, in exchange for providing their identity documents, in whose name the funds are actually transferred. This method, apart from constituting an attempt to avoid tax obligations, also contains elements of deception, most commonly carried out via electronic mail, through offers of various fictitious services. In this context, another concrete example of a criminal situation is presented below.

*The competent authorities of the Republic of Germany requested verification in relation to a person identified as F.F. from Tetovo, as it was suspected that via electronic mail, a person from Tetovo had deceived an individual in Germany. As a result, the latter, through a money transfer agency, transferred funds in the amount of EUR 3,600.00, without receiving the promised service.*

*Following verifications conducted by the Ministry of Internal Affairs in Tetovo, it was established that F.F. from Tetovo did not know the person XX from Germany and that, for the service of providing his identification document and receiving the transferred funds, he had received EUR 50 from K.D. from Tetovo. This action was undertaken for two reasons: first, because he personally knew the individual who requested the service, who claimed to be in the process of obtaining identification documents; and second, because he was offered EUR 50, given his very poor financial situation. In this case, there are no elements of the criminal offence of tax concealment, and therefore penal sanctions under Article 279 of the Criminal Code of NMK are not applicable. However, this does not preclude the existence of another criminal offence. On the basis of the verifications carried out, informational interviews with the persons involved, and data obtained from the German authorities, it was established that the conduct constituted the criminal offence of fraud, as provided for in Article 247 of the Criminal Code of NMK.<sup>43</sup>*

When dealing with taxation and tax avoidance, it is important to highlight the issue of customs duties and goods, which in financial literature are often classified

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<sup>43</sup> A. Osmani, *op. cit.*, p. 204.

as a specific form of tax.<sup>44</sup> Customs duties constitute state revenue collected when goods cross the state border.<sup>45</sup> Similar to the aforementioned taxes, customs duties are mandatory payments, levied in accordance with the legal framework governing this area. Despite their obligatory nature, taxpayers often succeed in avoiding such payments by using various methods and techniques. Examples include transporting goods across the customs line while bypassing monitored customs controls; transporting goods of higher value while evading customs inspection, regardless of whether the goods cross the border at an official crossing point or outside it; transporting goods under armed protection, thereby avoiding customs supervision; and submitting false declarations, either by the owner of the goods or in the name of the transporter, on the basis of which customs duties are calculated and collected, among other methods.<sup>46</sup>

For these and other violations, penal provisions are prescribed, which may be of a criminal nature and are referred to in the literature as customs-related criminal offences. Such offences, like the criminal offence of tax concealment, fall within the category of criminal offences against public finances, trade, payments, and the economy.<sup>47</sup> It should be emphasised that these criminal acts are often committed with the assistance of officials within customs and police administrations, who, for various reasons or motives, may be influenced by corrupt practices, the granting of favours, or political pressure, thereby facilitating participation in such incriminating activities.

### **Volume, Structure, and Dynamics of the Criminal Offence of Fiscal Evasion within the Group of Offences under Chapter XXV of the Criminal Code of the Republic of North Macedonia**

As mentioned above, the criminal offence of fiscal evasion forms part of the group of criminal offences against public finances, trade, payments, and the economy, regulated under Chapter XXV of the Criminal Code of NMK.<sup>48</sup> In any criminological research concerning crime in a given region, it is relevant to examine indicators reflecting the volume of a specific criminal phenomenon. In this section,

<sup>44</sup> R. Caballero, A. Krishnamurthy, *Fiscal policy and financial depth*, National Bureau of Economic Research, 2004.

<sup>45</sup> S. Komoni, *op. cit.*, p. 157.

<sup>46</sup> Customs tribute refers to aggregate charges imposed on goods in the context of customs clearance, including customs duties, taxes, warehouse fees, and other related charges.

<sup>47</sup> This category includes the following criminal offences: smuggling, as provided for in Article 278; customs deception, as provided for in Article 278; concealment of goods as a form of smuggling; and customs fraud, as regulated by the Criminal Code of NMK (A. Osmani, *op. cit.*, p. 235).

<sup>48</sup> A. Osmani, *op. cit.*, pp. 221–244.

such indicators are analysed with regard to the criminal offence of fiscal evasion, as provided for in Article 279 of the Criminal Code of NMK.

In the Republic of North Macedonia, several institutions are involved in combating this type of crime, including the Police, the Public Prosecutor's Office, and the Financial Police, among others. Data collected by these institutions are processed by the Statistical Office of NMK, and the tables presented below are based on data obtained from this institution.

The table presented below provides data on the total number of reported cases, accused persons, and convicted persons for criminal offences regulated under Chapter XXV of the Criminal Code of NMK, including fiscal evasion, for the period from 2013 to 2017.<sup>49</sup> In addition, within the categories of reported cases, accused persons, and convicted persons, special attention is given to the criminal offence of fiscal evasion, which constitutes the central subject of analysis in this paper.

**Table 1.** Data on reported cases, accused persons, and convicted persons for criminal offences against public finances, trade, payments, and the economy, regulated under Chapter XXV of the Criminal Code of NMK, including fiscal evasion as provided for in Article 279, for the period 2013–2017<sup>50</sup>

Year	Reported cases			Accused persons			Sentenced person		
	Chapter XXV	Article 279	%	Chapter XXV	Article 279	%	Chapter XXV	Article 279	%
2013	510	219	43	336	153	45.5	265	90	34
2014	310	107	34.5	396	204	51.5	277	112	40.4
2015	344	40	11.6	331	146	44.1	277	54	19.5
2016	419	84	20	298	103	34.5	261	85	15
2017	376	109	29	209	57	27.2	177	39	22
2018	/	/	/	222	/	/	341	/	/
2019	/	//		765	/	/	604	/	/
Total	1959 (total number of chapter XXV of the Penal Code)	559 (tax concealment or fiscal evasion)	28.5	2557	663 (tax concealment or fiscal evasion)	42.2	2202	380 (tax concealment or fiscal evasion)	30.2

Source: own elaboration.

<sup>49</sup> Based on data from the official site of the Statistical Office of NMK until the moment of our last access (25 November 2024); the data processed cover the period until 2017.

<sup>50</sup> The data are taken from the statistical publications of the Statistical Office of NMK. Available from: [www.stat.gov.mk](http://www.stat.gov.mk) (accessed: 30.04.2025).

From the table, it can be seen that over the five-year period from 2013 to 2017, there were 1,959 reported criminal cases under Chapter XXV of the Criminal Code,<sup>51</sup> of which 559 cases, or 28.5%, related to the criminal offence of fiscal evasion. In the same period, 2,557 persons were accused, 663 of whom (42.2%) were accused of fiscal evasion. Out of a total of 2,202 convicted persons, 380 persons (30.2%) were convicted for the criminal offence of tax concealment or fiscal evasion.

For 2020, a news release indicates that, compared to 2019, the number of accused persons increased by 29.7%, while the number of convicted persons increased by 34.8%. However, no absolute figures were provided for Article 279 or Chapter XXV.<sup>52</sup>

When analysing the data on an annual basis solely for the criminal offence of fiscal evasion, it can be observed that the highest number of reported cases occurred in 2013, with 219 cases, while in 2017 there were 109 reported cases. In 2014, 107 cases were reported; in 2016, 84 cases; and in 2015, 40 cases. The highest number of accused persons was recorded in 2014, with 204 individuals, followed by 2013 with 153 persons, 2015 with 146 persons, 2016 with 103 persons, and 2017 with 57 accused persons. With regard to convicted persons, the highest number was recorded in 2014 (112 persons), followed by 2013 (90 persons), 2016 (85 persons), 2015 (54 persons), and 2017 (39 convicted persons).

From the perspective of reported cases, the share of fiscal evasion within the group of offences under Chapter XXV during the analysed period was highest in 2013 (43%) and lowest in 2015 (11.6%).

An analysis of the data relating to the criminal offence of fiscal evasion or tax concealment reveals that in some years the number of reported cases is lower than the number of accused persons. This can be explained by the fact that a single reported case or criminal charge may involve multiple suspects. For example, in 2014, the table shows 107 reported cases, while 204 persons were accused, indicating that multiple individuals were involved in individual criminal proceedings.<sup>53</sup>

Another important aspect highlighted by the table is the discrepancy between the number of accused persons and the number of convicted persons. In principle, such differences are not unusual, provided they are not excessive. However, where the disparity is substantial, as in 2015, when 146 persons were accused but only 54 were convicted, this may raise concerns regarding the outcome of proceedings,

<sup>51</sup> At the moment, Chapter XXV of the Penal Code of NMK includes 28 criminal offence involving fiscal evasion (A. Osmani, *op. cit.*, pp. 221–244).

<sup>52</sup> Daily news portal, Nezavisen; In 2020, the number of reported, accused, and sentenced persons increased.

<sup>53</sup> For example, in cases involving criminal activity carried out by multiple persons acting in cooperation, individual criminal charges are not filed separately against each person. Instead, a single criminal charge encompassing all involved persons is prepared, in accordance with the specific factual and legal circumstances of the criminal conduct.

including the quality and sufficiency of evidence, possible corruption, undue influence by officials or employees within the justice system, or political interference.

According to the statistical data presented in Table 1, the share of fiscal evasion within the group of criminal offences under Chapter XXV varies from year to year. Nevertheless, given the significant harm caused by this offence, particularly the direct damage to the state budget, on which numerous governmental processes depend, combating this phenomenon should be treated as a serious priority by institutions directly involved in the fight against corruption, as well as by other bodies that assist in detecting and prosecuting this criminal offence.

## Discussion and conclusions

Taxes represent the main source of public revenue, through which modern states finance public expenditure.

From the above analysis, it can be concluded that both practice and statistical data demonstrate that taxpayers continuously attempt to avoid paying taxes, either fully or partially.

Regardless of the methods used to conceal such conduct, the state provides for the imposition of sanctions on taxpayers who engage in tax avoidance or evasion, depending on the nature and severity of the offence committed.

In the Republic of North Macedonia, the issue of tax concealment or fiscal evasion is systematised in Chapter XXV of the Criminal Code, as a criminal offence provided for in Article 279 of this Code.<sup>54</sup>

According to this provision, the amount of unpaid tax must reach a legally defined threshold in order to qualify as a criminal offence. A “large amount” is currently defined as an amount equal to five average salaries<sup>55</sup> in the Republic of North Macedonia, whereas a “considerable amount” is defined as equal to 50 average salaries<sup>56</sup> in the Republic of North Macedonia.

Tax concealment is a criminal offence regulated not only by the Criminal Code of the Republic of North Macedonia, but is also addressed in tax legislation, including the Law on Value Added Tax.<sup>57</sup>

<sup>54</sup> A. Osmani, *op. cit.*, p. 238.

<sup>55</sup> *Ibidem*, p. 125.

<sup>56</sup> *Ibidem*.

<sup>57</sup> Article 60, Law on Value Added Tax, Official Gazette of NMK, 19/04;33/06;45/06;101/06;114/07;103/08:114/09;133/09;95/10;102/10;24/11;135/11, 155/12;12/14;112/14;130/14;15/15;129/15;225/15;23/16;189/16;198/18;98/19;124/19;275/19

Fiscal evasion as a phenomenon is influenced by multiple factors, but primarily arises from the fact that tax obligations reduce the economic capacity and social position of taxpayers.<sup>58</sup>

The category of taxpayers includes all persons – both natural and legal – defined by legislation regulating the taxation system. Fiscal evasion may take the form of full or partial evasion, depending on whether and to what extent the taxpayer reports realised income to the competent authorities.<sup>59</sup>

Full tax concealment refers to a situation in which the taxpayer fails to declare realised income in accordance with the applicable tax reporting provisions.

Partial tax concealment refers to a situation in which the taxpayer fails to declare complete or accurate income to the competent authority, instead submitting false or incorrect data concerning business activity realised in the previous year.

Whether tax concealment is full or partial, the perpetrator of such conduct is subject to sanctions prescribed by law, which may be of a criminal nature, as such activities cause damage to the state budget and disrupt the proper collection of tax revenues over specific periods. In order to prevent such situations, tax concealment should be addressed with particular care, and key institutions responsible for combating this phenomenon should give special attention to both preventive and repressive measures. State administrative officials engaged in addressing this problem, in order to effectively detect, clarify, and document this criminal offence, require not only appropriate education, but also continuous professional training in the fields of accounting, identification of methods used to commit tax offences, and relevant legal regulations, among other areas. All of these elements are necessary for the development of effective criminalistic methods and techniques for detecting and documenting criminal offences related to fiscal evasion.

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For more on the procedure of submitting annual tax statement and other characteristics, see Articles 52, 53, 54, 55 and 56 of the Law on Tax Procedures in NMK, Official

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