

# Qualitative Analysis of Tax Evasion Behavior from the Perspective of Criminal Law

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**Abstract:** Tax evasion behavior has a wide influence in the modern society, which not only involves the normal order of the economic field, but also poses a severe challenge to the operation of the legal system. From the perspective of criminal law, this paper deeply analyzes the legal nature of tax evasion, discusses the governance path of tax evasion, clarifies the basic concept of tax evasion and its relationship with criminal law, and then analyzes the qualitative method of tax evasion in criminal law. This paper comprehensively interprets the constitutive elements of tax evasion behavior, including subjective requirements, objective requirements and the definition of causal relationship; combined with the synergistic effect of tax law and criminal law, it proposes the path of improving the criminal law system and strengthening social supervision, aiming to provide theoretical support and practical guidance for the governance of tax evasion behavior.

**Keywords:** Tax Evasion; Criminal Law Attribute; Behavior Qualitative; Constitutive Elements

## 1. Introduction

As a kind of economic crime, tax evasion poses a great threat to the national fiscal revenue, the fairness of tax system and the stability of social and economic order. With the deepening development of economic globalization and marketization, the problem of tax evasion is increasingly complex, and the legal response is particularly urgent. Especially under the interweaving background of tax law and criminal law, how to correctly understand and define the criminal law attribute of tax evasion behavior has become an urgent topic to be solved by criminal law scholars and practitioners. The characterization of tax evasion behavior in criminal law not only affects the

handling mode in judicial practice, but also is related to the fairness and effectiveness of the legal system.

In China, although the tax evasion behavior has been clearly regulated by the criminal law, there are still some disputes and challenges in the criminal law analysis of the tax evasion behavior. Through the detailed study on the legal attribute of tax evasion behavior, this paper tries to provide theoretical basis for improving the criminal law response mechanism of tax evasion, and puts forward constructive suggestions for the improvement of relevant legal system.

## 2. The Legal Nature of the Tax-Evasion Acts

### 2.1 The Basic Concept of Tax Evasion

Tax evasion refers to the taxpayer through various means, deliberately evade the tax<sup>[1]</sup>. In essence, its behavior is a violation of the tax law, which is manifested as reducing the tax payable by concealment, false report or other illegal ways, and then obtaining improper benefits. Tax evasion is closely related to tax fraud, but it focuses more on taxpayers to take evasive measures to reduce the contribution to national tax revenue. This behavior usually includes two forms of expression: one is to conceal income or increase costs through illegal means; the other is to avoid all or part of the tax payable by taking advantage of loopholes in tax law or imperfect tax management system<sup>[2]</sup>. No matter which way, its core characteristic is to deliberately evade tax obligations, damage the national financial interests, and affect social equity.

### 2.2 The Criminal Law Attribute of Tax Evasion Behavior

From the perspective of criminal law attribute, tax evasion behavior is an economic crime, involving the field of property

crime. According to the provisions of the criminal law, the tax evasion behavior not only constitutes a civil breach of contract, but also violates the criminal law, and will constitute the crime of tax evasion or other corresponding criminal charges<sup>[3]</sup>. The tax evasion behavior in criminal law is often closely related to the maintenance of public interest and social order, and its social harm and crime are more significant. This kind of behavior not only directly infringes on the tax interests of the country, but also causes unfair market competition to a certain extent, affecting the legitimate rights and interests of taxpayers and the authority of the national tax system.

The criminal law attribute of tax evasion behavior is reflected in its obvious criminal characteristics, that is, the actor has the intention to evade tax responsibility subjectively, and avoids the tax<sup>[4]</sup> in violation of the tax law according to law. The criminal law has clear legal consequences for such acts, and according to the amount of tax evasion and the seriousness of the circumstances, to implement different degrees of criminal punishment, ranging from fine to fixed-term imprisonment. Tax evasion behavior not only has civil liability, but also must bear criminal liability, which has become the focus of economic crime in the criminal law.

### **2.3 Qualitative Analysis of Behavior in Criminal Law**

The qualitative analysis of behavior in criminal law mainly depends on the comprehensive consideration of the nature, constitutive elements and social harm of criminal behavior. In the qualitative process of tax evasion behavior, it considers whether it meets the basic requirements of criminal law on criminal behavior, that is, whether there is subjective intentional and objective illegal behavior. The subjective requirement of tax evasion behavior is that the actor has the intention of tax evasion, which occupies a core position in the qualitative of behavior. Intentional tax evasion is usually manifested as illegal acts such as intentionally concealing income and falsely increasing expenditure. Its purpose is clear, that is, to seek individual or collective improper economic benefits by reducing tax payment.

In terms of objective elements, tax evasion behavior must achieve the purpose of tax evasion through some specific behavior. These behaviors can be shown by false

declaration, forged tax documents, hidden property and other means, all of which will lead to the reduction or evasion of tax payable. Objectively, there are various forms of tax evasion, but no matter what way is adopted, it ultimately shows the avoidance of tax burden by illegal acts and affects the normal collection of national tax revenue.

The characterization of behavior also needs to consider the social harmfulness of tax evasion behavior and its difference from other types of economic crimes. Although tax evasion causes more direct damage to national tax revenue, compared with other economic crimes (such as corruption, bribery, etc.), its harm and complexity are relatively different. The social harm of tax evasion lies in its infringement of fiscal revenue and the destruction of the market fair competition order, which leads to the misallocation of market resources and the aggravation of social injustice. Due to the concealment and diversity of its behavior, the qualitative nature of tax evasion behavior needs to be more carefully analyzed and judged in combination with specific situations.

### **3. The Constitutive Elements of Tax Evasion Behavior from the Perspective of Criminal Law**

#### **3.1 Subjective Elements: Intentional and Negligence**

The subjective elements of tax evasion behavior is one of the core elements in the characterization of crime. The discussion of the subjective elements in criminal law usually focuses on whether the perpetrator has criminal intention, especially the identification of intentional tax evasion. The composition of tax evasion behavior requires the actor to be subjectively aware of the consequences of tax evasion caused by his behavior and consciously take measures to avoid tax responsibility. It is intentionally shown that the doer intentionally evaded the tax payable by means of false declaration, concealing income and forging accounting while knowing that the taxes should be paid according to law.

The opposite is the case of negligence, that is, the actor has no subjective and clear intention to evade tax, but fails to fulfill the

tax obligations under negligent and careless circumstances. Although the mainstream identification of tax evasion behavior is intentional crime, in some special circumstances, the actor will lead to tax evasion due to negligence, so it is necessary to distinguish whether he has criminal responsibility. The treatment of such cases in criminal law is relatively complex, which usually relies on the investigation of the subjective understanding of the actor and the severity of its negligence to determine whether it constitutes the crime of tax evasion.

### **3.2 Objective Elements: The External Expression of Evasion Behavior**

The objective elements of tax evasion focus on the specific evasion behavior implemented by the actor, that is, the behavior performance related to tax evasion adopted by the actor in the external environment. The criminal law requires that the tax evasion behavior performed by the actor must have obvious illegality, and can cause the actual tax evasion results in the tax administration. Such actions come in various forms, including overfying income, concealing profits, forging financial statements or transferring assets through complex financial means. No matter what way, the key is that the actor's tax evasion can directly or indirectly lead to tax reduction or evasion.

The concrete expression of the objective elements is not only reflected in the illegal behavior itself, but also contains the specific consequences caused by the tax evasion behavior. The actor should reduce the tax due through false declaration. Although the act itself is illegal, it will be punished only when the tax authorities find it and can trace it back to the tax evasion act. The judgment of objective elements not only depends on whether the behavior violates the provisions of the tax law, but also needs to pay attention to whether the tax evasion leads to the actual loss of tax, and investigate the tax evasion means of the doer and its potential damage to the tax management system.

### **3.3 Causation: The Link Between Behavior and Outcome**

Causality is an important link in the analysis of the components of tax evasion behavior, and its core is to clarify the causal link between tax evasion behavior and the result. Criminal law emphasizes that tax evasion behavior must lead

to the actual evasion of tax revenue, that is, there should be a direct or indirect causal relationship between the behavior and the result of tax evasion. The definition of such causal relationship requires judicial practice to find out the specific connection between the tax evasion's behavior and tax loss in the process of tax collection and administration.

## **4. The Criminal Law Governance Path of Tax Evasion Behavior**

### **4.1 The Coordination Between Criminal Law and Tax Law**

The governance of tax evasion depends on the benign coordination between criminal law and tax law. Although criminal law and tax law belong to different fields of law, they are highly consistent in safeguarding national tax interests and ensuring the enforcement of law. The criminal law is mainly responsible for dealing with the criminal responsibility of tax evasion behavior, while the tax law prevents the occurrence of tax evasion behavior through the daily means of tax collection and management. The two should complement each other in practical operation. The criminal law strengthens the deterrence of the tax law through the punishment mechanism, while the tax law reduces the occurrence of tax evasion through the perfect tax management system.

In the current tax evasion governance, the synergistic effect of criminal law and tax law is often faced with the disconnection or poor connection in the application of law. In the tax law, the identification of tax evasion is usually focused on the amount of tax, but in the application of the criminal law, it involves more subjective intention, means of tax evasion and social harm factors. Therefore, how to clearly delimit the scope of application of criminal law and tax law in judicial practice, to avoid the overlap of regulations or gaps of application, is an urgent problem to be solved by the current legal community. Only by establishing a more coordinated relationship between the criminal law and the tax law, can we ensure the effective crackdown on the tax evasion behavior, and improve the overall efficiency of the law.

### **4.2 Perfect the Design of the Criminal Law**

### **System of Tax Evasion**

The punishment scale of tax evasion in criminal law should be adjusted with the complexity of tax evasion and the aggravation of social harm. For transnational tax evasion, the crackdown effect of relying solely on domestic criminal law is limited, which requires international criminal cooperation and transnational legal coordination. The definition of tax evasion in the criminal law should be more detailed, and the corresponding legal responsibilities of different types of tax evasion should be clarified. In the existing nature of tax evasion, the identification standards for false income, false bills and illegal transfer of funds are not clear, which is easy to cause controversy in judicial practice. The design of the system of tax evasion in criminal law should pay attention to refining the standards and set different types of punishment measures to ensure the fairness and accuracy of the application of law.

While perfecting the design of tax evasion system, the criminal law should also consider how to effectively stimulate the cooperation between tax authorities and judicial organs. As the tax evasion behavior is often characterized by strong concealment and strong cross-regional characteristics, it is difficult for a single tax administration department to find out and effectively deal with this problem in a short time. Strengthening the information sharing and coordination between the tax authorities, the public security organs, the procuratorial organs and the courts is an important aspect of improving the design of the criminal law system.

### **4.3 We Will Strengthen Social Oversight and Popularize Laws**

Strengthen the social supervision of the tax evasion behavior, and encourage the public to supervise and report the tax evasion behavior through the establishment of an open and transparent tax information platform. Tax authorities should strengthen the interaction with the public, regularly publish the handling of tax evasion cases, and improve the vigilance and attention of all sectors of society to tax evasion behavior. Tax authorities should establish closer cooperative relations with financial institutions, commercial companies and other social entities to jointly prevent and crack down on tax evasion by illegal means. In terms of financial transactions and asset transfer, we should strengthen cooperation with banks and

payment platforms, and identify potential tax evasion risks in a timely manner through big data and artificial intelligence technologies.

Law popularization plays a particularly prominent role in preventing tax evasion. Tax evasion often stems from some taxpayers' ignorance or misunderstanding of tax law. Especially in the context of complex tax law and frequent changes in tax system, taxpayers' understanding and compliance with legal provisions are extremely critical. Tax authorities should conduct regular legal publicity and training activities to raise the public's awareness of the tax law, especially in providing key education for business owners, tax professionals and other important economic actors. By comprehensively strengthening the popularization of tax law knowledge, cultivating a good awareness of tax payment and law-abiding spirit, it can effectively reduce the occurrence of tax evasion.

### **5. Conclusion**

The governance of tax evasion behavior is an important topic facing the modern society ruled by law, which has a far-reaching influence on the national tax revenue, social equity and market order. From the perspective of criminal law, the governance of tax evasion behavior requires not only the close cooperation between criminal law and tax law, but also the continuous improvement of the relevant legal system to deal with the emerging means of tax evasion. Strengthening social supervision and popularizing the knowledge of tax law is also very important, which can effectively enhance the public's awareness of tax law and reduce the occurrence of tax evasion. The effective governance of tax evasion behavior not only depends on the strict sanctions of the law, but also needs the joint efforts and cooperation of the whole society. Through the comprehensive use of legal, social and technical means, a more perfect tax management system can be established to provide a strong guarantee for the fair collection and stable development of national tax revenue.

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