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RUSSIAN LAW JOURNAL (RLJ)

An independent, professional peer-reviewed academic legal journal.

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The *Russian Law Journal* is designed to encourage research especially in Russian law and legal systems of the countries of Eurasia. It covers recent legal developments in this region, but also those on an international and comparative level.

The RLJ is not sponsored or affiliated with any university, it is an independent All-Russian interuniversity platform, initiated privately without any support from government authorities.

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Notes for Contributors

The RLJ encourages comparative research by those who are interested in Russian law, but also seeks to encourage interest in all matters relating to international public and private law, civil and criminal law, constitutional law, civil rights, the theory and history of law, and the relationships between law and culture and other disciplines. A special emphasis is placed on interdisciplinary legal research.

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TAX COMPLIANCE IN THE RUSSIAN FEDERATION, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND THE UNITED STATES OF AMERICA: FORCING AND ENCOURAGING LAWFUL CONDUCT OF TAXPAYERS

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The article is devoted to the consideration of the system for the tax authorities to assess tax risks and to prevent tax law violations. The work focuses on how the tax authorities affect the conduct of taxpayers through “soft law,” disclose information about their approach towards understanding tax risks and enforce a system of measures to ensure compliance. Tax compliance is analysed in the article as good-faith and lawful conduct of a taxpayer, which is formed under the influence of a system of, at the same time, preventive and incentive measures. This article considers tax compliance issues in Russia, the United Kingdom and the USA, not so much as a consequence of the voluntary actions of the taxpayer, but as a consequence of the conditions that are set for a taxpayer by the administrative action of tax authorities. To do this, the approaches of the tax authorities to defining the criteria for tax risks and the procedure for assessing them are analysed, as is the effect of these approaches on the subsequent implementation of tax control measures, while the system of enforcement measures and incentives for taxpayers to comply with tax legislation are examined. Tax compliance is the most desirable regime

for the state, but in the entire history of taxation no jurisdiction has been able to achieve full tax collection solely based on a persuasive method. At the same time, owing to the limited resources of tax administrations, in practice there is no real opportunity to examine absolutely every taxpayer. For specifically this reason, a risk-based approach to carrying out tax control with a reasonable combination of both incentive measures and the enforcement of compliance with tax legislation is becoming increasingly relevant. The authors consider the implementation of a risk-based approach and its effect on tax compliance, on the choice of tax control measures, and on depth and scope in terms thereof, using the example of the experience of Russia, the United Kingdom and the USA. The article also pays special attention to an analysis of incentive measures and the enforcement of tax compliance in these jurisdictions.

Keywords: tax compliance; tax risk assessment; FTS; HMRC; IRS; DIF; risk-based tax audit; office audit; field audit; tax penalty; criminal liability.

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Introduction

Both certainty of the legal status of taxpayers and their compliance with tax legislation have always been problems that have manifested themselves and at the same time have had to be solved.¹ All tax administrations worldwide have constantly

¹ See Гидирим В.А. Основы международного корпоративного налогообложения [Vladimir A. Gidirim, *The Fundamentals of International Corporate Taxation*] 706–819 (Moscow: Litres, 2018); Пенелеев С.Г. Об универсальном значении статей 3 и 17 НК РФ // *Налоговед.* 2018. № 9. С. 4–5 [Sergey G. Pepeliaev, *On the Universal Significance of Articles 3 and 17 of the Russian Tax Code*, 9 *Nalogoved* 4 (2018)];

struggled to reconcile two different policies: ensuring that taxpayers' rights are complied with, on the one hand, and not permitting abuses by taxpayers of their legal rights, in order to evade tax payments, on the other hand.

To achieve these purposes both in the legislation on taxes and levies and in the adjacent branches of legislation, as well as in the practice of court and administrative decisions, there should be provision for a mechanism of legal regulation that is understandable to all who enforce the law and that is efficient in its implementation. Only this guarantees that the balance is met of public and private interests in tax law and that the trust of civil society in the institutions of the state and the law is maintained.

It is important to understand that, for states, the most desirable thing is a situation of universal and voluntary due performance of tax obligations by all those involved in tax relationships. However, it is possible to ensure such a situation by way of an effective mechanism of tax regulation. For this, a set of measures is necessary and prudent comprising both administrative enforcement for non-compliance with tax legislation and administrative incentives to comply with tax legislation, taking account of the legislature's will and its intentions.

The functioning of such a mechanism is possible only as long as a system is implemented for the correct and timely identification of violations of tax legislation and of tax abuses. In connection with this, a risk-oriented approach to determining whether tax control measures should be carried out reasonably becomes particularly significant. Tax authorities use risk-based techniques to concentrate their supervisory activities on taxpayers with a relatively higher risk profile, while those who have low risk are generally protected from frequent tax audits.² In the context of such an approach, it is important to establish what will be considered to constitute a tax risk and the criteria for assessing it.

Therefore, the problems of tax compliance move to the foreground as a system of preventing violations of tax legislation and tax abuses, on the one hand, and a system of assessing tax risks as well as managing them, on the other hand. At the same time, tax risks are considered in the context of tax control, but not administrative enforcement, as facts that testify to circumstances bound in with a violation of tax legislation or an abuse of legal rights in the sphere of taxation and serving as a ground for a decision to be taken to conduct tax control measures.

Араkelов С.А. Антиуклонительные нормы в международной практике. Новые законодательные инструменты по борьбе против уклонения от уплаты налогов в России // Закон. 2018. № 5. С. 109–115 [Sergey A. Arakelov, *Anti-Evasion Rules in International Practice. New Legislative Instruments in the Struggle Against the Evasion of Tax Payments in Russia*, 5 Law 109 (2018)]; Пепеляев С.Г. Ст. 54.1 НК РФ – шаг к необходимости введения налогового комплаенса? // Законодательство. 2018. № 8. С. 5–9 [Sergey G. Pepeliaev, *Article 54.1 of the Russian Tax Code – a Step Towards the Need to Introduce Tax Compliance?*, 8 Legislation 5 (2018)].

² See Dennis de Widd & Lynne Oats, *Risk Assessment in a Co-operative Compliance Context: A Dutch–UK Comparison*, 2 British Tax Review 230 (2017).

Such an understanding of tax compliance allows for a consideration of both approaches by the tax authorities to assessing tax risks aimed at identifying violations of tax legislation and equivalent abuses of legal rights in the sphere of taxation, as well as approaches of taxpayers whose aim is to optimise taxation by lawful means.

Tax compliance is regarded as, at the same time, a system of preventive and incentive measures of administrative enforcement ensuring that taxpayers comply with the rules of legislation on taxes and levies, and other tax-related legal and regulatory acts, as well as that taxpayers perform the lawful demands of parties to tax control when a controlling authority is properly exercising its commission, and that there is no abuse of its legal right on the part of a taxpayer.

The approach to tax compliance and tax risks in different jurisdictions is not uniform and has particular features. Therefore, it seems logical to consider in more detail the issues of tax compliance and a risk-oriented approach in tax control using the example of states taken separately.

The authors examine the Russian jurisdiction as their own national jurisdiction, assimilating experience of legal regulation and court and administrative decisions in the practice of the Anglo-Saxon legal family, primarily the United States and the United Kingdom, in implementing tax compliance in tax control.

The choice of the United Kingdom for a comparison is tied in with the fact that the British tax control system is undergoing substantial reform due to this state's current membership of the European Union (the "EU") and the need to comply with the legal and regulatory acts of this political and legal association having regard to the policy of its bodies;³ its involvement in initiatives of the Organisation for Economic Co-operation and Development (the "OECD"); the need to achieve the goal of maximising income for the public purse, which was publicly enacted in 2015 by Her Majesty's Treasury (the "Treasury"), which performs the functions of the United Kingdom's ministry of finance, with the United Kingdom's tax authority having to turn this goal into reality before 2020.⁴ All the above factors are due to the high level of development of the institution of tax control and the use of the most consummate mechanisms for exercising such control, as well as civil society and democratic institutions ensure, in comparison with other countries, a high level of transparency of approaches that the tax authority applies, and a high level of protection of the rights and lawful interests of private persons.

³ Moreover, it is assumed that, when the United Kingdom ceases membership of the European Union, rules of European law that were previously applied in the United Kingdom will be introduced into domestic legislation, which will ensure stability in legal regulation. For more detail, see Department for Exiting the European Union, *Legislating for the United Kingdom's Withdrawal from the European Union*, Policy Paper (2017) (Jan. 20, 2019), available at <https://www.gov.uk/government/publications/the-repeal-bill-white-paper/legislating-for-the-united-kingdoms-withdrawal-from-the-european-union>.

⁴ HM Treasury, *Spending Review and Autumn Statement 2015*, Cm 9162 (November 2015) (Jan. 20, 2019), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf.

For its part, the USA is a state with one of the strongest and most effective tax administrations in the world, and pays particular attention to achieving voluntary compliance.⁵ The USA is a home to many initiatives in the struggle with abuses in the area of tax, such as rules about the taxation of the profit of controlled foreign companies, transfer pricing rules, and others.⁶

Since 1969, this jurisdiction has been applying a risk-oriented approach to tax control based on an automated computer system. Attention towards the American jurisdiction was reinforced in 2010 with the adoption of FATCA, which de facto extended the jurisdiction of the USA's Internal Revenue Service (the "IRS") with its approaches to tax compliance outside the USA, and provisions concerning the withholding of 30% on any passthrough payment⁷ for non-compliance with the requirements of the law have ensured a proper enforcement mechanism worldwide.

1. Public Authorities Ensuring Tax Compliance

The orientation of tax control solely towards the identification of tax risks associated with the violation of tax legislation and with abuse is accompanied by the emergence of extremely wide discretion of tax authorities in assessing such risks.

This situation is explained by the specific features of arranging tax control, the legal status of bodies carrying out tax control and their place in the system and structure of public administrative bodies, as well as the purposes and objectives of tax control, which have a direct influence on the priorities of tax compliance.

Tax control in Russia is conducted by unified, centralized systems, that are subordinate to the Ministry of Finance of the Russian Federation, of tax authorities with respect to the taxes and levies that are provided for in the Tax Code of the Russian Federation (the "Russian Tax Code"), and of customs authorities with respect to customs payments.

Further, in part, tax control in Russia is vested in bodies which manage state schemes that are publicly funded: the Pension Fund with respect to contributions for mandatory medical insurance for the non-working population; and the Social Insurance Fund with respect to contributions for mandatory social insurance against workplace accidents and industrial diseases.

All of the above bodies are subordinate to the Government of the Russian Federation, whether directly or indirectly. The Ministry of Finance of the Russian Federation is subordinate to and controlled by the Government of the Russian Federation, while

⁵ Jack Manhire, *What Does Voluntary Tax Compliance Mean?: A Government Perspective*, 164(1) *University of Pennsylvania Law Review Online* 11 (2015).

⁶ In particular, attempts to debt-to-equity ratio, which has substantial significance in the concept of thin capitalisation, were undertaken in the USA in 1946. See *Thin Capitalization and Tax Avoidance*, 55(7) *Columbia Law Review* 1054 (1955); *John Kelley Co. v. Commissioner*, 326 U.S. 521 (1946).

⁷ 26 U.S.C. § 1471.

the Federal Tax Service and the Federal Customs Service and their local bodies are subordinate to and controlled by the Ministry of Finance of the Russian Federation.⁸

The system of bodies carrying out tax control can be characterized as federal, centralized and organized built on a hierarchy of federal executive bodies, which does not ensure tax control that is independent of the Government of the Russian Federation and the Ministry of Finance of the Russian Federation.

The function of tax authorities, customs authorities, and bodies that manage state non-budgetary funds in terms of control over whether a calculation is correct, and whether taxes and levies have been paid in full and on time in the context of Articles 3, 32(1)(4) and legal rules of other statutory acts is determined based on the concept of the rule of law. The constitutional law base of this concept is set out in Articles 18, 45 and 57 of the Constitution of the Russian Federation. The above bodies combine the control function with the function of administering the payments they control by way of forming the income of the government. This enables the purpose of tax control – the lawfulness of taxation – to become distorted, since the goal of ensuring that tax income comes in for the government often takes priority.

Combining the above functions is difficult if they are to be discharged effectively, especially for the tax control function to be exercised properly. What is more, the described functions are supplemented by the fact that the tax authorities' powers include considering and reviewing cases concerning violations of tax law and other fields of legislation on mandatory payments, the application of administrative enforcement measures for such violations, and considering and settling tax disputes and disputes relating to the payment and administration of other mandatory payments.

In actual fact, tax and other authorities administering mandatory payments also perform functions that involve devising tax policy and drawing up sub-legislative regulations, and the regulatory interpretation of rules in tax legislation and other branches of legislation on mandatory payments.

In the situation that has developed, taking account of the systemic economic crisis and the budget deficit in Russia, the most effective approach from the viewpoint of administering tax risks in Russia is only a pro-government approach to tax compliance.

In the United Kingdom, the body exercising tax control on the national level is a non-ministerial Department of Her Majesty's Government, which is officially

⁸ See Налоговый кодекс Российской Федерации [the Russian Tax Code], Закон Российской Федерации «О налоговых органах Российской Федерации» [the Law of the Russian Federation "On the Tax Authorities of the Russian Federation"], Таможенный кодекс Евразийского экономического союза [the Customs Code of the Eurasian Economic Union], Федеральный закон «О таможенном регулировании в Российской Федерации» [the Federal Law "On Customs Regulation in the Russian Federation"], Федеральный закон «Об обязательном социальном страховании от несчастных случаев на производстве и профессиональных заболеваний» [the Federal Law "On Mandatory Social Insurance Against Workplace Accidents and Industrial Diseases"], Федеральный закон «Об обязательном медицинском страховании в Российской Федерации» [the Federal Law "On Mandatory Medical Insurance in the Russian Federation"] (Jan. 20, 2019), available at <http://www.pravo.gov.ru>.

referred to as Her Majesty's Revenue and Customs and commonly abbreviated to "HMRC" or "HM Revenue & Customs."

Section 5 of the Commissioners for Revenue and Customs Act 2005⁹ states that such body is vested with the functions of two predecessor authorities – the Commissioners of Customs & Excise and the Commissioners of Inland Revenue. Such functions are:

- 1) The collection and management of revenue for which the Commissioners of Inland Revenue were responsible;
- 2) The collection and management of revenue for which the Commissioners of Customs and Excise were responsible; and
- 3) The payment and management of tax credits for which the Commissioners of Inland Revenue were responsible.

It should be emphasized that Acts of Parliament refer solely to the functions of a tax authority, while at the same time its direct purposes for the sake of which such functions are exercised are not mentioned in primary legislation.

At the same time, the Spending review and autumn statement 2015, which the Treasury put before the United Kingdom Parliament based on updated forecasts and clarifying the medium- and long-term priorities of the Government's fiscal policy enshrined in clauses 10.2 and 11.18 the priorities of HMRC for the period of 2015–2020. Among other things, in the document referred to above, the purpose¹⁰ is enshrined of maximizing the amount of tax payable to the public purse and the crackdown on tax avoidance and tax evasion (the main priority is to encourage tax compliance).

The status of a non-ministerial department is due to the special position of the authority in question in the system of executive state authorities in the United Kingdom. It falls outside the hierarchy of being subordinate to a particular ministry.¹¹ As stated on the official website of the Government of the United Kingdom, the above position of the HMRC in the British system of executive authorities eliminates direct control on the part of any ministry over the operational activity of HMRC and ensures that tax administration is "fair and impartial."¹²

The Treasury cannot control the activity of HMRC and has only restricted supervisory and coordinating powers, since it exercises "strategic oversight of the tax system,"¹³ and the associated legal regulation and devising of government policy in this area.

⁹ Commissioners for Revenue and Customs Act 2005 (Jan. 20, 2019), available at <https://www.legislation.gov.uk/ukpga/2005/11/contents>.

¹⁰ HM Treasury, Spending Review and Autumn Statement 2015, *supra* note 4.

¹¹ Cabinet Office, Classification of Public Bodies: Guidance for Departments, Public Bodies Handbook – Part 1, at 15 (Jan. 20, 2019), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/519571/Classification-of-Public-Bodies-Guidance-for-Departments.pdf.

¹² Our governance, HM Revenue & Customs (Jan. 20, 2019), available at <https://www.gov.uk/government/organisations/hm-revenue-customs/about/our-governance>.

¹³ About us, HM Treasury (Jan. 20, 2019), available at <https://www.gov.uk/government/organisations/hm-treasury/about>.

In accordance with Section 11 of the Commissioners for Revenue and Customs Act 2005, the Commissioners, in exercising their functions, act within the framework of directions of a general nature from the Treasury,¹⁴ an example of these being the Treasury's Spending review and autumn statement, which enshrined a profiscal policy for the activity of HMRC.

In Scotland and in Wales, tax control with respect to whether devolved taxes¹⁵ have been correctly calculated and paid is exercised by a non-ministerial department of the Government of Scotland responsible for revenues¹⁶ (known as Revenue Scotland), and a non-ministerial department of the Government of Wales responsible for revenues¹⁷ (known as The Welsh Revenue Authority).

Moreover, control powers within the framework of administering municipal tax (Council Tax)¹⁸ are vested in local government (municipal councils); however, these powers are extremely restricted by virtue of a simplified taxation mechanism.¹⁹

Thus, HMRC as the tax authority in the United Kingdom has, by virtue of its status as a non-ministerial department, extensive autonomy from the body drawing up state policy in relation to the public finances and taxes, the Treasury; this is in contrast to the Russian Federation, where the Federal Tax Service is a subordinate body of the Ministry of Finance.

Moreover, the British system of tax control bodies is gradually evolving so as to become more decentralized, which reflects the process of public power being established at the regional level in Scotland and Wales.

In the USA, tax control is carried out on three levels – the federal, state and local levels – by the corresponding public executive bodies: the Internal Revenue Service (the "IRS"), and the tax administrations of states and municipalities.

With respect to the status of the IRS, it is important to note as follows. The U.S. Treasury, acting through the Secretary of the Treasury in accordance with § 7801 of the Internal Revenue Code (the "IRC"), is granted all powers relating to compliance

¹⁴ Commissioners for Revenue and Customs Act 2005, *supra* note 9.

¹⁵ Devolution is a process of creating self-government in regions of the United Kingdom, and is accompanied with the delegation of powers by centralised executive state authorities of the United Kingdom to regional authorities. The powers thus delegated touch on various areas of public life.

¹⁶ Revenue Scotland and Tax Powers Act 2014 (Jan. 20, 2019), available at <https://www.legislation.gov.uk/asp/2014/16/contents>.

¹⁷ Tax Collection and Management (Wales) Act 2016 (Jan. 20, 2019), available at <http://www.legislation.gov.uk/anaw/2016/6/contents>.

¹⁸ The Council Tax (Administration and Enforcement) Regulations 1992 (Jan. 20, 2019), available at <https://www.legislation.gov.uk/ukSI/1992/613/contents/made>.

¹⁹ The municipal council sends a bill to the taxpayer based on the category of real estate to which the relevant property is assigned, based on information from the Valuation Office Agency (VOA). An example of the substance of the control powers is that before granting a student benefit to the owner of a real estate property, the municipal council requests and checks documents confirming the person's right to the relevant benefit.

with laws on taxation and control over their implementation under the supervision of the Secretary of the Treasury.

At the same time, the actual functions of the U.S. Treasury in the area of taxation are restricted to devising policy and general administration in this area. The powers vested in the U.S. Treasury in the area of tax relationships, including functions in the area of tax control, are directly exercised by the IRS, which is a bureau of and is subordinate to the Department of the Treasury.

The IRS has been created to perform the obligations vested in the U.S. Secretary of the Treasury according to § 7801 of the IRC. § 7803 of the IRC provides that the Commissioner of Internal Revenue shall be appointed by the President by and with the advice and consent of the Senate to organize the implementation and application of laws on taxation.

From the standpoint of the overall functioning of the IRS and also the implementation and application of a risk-oriented approach, it is important to single out, in particular, four Divisions of the IRS: Wage and Investment, Large Business and International, Small Business/Self-Employed, Tax-Exempt and Government Entities. Also deserving of particular attention are such principal offices as the Chief Counsel, Appeals Office and Taxpayer Advocate Service, which report directly to the Commissioner of Internal Revenue. Moreover, the structure of the IRS' central administration also contains a Criminal Investigation department, as well as a Whistleblower Office.

The IRS also has a presence in the USA through the functioning of four regional offices and of TACs (Taxpayer Assistance Centers).²⁰

The IRS handles the administration of federal taxes, while at the same time states and municipalities in the USA may introduce and administer their own taxes and may also undertake control measures.

The reason lies in the fact that, in the USA, no single list of federal, regional and municipal taxes has been established (whereas this has been done, for example, in Russia). This means in practice that states and municipalities can establish taxes²¹ for the purposes of accumulating public finance at the corresponding level.

Each state has its own tax administration, responsible for collecting the taxes established in the state in question. The structure of such an administration is in many ways similar to the structure of the IRS set out above.

For example, in the state of Washington, the Department of Revenue administers *sales and use taxes, property tax, cigarette, aircraft, public utility and other taxes*.²² This administration also presupposes the carrying out of tax control measures.²³

²⁰ IRS Official Website Information (Jan. 20, 2019), available at <https://www.countyoffice.org/irs-offices/>.

²¹ Толстопятенко Г.П., Федотова И.Г. Налоговое право США. Терминология [Gennady P. Tolstopyatenko & Irina G. Fedotova, US Tax Regulations & Tax Terminology] 15 (Moscow: Publishing center "Ankil," 1996).

²² Washington State Department of Revenue Official Website (Jan. 20, 2019), available at <https://dor.wa.gov/find-taxes-rates/other-taxes>.

²³ In 2017, for example, 6,000 audits were carried out; the level of voluntary compliance was 97.5%. See Revenue at a Glance (FY 2017) (Jan. 20, 2019), available at <https://dor.wa.gov/about>.

In each municipal unit, there also exists a service that is responsible for collecting local taxes and levies. For example, the city of Chicago has its Department of Finance.²⁴ The structure of this Department contains, among other things, a Tax Division, which is responsible for collection, for conducting audits and for administering all municipal taxes and levies. In the city of Miami, there is also a Department of Finance. The structure of this Department contains a Treasury Management Department, which, among other things, is responsible for administering *payments for business tax receipts*.²⁵

Tax administration at state level and local tax authorities fall outside the IRS system. Since, in actual fact, local tax authorities perform similar functions to those of the IRS to ensure compliance, and they also, among other things, conduct tax control measures, further discussion will focus on the powers of the IRS when it administers federal taxes.

Thus, tax control functions in the USA are decentralized and are carried out by federal, state and local government. The IRS, as a bureau of the U.S. Treasury in structural terms, handles the administration of federal taxes only. States and municipalities form their own tax authorities, which undertake the administration of regional and local taxes respectively, including the holding of tax control measures.

In the legislation, the rules of 26 U.S. Code Subtitle F Chapter 80 Subchapter A (entitled Application of Internal Revenue Laws) are devoted to the functions and powers of the Commissioner of Internal Revenue.

§ 7801 of the IRC, in particular, states that the administration and enforcement of Title 26 (i.e. IRC) shall be performed by or under the supervision of the Secretary of the Treasury.²⁶ At the same time, § 7803 of the IRC establishes the fundamentals of the legal status of the Commissioner of Internal Revenue, noting that the Commissioner shall have such duties and powers as the Secretary of the Treasury may prescribe, including the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.²⁷

The powers, mission and role of the IRS are also contained in the Internal Revenue Manual (the "IRM"),²⁸ which is an official compendium of internal guidelines for personnel of the IRS and which clearly states the mission of the IRS and instructs its employees on how to carry out the IRS' functions. The mission of the IRS is to provide America's taxpayers with top quality service by helping them understand and meet

²⁴ Tax Collection and Enforcement, City of Chicago (Jan. 20, 2019), available at https://www.cityofchicago.org/city/en/depts/fin/provdrs/tax_division.html.

²⁵ Get a Business Tax Receipt (BTR), City of Miami (Jan. 20, 2019), available at <http://www.miamigov.com/finance/BusinessTax.html>.

²⁶ 26 U.S.C. § 7801 – Authority of Department of the Treasury.

²⁷ 26 U.S.C. § 7803 – Commissioner of Internal Revenue; Other Officials.

²⁸ Internal Revenue Manual (Jan. 20, 2019), available at <https://www.irs.gov/irm>.

their tax responsibilities and by applying the tax law with integrity and fairness to all. The IRS' role is to help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share.

Wide-scale changes concerning the IRS' goals and its legal status were introduced in 1998, after the Internal Revenue Service Restructuring and Reform Act was passed. The amendments were, in fact, aimed at the IRS changing its concept of relationships with taxpayers, ceasing to be too overzealous in collecting taxes, and becoming more focused on customer service with a view to increasing compliance. However, researchers have cast doubt over whether the 1998 law has had an effect on compliance.²⁹

To understand the purposes and objectives of the IRS, it is also important to have recourse to the IRS Strategic Plan³⁰ for the fiscal years 2018–2022. Based on an analysis of this document, one may judge that the IRS is striving to ensure that each taxpayer pays what he/she/it is obliged to – no more and no less. The key objectives of the IRS in this context are: to create the conditions for taxpayers to understand their tax obligations and the opportunity for them to perform such obligations; to use the IRS' administration and enforcement protect the unity of the tax system by way of increasing compliance; and others. Thus, the tax authorities do not directly declare the fiscal purpose as taking priority in their work, although they are undoubtedly guided by the interests of the state and the public purse, in particular, at all stages of tax control.³¹

The comparison of the priorities in tax control in the jurisdictions under consideration allows for the conclusion that, instead of risk-oriented tax control over the lawfulness of taxation, in other words, whether the calculation of mandatory payments is correct and whether they have been paid in full and on time, the situation unfolds of a conflict between the interests of tax control authorities, which are principally aiming to ensure that tax income is realized for the public purse, and the interests of taxpayers, who are counting on the certainty and stability of the tax system.

Besides, such a situation is typical not only for the jurisdictions under consideration, but also for other countries in the world,³² which are joining forces to fight the erosion of the tax base and the transfer of profits to avoid taxation.³³ In such a situation, the main purpose of tax compliance becomes the accomplishment of tax income for the public purse, and not the lawfulness of taxation; this immediately makes compliance ineffective.

²⁹ Leandra Lederman, *Tax Compliance and the Reformed IRS*, 51 *University of Kansas Law Review* 971, 973–974 (2003).

³⁰ Strategic Goals Overview, IRS (Jan. 20, 2019), available at <https://www.irs.gov/about-irs/understanding-the-plan/strategic-goals-overview>.

³¹ Statistics from audits show that the IRS strives to audit major taxpayers more, since the likelihood and scope of potential additional tax assessments are extremely high (see subsequent sections).

³² See Rolf Eckhoff, *Vom konfrontativen zum kooperativen Steuerstaat*, 2 *StuW* 107 (1996).

³³ For more detail on this issue, see <http://www.oecd.org>.

However, in countries with a developed civil society and strong democratic institutions, tax administrations are more focused on ensuring a reasonable combination of enforcement measures and encouraging tax compliance. It is specifically in this way that, ultimately, the mission is defined of both HM Revenue & Customs in the UK and the Internal Revenue Service in the USA. A fiscal purpose is certainly present in the work of the tax authorities and this will be examined in the sections below. At the same time, in the tax legislation of the UK and the USA, as distinct from Russian tax legislation, the accent is placed on achieving voluntary compliance for the purpose of ensuring that all taxpayers have correctly calculated their taxes and have paid them on time and in full, and the proper implementation of the legal status of taxpayers should be guaranteed.

2. Risk Assessment Conducted by Tax Authorities

A risk-oriented approach to selecting persons with respect to whom tax control measures will be carried out applies in the Russian Federation and also in the United Kingdom and the USA. Such an approach is used owing to the need to increase the effectiveness of tax control and to encourage tax compliance.

An analysis of the approach that authorities apply to tax control is made more difficult by the fact that, in each system of justice, a risk-oriented approach presupposes that there will not be full openness in terms of the criteria laying at the base of the mechanism for determining a taxpayer's risk. Detailed disclosure of full information about risk assessment is undesirable for the public interest to be met, because taxpayers simulate compliance within the mechanism of assessing risks and may hide from control facts of violations of tax legislation.³⁴

At the same time, the system of risk criteria and the procedure for assessing them should be sufficiently transparent for taxpayers to be able to use it as a guide and as a basis for them to ensure compliance. Through the disclosure of information about a risk assessment, a tax authority exercises soft-touch regulation of taxpayers' conduct. Taxpayers generally want to ensure that their tax planning is legal, efficient and appropriate, that it does not create reputational risks and that reporting and compliance requirements are satisfied.³⁵

Thus, the system of risk criteria, the procedure for assessing them, the level of their openness and transparency for a taxpayer, the opportunity for the latter to be involved in the process of assessing risks – these are the results of the struggle between private and public interests and the long road to finding a balance between them, which comes into being in every state in a special and unique way.

³⁴ *Risk-Based Tax Audits: Approaches and Country Experiences* (M.S. Khwaja et al. (eds.), Washington, D.C.: World Bank, 2011) (Jan. 20, 2019), also available at <http://documents.vsemirnyjbank.org/curated/ru/490491468159916971/Risk-based-tax-audits-approaches-and-country-experiences>.

³⁵ See Judith Freedman et al., *Corporate Tax Risk and Tax Avoidance: New Approaches*, 1 *British Tax Review* 74, 75 (2009).

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