

Tax debt of legal entities: the role of the hidden economy in the emergence of tax debt and issues of improving the tax debt recovery mechanism

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Abstract: In this article, the key words mentioned by the author are the emergence of tax debt and the influence of the hidden economy on it, artificial tax debt, regulatory legal documents that are the basis for reducing tax debt and their content, measures to collect tax debt, bankruptcy, subsidiary liability, bad tax debt. Proposals and recommendations have been developed regarding the write-off procedure.

Keywords: Debt, tax debt, artificial tax debt, underground economy, tax authority, business entity, taxpayer, penalty, working capital, payment order, subsidiary liability, bankruptcy (insolvency) and bad debt.

Literature analysis. The first use of the loan sentence appeared in 800-600 BC, American anthropologist David Rolf Graeber in his book "The First 5000 Years of Debt".¹

Michael Brostek, in his research, lists the following factors for increasing the efficiency of tax debt collection, in particular:

- reducing the tax burden while preventing the emergence of tax debt amounts in the country will lead to a decrease in tax liabilities in the future;
- the strategy of collection of unpaid taxes and fees will give a positive result only during the specified period.²

In the research conducted by I.A. Blank, if there are no reliefs like the above, mutual accounting books of enterprises and timely collection of taxes, the establishment of new enterprises and the solution to the problems of their collection will disappear, and in these cases, taxes and other mandatory payments will not be paid on time, and the following will result in the formation of tax debts. theoretically justified the fact that it occurs under the influence of factors:

- non-observance of payment discipline by economic entities with financial relations as a result of high tax rates, and as a result:

- 1) Exceeding debts from taxes and other mandatory payments;
- 2) Planning of financial and economic activities and improper management of these activities;
- 3) A sudden change in consumer demand for products of economic entities (work performed and services provided);

¹ David Rolf Graeber (February 12, 1961 - September 2, 2020) is an American anthropologist and "anarchist" activist. Ego vliyatelnye raboty v oblasti ekonomicheskoy antropologii, v chastnosti ego knigi Dolg: pervye 5000 let (izdatel. Dom Melvilla-2011).

² Michael Brostek. Tax debt collection IRS needs to better manage the collection notices sent to individuals. // United States government Accountability office.-2009. P-27

4) It is determined that the quality of products of economic entities (performed work and provided services) does not meet the customer's or market demand.³

Russ researchers, S.N. Alikhin and D.A. Levachevas (2018) in their scientific research cited the theoretical basis of the tax debt recovery mechanism. According to him, they emphasized the complexity of collecting tax debt from the taxpayer along with the expansion of the tax base and noted that it is necessary to develop a collection mechanism based on the financial situation of business entities that have tax debt, taking into account a special approach to this process.⁴

In her scientific work, I.G. Vinokhodova mentions that increasing the process of retrieving assets from business entities with tax debts in the collection of tax debts will give effective results.⁵

Sh.A. Toshmatov and me. In Norkoziev's book "Tax debt and its recovery", Tax debt is the amount of taxes and fees that have not been paid by the deadline specified in the legislation on taxes and fees.⁶

I.M. Niyazmetov (2008) states that the tax debt is caused by the fact that "the burden of VAT and property taxes is mainly borne by industrial enterprises, which causes the uneven distribution of the tax burden, and the relatively heavy tax burden of industrial enterprises. This does not allow to solve the problem of tax debt in enterprises. Most of the tax debts fall under the category of general taxes. This indicates that the tax burden is so heavy that it has a negative impact on the financial activities of tax-paying enterprises."⁷

After gaining independence in 1991, our country started conducting its own tax policy. Of course, the timely collection of taxes leads to the formation of the state budget and the development of the economy. However, failure to pay taxes and other mandatory payments on time to legal entities and individuals leads to the emergence of tax debt.

In the Republic of Uzbekistan, the tax debt was initially "dependent" (in 1997-2008)⁸ and today, "tax debt" (2008-2023), plus "recognized tax debt" (2019 to date),⁹ sentences are being used.

Tax arrears are calculated and unpaid taxes, including the amount of past and current payments, financial sanctions and penalties, which constitute tax arrears.¹⁰

³ I.A. Blank, (2004) "Financial Management", Kyiv-Nika-Tsentr 195 - p.

⁴ S.N. Alikhin and D.A. Levacheva, Evolution mechanism prinuditelnogo vzyskaniya zadoljennosti pered budgetom. // Nalogi. - 2018 28 – p.

⁵ I.G. Vinokhodova, Sovershenstvovanie praktiki vzyskaniya zadoljennosti organizatsiy po nalogam i sboram. // Nauchnoe article., 2019. 22 – p.

⁶ Sh.A. Toshmatov, I. Norkoziev (2010) book "Tax debt and its recovery" p. 52, beginning of line 2; T.: Generation of the new century. p. 168

⁷ I. Niyazmetov. Analysis of the impact of the tax burden on the financial activities of business entities and budget revenues. Nomination work. Abstract - 2008.

⁸ <https://lex.uz/docs/152637> (reflected in Articles 133-134 of the Tax Code valid from 1997-2008).

⁹ Tax Code of the Republic of Uzbekistan 2019.

¹⁰ Article 55 of the Tax Code of the Republic of Uzbekistan.

Recognized tax debt is a debt that has not been challenged by a taxpayer or a debt confirmed by a court decision within ten calendar days from the date of filing an application for cancellation of tax debt.¹¹

Artificial tax debt is a payment calculated, directed to the state budget on the basis of relevant documents, the tax revenue is not reflected in the account number, in addition, the amount of tax paid has fallen to another address, has a privilege within the framework of tax legislation, but the privilege is not included, or the taxpayer does not submit the privilege document on time it is understood to appear as a result.¹²

Legal entities incur tax debt if one of the following situations occurs.

- ✓ as a result of delayed fulfillment of tax obligations;
- ✓ as a result of transferring funds through a special account number;
- ✓ as a result of non-disbursement of funds on time by higher organizations;
- ✓ as a result of seasonal payments for the crops delivered by farms;
- ✓ as a result of the occurrence of indebtedness due to the existence of overdue receivables;
- ✓ as a result of non-fulfilment of tax obligations (dealing with the underground economy) through the use of various tax evasion schemes;
- ✓ as a result of adding money or property to the charter fund of a legal entity;
- ✓ concealment of cash by those engaged in retail or wholesale trade activities as a result of not transferring through Online-NKM (transfer of money for purchases using Click, Payme or various bank applications);
- ✓ The instability of the tax legislation and the lack of skills of the employees responsible for calculating taxes lead to the emergence of tax arrears.

Tax debt recovery measures for legal entities are carried out as follows.

- ✓ In 3 working days, a collection order will be placed on the debtor's account.
- ✓ In 3 working days, the application is printed and presented to the borrower (in person, through a registered letter of the post office or by sending it to his personal office).
- ✓ If no objection is raised by the taxpayer within 10 calendar days, the head of the tax authority will issue a decision and confiscate the property.
- ✓ Within 15 calendar days, the debtor is given the opportunity to use one of the following.
 - ✓ pledge of property;
 - ✓ guarantee;
 - ✓ bank guarantee (may delay tax debt for up to 60 days);
 - ✓ possibility of delay or installment payment (This authority is given by the Tax and Customs Committees up to the 1st year, Local authorities up to the 2nd year and the Cabinet of Ministers up to the 3rd year).

¹¹ Article 60 of the Tax Code of the Republic of Uzbekistan.

¹² Written by the author.

✓ if the debtor does not recognize the tax debt and does not pay the tax debt, after 60 days, a lawsuit is submitted to the inter-district economic court for compulsory collection of the amount of tax debt from the debtor's property.

I will remind you! Since 2019, the practice of the tax authority withdrawing funds from the debtor's accounts without his consent, which was used as a tax debt recovery measure, has been canceled.

On October 30, 2020, Decree No. PF-6098 of the President of the Republic of Uzbekistan "On organizational measures to reduce the hidden economy and increase the efficiency of tax authorities" was adopted and put into practice in order to reduce the hidden economy and put an end to the secret economy.¹³

Adoption of this Decree aims to create favorable conditions for conducting business activities and improve the investment environment in the spheres of monetary, currency, tax and foreign trade policy in our country.

At the same time, according to expert assessments and surveys of business entities in developed countries, the latent circulation in the economy remains at a high level, especially in such areas as trade and general catering, road transport, housing construction and repair, and provision of residential services.

This harms the economic interests of conscientious entrepreneurs, creating unequal business conditions for them.

Figure 1 shows the percentages of the companies operating the secret economy with different schemes for tax avoidance. (Compared to 2020, 2021 is compared in percentages).¹⁴

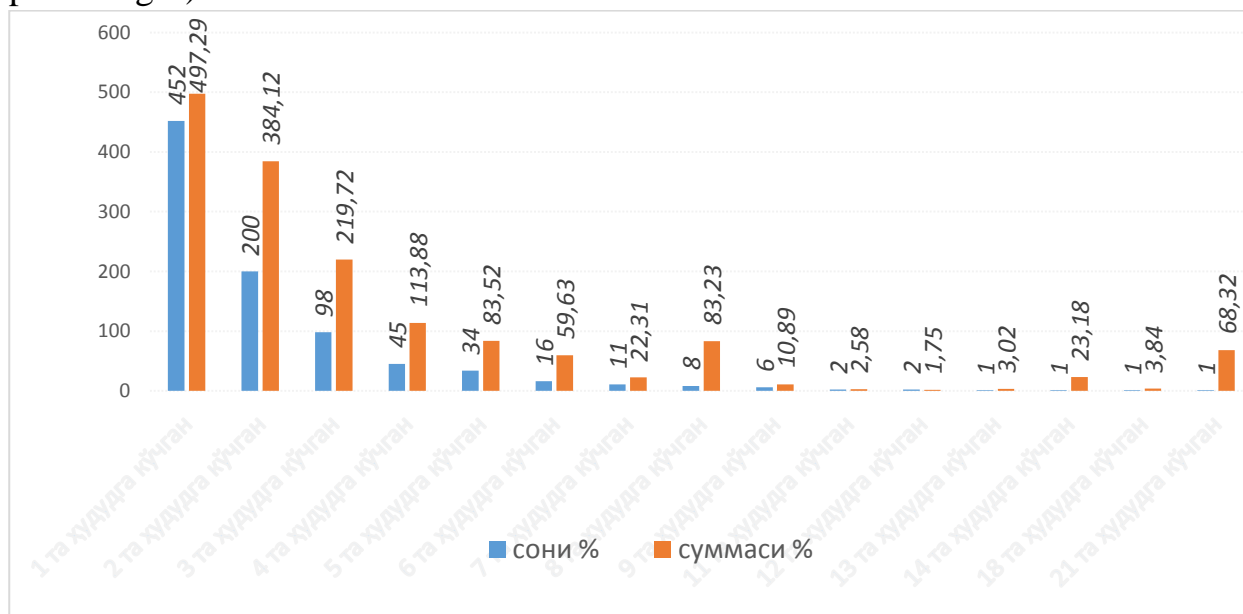


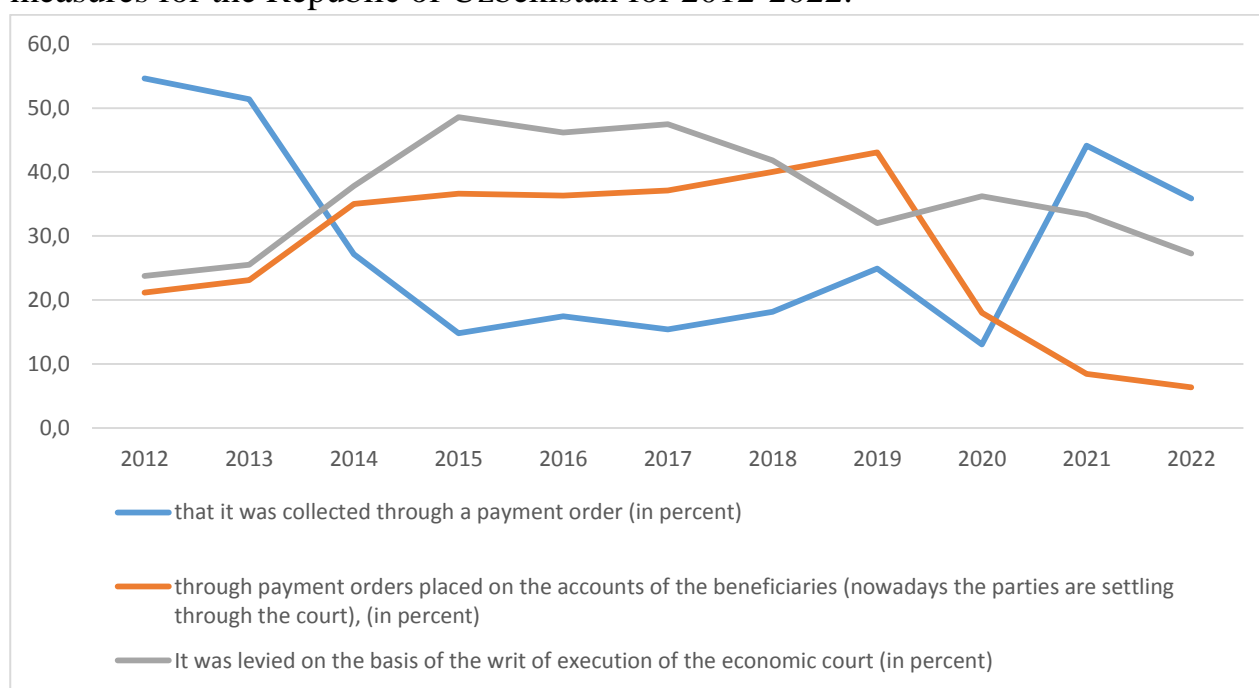
Figure 1. When comparing 2021 in percentages compared to 2020, the following situation occurred. The number of 1-day enterprises increased by 66%, the amount increased by 47%, the number of 2-day enterprises increased by 30%, the amount increased by 45%, the number of 3-day enterprises increased by 15%, the amount

¹³ <https://lex.uz/docs/5073459>

¹⁴ Using statistics from the Tax Committee. Prepared by the author.

increased by 26%, the number of 4-day enterprises increased by 4%, the amount increased by 10%. increased, the number of 5-day enterprises increased by 3%, the amount increased by 2%, the number of 6-day enterprises increased by 1%, the amount increased by 7%, and the number of 7-day enterprises decreased by -1%, the amount decreased by -5%, and the number of 8-day enterprises increased by 1%, amount increased by 4%, number of 9-day enterprises decreased by -3%, amount decreased by -6%, number of 11-day enterprises decreased by -4%, amount decreased by -4%, and number of 12-day enterprises decreased by -2% , the amount decreased by -16%, the number of 13-day enterprises decreased by -1%, the amount decreased by -0.3%, the number of 14-day enterprises decreased by -4%, the amount decreased by -14%, and the number of 18-day enterprises decreased by -2% , the amount decreased by -6%, and the number of 21-day enterprises decreased by -1%, the amount increased by 7%. This factor analysis shows that compared to the previous year, enterprises operating from 1 to 9 days using various schemes lead to an increase in the hidden economy.

Figure 2 presents a statistical analysis (in percentages) of tax debt collection measures for the Republic of Uzbekistan for 2012-2022.¹⁵

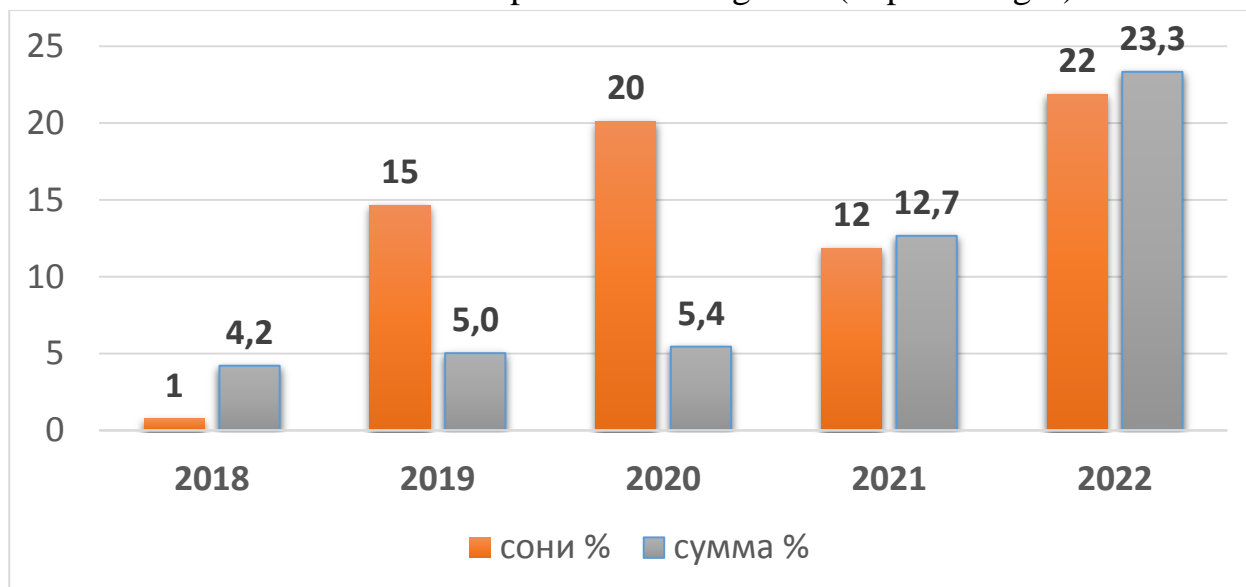


In Figure 2. The main reason why the tax debt of legal entities and the part collected by the tax authority by issuing payment orders will decrease by 2020 compared to 2012. In 2021-2022, the payment order was made by the Tax Committee. Until 2021-2019, the tax authority collected tax debts from legal entities at the expense of their debtors by issuing payment orders. We can see that in 2019-2022, the rate of recovery from the account of the debtor has decreased due to the fact that this practice has been implemented since 2019 with the debtor of a legal entity with an existing tax debt. If the recovery of tax debt of a legal entity at the expense of

¹⁵ Using statistics from the Tax Committee. Prepared by the author.

its property has a growth rate in 2012-2019, in 2020-2022, we will be able to see that this indicator has decreased. We believe that the main reason for this is the change introduced in the tax code in 2019, that is, the recognition of tax debt by a legal entity that owes taxes is considered the main reason for not filing a lawsuit.

The number and amounts of legal entities "declared bankrupt" in the Republic of Uzbekistan in 2018 and 2022 are presented in Figure 3 (in percentages).¹⁶



In Figure 3. This is the main reason why the number of people declared bankrupt in 2018 will increase from 1 percent to 22 percent from 2019 to 2022. In 2019, I believe that the sentence "individual entrepreneurs whose sales turnover of goods (services) exceeds one billion soums, but up to one billion soums, and legal entities whose turnover of goods (services) exceeds one billion soums per month" was included in the Tax Code. Legal entities, which are large enterprises, turn their production and provision of goods (services) into small firms, and when the sales turnover reaches one billion soums, they terminate their activity and establish a new firm under a different name.

Based on the results of the factor analysis, I believe that the following are the signs of deliberate evasion of taxes and fees without timely payment.

Knowing that a tax debt will arise, in order to intentionally lose the ability to pay, large amounts of money received in the bank account are transferred to other entities as follows:

- *Financial assistance;*
- *Financial support;*
- *Loan;*
- *Charity;*
- *Loans to be paid by individuals (employees who do not work in a legal entity) for housing facilities and vehicles;*

¹⁶ Using statistics from the Tax Committee. Prepared by the author.

- *Loans payable to legal entities (not owned by a legal entity) for non-residential objects and vehicles;*

- *Funds directed for the contract payment of a student studying at a higher educational institution (employee who does not work in a legal entity);*

- *Dividend funds transferred by the manager to the carrier's credit card or uzkarta (plastic card);*

- *Funds sent to him through uzkarta (plastic card) for agricultural products grown by individuals;*

- *Loan agreement;*

- *As a result of returning his share in the charter fund, transferring it for unclaimed goods, property and other assets;*

- *knowing in advance that a tax debt will arise, as a result of exchanging (realizing) the purchased (imported) goods, property or other assets in cash, and not depositing the funds in bank cash registers;*

- *as a result of exchanging (realizing) goods to business entities (individuals), knowing that there is no solvency, and not receiving funds for the exchanged (realized) goods;*

- *as a result of non-return of funds transferred to form the charter fund of other economic entities;*

- *as a result of paying dividends to the founders even though there is no net profit;*

- *as a result of the founder paying off his debt to a third party, knowing in advance that the tax debt will arise;*

- *we can see that by reflecting the sale of goods in the value added tax reports without supporting documents about the exchange (realization) of the goods, we can see that there is an attempt to hide the taxable turnover due to the creation of an opportunity for unjustified deduction of value added tax for other entities.*

In conclusion, we recommend the following suggestions to eliminate the practical situations mentioned above:

- ✓ Revision or cancellation of tax debt penalty calculation;

- ✓ The opportunity to delay or pay the tax in installments is given to the interested parties if at least one of the following grounds exists;

- a person whose total income at the end of the previous year did not exceed ten billion soums submitted a notification of the right to pay taxes in installments to the tax authorities within one month from the date of tax debt if;

- if the installment payment of taxes is provided on some basis and the installment payment is used for the taxpayer once during the calendar year, interest is not calculated even for six months;

- ✓ Due to the fact that a legal entity, as well as an individual entrepreneur, is unable to pay the tax debt in the part related to the business activity, the application for the cancellation of the tax debt is now given the opportunity to pay the tax debt and relief. Changing the period of thirty days to sixty calendar days from the date of receipt of the application for cancellation of tax debt to business entities;

✓ As a result of the effective tax mechanism applied to owners of unused objects at increased rates, write-off of existing tax debt on property tax and land tax, and termination of court and enforcement proceedings related to collection of tax debts.

✓ Damage caused to the company as a result of violation of the procedure for entering into large transactions or transactions with affiliated persons by the officials of the limited liability company who owe taxes and if the guilt of the head of the company or the members of the management is proven in the appropriate procedure. if the company's assets are not sufficient to cover the company's debt to creditors in accordance with the procedure established by law, the official shall be subsidiarily responsible for the company's obligations;

✓ Sending a large sum of money by banks, business entities to the payment order "for the purpose of payment" for financial assistance, loan agreement, return of share in charter (charter) fund, termination of payment operation and reference to state duty.reporting service immediately forming a red flag in the software product of the State Tax Service;

✓ Conclusion of a 3-way contract between the bank, tax and economic entity, ensuring automatic withdrawal of the tax amount from the bank account after the enterprise submits a report (no payment or collection is required);

✓ filling the tax debt of business entities producing products of strategic importance according to the results of the risk analysis program of the tax committee;

✓ Taking into account the difference or positive difference that occurred as a result of comparing the funds withdrawn from the foreign currency account for the purchase of imported goods as a non-taxable source with the value of the goods presented to the customs authorities (customs regime). Exemption from liability if he voluntarily admits it and reflects it in accounting reports and pays taxes unconditionally;

✓ Creation of the software product "Uniform System Contracts" (this software product will be open to business entities, the Chamber of Commerce and Industry, the Central Bank and the State Tax Committee), in which all business entities must make timely registration of contracts. their activities;

✓ Control of funds transferred to form the charter fund of other economic entities (state tax committee, state service center, central bank). Development of a program for keeping a register of owners of debtor economic entities. Based on this program;

- Leaving the territory of the Republic of Uzbekistan;
- Use of air-railway ticket sales services to leave the territory of the Republic of Uzbekistan;
- allocation of loans by commercial banks;
- to prevent officials of legal entities from participating in stock exchanges and public procurement.

✓ The mentioned proposals and recommendations serve to further improve the tax administration and tax debt recovery mechanism. We think.

List of used literature.

1. David Rolf Graeber (February 12, 1961 - September 2, 2020) is an American anthropologist and "anarchist" activist. Ego vliyatelnye raboty v oblasti ekonomicheskoy antropologii, v chastnosti ego knigi Dolg: pervye 5000 let (izdatel. Dom Melvilla-2011).
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