



Genesis Of Legal Protection Of Business Entities From Illegal Actions Of Tax Authorities

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ABSTRACT

In a market economy, social activity and sustainable development of business entities, their full support, especially elimination of bureaucratic barriers in relations with government agencies, is a guarantee of welfare, economic stability and socio-economic and cultural development of society.

KEYWORDS

Tax policy, Tax Authorities, economic, entrepreneurship

INTRODUCTION

Indeed, as a result of development of various sectors and industries of economy and provision of sustainable growth rates, population enjoys a significant increase in incomes and living standards with strengthening confidence in their future, as well as in government agencies. Therefore, full support of business entities gaining a special

position and recognition in society, ensuring their rights and interests, protection from various illegal actions, is a constant focus of today's reforms.

However, a number of unresolved problems remain in this regard, especially officials of the state still do not realize that private property is inviolable, that any type of seizure of private

property, including prior privatized property, is not legal and this fact requires to strengthen guarantees of protection of constitutional rights of property owners and increase liability for such violations.[1].

It is known that law and legal protection, by their nature and content, change and develop depending on the period of social development and serve to solve the problems of society.[2]. At the same time, level of development of a country in a certain period is determined by content of that-time-law and its focus on the interests of individuals and their protection.

Today, consistent with the reforms being carried out, genesis of legal protection of business entities from illegal actions of state bodies, as well as improving civil legal methods are becoming of high relevance reaching the level of state policy. Thus, further research into this issue is required, including study of causes and essence of conflicts, genesis of legal protection of business entities from the illegal actions of authorities during different historical periods.

After all, as it is reasonably mentioned by H.Rahmonkulov, without consolidation of entrepreneurs' legal protection system in a society, we cannot develop this sphere[3].

This is where a wise saying of our people comes to mind: "Any innovation is a forgotten past". In fact, the term "business" was formed after gaining independence and may seem a new concept, but its meaning, essence and content is not new.

From ancient times, our people value entrepreneurship, ones with business, enterprising skills. Heads of state also relied on their knowledge and experience in solving important tasks. Therefore, it is known from history that entrepreneurship and initiative are

one of ancient characteristics of the Uzbek people that grew dynasties in trade, agriculture, handcrafting and others, having a special place in promotion of not only trade and commerce but also science, culture and enlightenment.

It is known from the theory of state and law that mandatory payments, i.e. taxes as the main source of income for government, are one of important elements of statehood.

Tax policy is not only the main economic instrument of a state, but also plays an important role in governing people, regulating social relations. In particular, after entry of Islam into the Central Asia, Arab invaders took the advantage of taxes to propagate Islam and provided tax benefits to those who came to Islam, while those who protested subject to additional taxes and loot of their property.

Historically, there always had been controversies between tax officials and taxpayers since the evolution of tax-legal relations in society, making reasonable and fair tax policy a necessary element for representatives of business, industry, trade, crafts as taxpayers, as well as ensuring protection of taxpayers from illegal actions of tax authorities.

If we pay attention to the stages of formation of tax-legal system in the framework of protection of business entities, it can be noted that in our country from ancient times entrepreneurship in all areas (agriculture, manufacturing, services) had been paid special attention at state level.

One of the most important features of a democratic state is that not only citizens, but also government agencies must obey law and ensure its implementation. Even our ancestor Abu Nasr al-Farabi outlined in his book "The City of Noble People" that everyone should

obey the law, especially a leader who does not obey the law is like a leader who leads the army without being a hero; government should obey laws as it is formed from them and good governance depends on good laws.[4].

History of statehood shows that the tax authorities were given a wide range of powers, as they were the mainstay of the state apparatus, one of the main structures providing economic security.

However, in the past there usually occurred abuse of powers by state tax agencies (bodies) in taking illegal actions towards businesses. These abuses of powers can be reflected in illegal damage to taxpayers, unlawfully require additional tax payments, creating objections to the activity of business people. Thus, such unlawful actions of tax authorities caused serious protests of taxpayers and even led to people's revolution.

Religion not only encourages entrepreneurship in the rules of Sharia, but also promises them great rewards if they do the right thing. The Qur'an, the holy book of Islam, contains ample evidence that the Muslim community should spread around the world to earn a living, engage in entrepreneurship, be creative, and strive for production and uninterrupted economic development.[5].

At the same time, entrepreneurial activities of individuals have been approved and supported through various protection methods and tools. Indeed, the fact that all the prophets sent by Allah in Islam were engaged in entrepreneurship shows how necessary and rewarding it is to engage in entrepreneurial activity.[6]. Of course, damage caused to entrepreneurs was subject to property, production or other liability measures in accordance with the rules of that period.

Historical data show that most of the protests against government agencies were the result of illegal actions of representatives of tax authorities.

In particular, during the Somoni's embodiment, illegal double tax collection by Tax Office caused people's revolution against the government in 942 [7]. Similar strikes happened in the period of the Khorezmshahs in Utrar (1210) and Samarkand (1212) in the result of their tax policy and illegal actions of tax administration officials, but due to vulnerability of taxpayers, support of the tax authorities by the state, these uprisings were brutally suppressed by military forces.

It is well known that foundations of legal protection system of business entities go back to history[8], and were organized on the basis of legally binding documents of that time. It is noteworthy that Timur's Statutes, one of historical sources, says "if the state is not built on the basis of religion and order, it will lose the glory, power and order" [9].

When Amir Temur came to power, he first regulated the tax system in order to overcome severe economic crisis in the country. In collecting state taxes, kalontars and tax collectors were urged to be fair to the people and not to act illegally.

Particular attention was paid to the damage caused to businesses as a result of illegal actions of government agencies and officials, and issues of their recovery: "I also ordered that if any officials and kalontars oppress ordinary citizens and thereby harm the poor, the damage should be compensated from kalontars and given to the victims" stated in Timur's Statutes. It would not be a mistake to say that the rule set out in the Temur's Statutes, which stipulates that any losses incurred will be covered by the kalontars, i.e. at

the expense of local governors, is also reflected in the current civil law.

As mentioned in “Qissai Temur”, book about Sahibkiran Amir Temur: "Before my period, mirshabs were free go into people's homes and have free food. They spent nights without asking permission. I have enacted laws to eliminate this. If someone violates this law, they will be punished not only by losing hat, but also losing head".

Amir Temur has created a fair tax system in the countries under his jurisdiction, and it is enough to refer to "Temur's Statutes" to recognize that tax authorities were obliged to respect taxpayers, not to act against them, to pursue tax policy based on obedience to the law.

"I have ordered," said Amir Temur, "that collection of tribute from people should be avoided, or that the country should be reverted to poverty." After all, destruction of population's homes leads to the impoverishment of the treasury. Decrease of treasure causes disintegration of the army, and this will lead to weakening of a kingdom.

In the reign of Amir Temur, he introduced tax on agriculture based on crop yields and land fertility, and strictly forbade taking of property from the people before the harvest was ripe, and such fair principles of taxation were not yet known in most countries.

It should be noted that the above rule stipulates that taxpayer cannot be taxed before gaining source of income.

Individuals who cultivated abandoned or new lands were given large tax preferences. "I also commanded" – it said in the Statutes of Timur -" that whoever greens a desert, or builds a canal, or a garden, or rehabilitates a ruined land, in the first year they shall not be taken anything, in the second year – they can pay as

much as they want, in the third year they should be collected taxes on a common basis".

"Temur's Statutes" established reasonable tax collection order and abandoned additional taxes.

Particular attention should be paid to the fact that legal basis and sources for compensation of damages was established in case of damage of taxpayers by government officials' illegal behavior, including employees of tax authorities.

The motto of the state of Amir Temur strictly followed and stated that "the country can withstand oppression but will not tolerate injustice" as was written in the Statutes.

The power of justice was so great that if a man in the country put a plate of gold or silver on his head and went from west to east, no one would reach out to him, not a single piece of gold or silver would fall.

Such democratic rules for entrepreneurship and taxpayers in the period of Amir Timur were later abolished during khanate periods, and actions based on chaos and arbitrariness intensified social conflict.

In the result of illegal actions of state officials and tax authorities, ordinary citizens and taxpayers went on strike in 1855 in Khanate of Khiva and in 1885 in Bukhara Emirate.

Unfortunately, during former Soviet era, when everyone was declared equal, no attention was paid to businessmen. Instead, entrepreneurship was banned by law and number and amount of taxes were increased. As a result, tax collection became illegal, anti – colonial uprisings became a national liberation movement. Similar revolutions happened in 1879 in Margilan, in Hujand and Uratapa in 1880, in Namangan in 1882, and covered whole Ferghana Valley in 1885; and in 1898 Andijan

strike took place under the head of Dukchi Eshon (real name Muhammad Ali).

After Russian invasion of Turkestan, commercial rights of the local population were severely restricted^[10], human rights, entrepreneurship, and relationship between the state and an individual were among “closed” topics under intense ideological pressure in the Soviet era.

After abolition of Sharia courts in 1928 in Soviet-era, entrepreneurial activity in society was virtually curtailed, civil legal capacity was restricted and persecuted, and even those who engaged in entrepreneurial activity were subjected to severe “stigma.”

Individuals who became rich by entrepreneurship were made debtors under the tax load on their property as landowners. Their property was confiscated by tax authorities, whose activities were aimed at eliminating private property.

In particular, owners were transformed into “kulak” farms, which paid up to 70% of their income tax in 1929, while the Single Farm Tax Act of 1932 required them to pay 200% tax on 100% income.^[11] As a result, landowners were forced to abandon their property and land, unable to cope with the tax burden, and laid the groundwork for deterioration of entrepreneurial environment in society and led to formation of dependency mood.

There was no civil liability in the relations arising from damage by the state bodies, in particular tax authorities, which were not considered to be the subject of liability in the pure sense.

In the former Soviet Union, the state, as the sole owner of the whole country, distributed its property among its individuals and legal entities, there was no basis, conditions, opportunities and desire for competition,

initiative, because the sole owner could take back the property at any time.

In such circumstances, the issue of responsibility of the state and its bodies would be logically unfounded and wrong. However, since the Civil Code of the USSR of 1963, formulated the basis of “Fundamentals of Civil Laws of the USSR and Allied Republics of 1961”, they formally established liability of the state, and this was theoretically recognized by civilists, whereas the issue of civil liability of state bodies was not on the agenda.

Due to the abolition of private property, widespread development and strengthening of socialist property, there were significant changes in the field of obligation law, scope of property and personal relations was reduced, and legal capacity of citizens and legal entities was limited in the field of obligation law.

Nevertheless, it worth noting that even in the period of Tsarist Russia, there were entrepreneur, patriotic and proactive representatives of Uzbek people, who led the struggle for freedom, independence and well-being of the people as a business entity to protect the interests of tangible and intangible struggles^[12].

Thanks to independence, our people obtained a real age-old dream –opportunity to determine their own destiny, but the main feature of new society has become the opportunity to engage in all forms of ownership, in particular, private property-based entrepreneurial activity. Newly adopted Civil Code not only serve as a legal source based on market relations, but also firmly established the rules aimed at protecting rights of people in society, organization of their entrepreneurial activities on a legal basis and protection of their rights and interests.

Though entrepreneurship historically considered the oldest type of business activity, it has gained new meaning after independence, by re-formation of entrepreneurship property rights, legal protection in national legislation.

Academician H. Rahmonkulov acknowledged that during the Soviet era, ample opportunities were created for private entrepreneurship in the field of economic and trade relations, which was alien to society. Formation of private property in the country created economic conditions for development of private entrepreneurship[13].

Entrepreneurship is a complex human mental activity, involving research, resourcefulness and cunning activity. Legal basis for ensuring ownership rights was defined on the Law "On the ownership of the Republic of Uzbekistan" dated from October 31, 1990, as well as adoption of Law "On Entrepreneurial activity in the Republic of Uzbekistan" in 1991[14] for the first time distinguished the concept "business activity"[15].

CONCLUSION

In conclusion, it should be noted, that formation of civil protection of business entities from illegal actions of state bodies, in particular, tax authorities, was based on specific historical periods and laid the foundation for creation of an integrated mechanism to ensure a new era of priority of legal rights and interests. In this direction, several mechanisms and bodies, such as Chamber of Commerce and Industry of the Republic of Uzbekistan, Business Support Centers in the Republic of Karakalpakstan, regions and Tashkent city, districts and cities, A Special Representative of the President of the Republic of Uzbekistan for legal protection of business entities against illegal actions of state

bodies and civil protection, were created to protect their legitimate rights and interests.

At the same time, according to the Decree of the President of the Republic of Uzbekistan dated May 14, 2019 "On support of business activities and measures improvement of their legal protection" Prime Minister's virtual cabinet was founded to resolve applications and complaints of business entities.

In order to provide legal protection of business entities and retain financial support there were founded a special Agency for Small Business and Entrepreneurship Development under the Ministry of Economy and Industry and the State Fund to support the business activities.

The role of business entities in the development of society has been recognized, legal protection basis of entrepreneurs has been strengthened.

Proactiveness and care of our President Sh.Mirziyoev is of a particular note. As he mentioned, our ancestors were engaged in entrepreneurship from the very past that can be seen in the example of the Great Silk Road; that entrepreneurship in general is in the blood of Uzbek people. He also underlined the necessity of further liberalization of economy, creating wide opportunities to entrepreneurs, support this vital sector, to remove all obstacles. If a businessman is rich, both the people and the state will be rich. Shavkat Miromonovich stressed out that obstructions to entrepreneurial activity can be assessed as betrayal of state policy, and state bodies should pay prior attention to this issue.

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