

FAILURE TO PAY TAX TAX
MISDEMEANOR OF NATURAL PERSON AS A TAXPAYER

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Summary: The Law on Tax Procedure and Tax Administration prescribes numerous tax misdemeanours which are normatively divided into two categories. The first category includes general tax misdemeanours of legal persons and entrepreneurs, and the second one includes the so-called special tax misdemeanours. The subject of this paper deals with tax misdemeanour of an individual tax payer who is a natural person (and not an entrepreneur) and who does not pay the tax amount determined in his tax return or in the decision of the Tax administration. Our analysis is made primarily of legislation and the available Serbian and international jurisprudence. We will point out that the aforementioned misdemeanour can be disputed based on the reach of its zone of incrimination. This paper will also show that it is possible to violate prohibition of double jeopardy principle at the expense of tax payers due to the systematic disharmony of substantive tax law and administrative (procedural) tax law with provisions that prescribe tax misdemeanour. The final result of this paper and the added value to the Serbian tax law are our proposals referring to legislation amendments *de lege ferenda*. We suggest that the tax misdemeanour from article 180, point 2 of the Law on Tax Procedure and Tax Administration needs to be erased. We strongly argue that enforcement of tax collection needs to remain within the tax enforcement procedure and that there is no legal justification to prosecute tax payers that are late on their tax payment. Tax administration has sufficient mechanisms to collect taxes owed to them.

Keywords: tax return, Tax Administration decision, tax misdemeanour.

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