Addition 1 to the newsletter «Statistics of criminal proceedings on taxes for 2019»

No	Case number / availability of plea agreement	The circumstances of the case	The amount of evasion,UAH	Fine, UAH	Link	The ratio of the fine to the amount of evasion,%
GUILTY VERDICTS						
Part 1 of Art. 212 of the Criminal Code of Ukraine						
1	202/5935/18 *agreement*	The case against the director of the enterprise for tax evasion by forming a tax credit for fictitious business transactions*. He pleaded guilty on all count*	773 274,18	17 000	Link in USRCD	2,2
2	243/583/19	The case against the director of the enterprise for tax evasion by falsifying documents for transactions for the purchase of products / services that did not actually take place. He pleaded guilty on all counts. Amnesty	1 514 701,61	17 000[1] + 15 015,00	Link in USRCD P	2,11
3	766/16883/18	The case against the director of the enterprise for tax evasion by forming a tax credit for fictitious business transactions.	1 049 780,00	17 000	Link in USRCD	1,62
4	296/2891/19 *agreement*	The case against the director of the domestic enterprise for evasion of customs payments through unjustified use of the customs processing regime. Convicted person made the customs declaration in which the importation of the civil aircraft was declared for its repair purposes. However, during the investigation it was found that the latter's actions were in fact aimed at getting benefit from the sale of spare parts of the aircraft and not from carrying out its repair and re-export as it was stated by the convicted person during customs clearance under Ukrainian customs regime of inward processing. *He pleaded guilty on all count.*	1 377 286,82	34 000	Link in USRCD	2,46
Part 1 of Art. 212, Part 4, Art. 358 of the Criminal Code of Ukraine						
5	592/13806/17 *agreement*	The case against the director of the enterprise for tax evasion by forming a tax credit for fictitious business transactions, including, but not exclusively, by submitting designedly inveracious information to official documents of the enterprise. *He pleaded guilty on all counts.*	728 772	34 000	Link in USRCD	4,67
Part 2 of Art. 212 of the Criminal Code of Ukraine						
6	308/14196/18	The case against the director of the enterprise for tax evasion by falsifying documents for transactions for the purchase of products/services that did not actually take place. *He pleaded guilty on all counts. Amnesty.*	2 723 622,98	51 000,00[2]	Link in USRCD	1,87
Part 3 of Art. 212 of the Criminal Code of Ukraine						

[1] As a result of the trial, the accused was released from serving his sentence in the form of a penalty on the basis of Art. 1 of the Law of Ukraine "On Amnesty in 2016".

[2] As a result of the trial, the accused was released from serving his sentence in the form of a penalty on the basis of Art. 1 of the Law of Ukraine "On Amnesty in 2016".

7	331/734/15-к	The case against the director of the enterprise for tax evasion by forming a tax credit for fictitious business transactions.	1 026 297, 50	250 000 + confiscation of property + deprivation of the right to occupy certain positions	Link in USRCD	24
Part 3 Article 212, Part 1 Article 366 of the Criminal Code of Ukraine						
8	750/910/18	The case against the director of the enterprise who allegedly conducted VAT tax evasion by making fictitious business transactions and by falsifying primary documents.	4 329 418	34 000 + satisfaction of civil claim for recovery of the damage in the amount of 4 329 418 + confiscation of property + deprivation of the right to occupy certain positions	Link in USRCD	100
Part 3 Article 212, Part 1 Article 209 of the Criminal Code of Ukraine						
9	405/5571/18	The case against the director of the enterprise, who did not record business operations for the sale of ammonia water, not registered as VAT payer and not paid VAT to the budget on a large scale. In addition, funds from the sale of ammonia water were legalized through financial transactions through fictitious companies he controlled in order to cover up the crime.	5 667 084,02	5 667 084,02	Link in USRCD	100
Part 2 of Art. 28, Part 2 of Art. 205, Part 5, Art. 27, Part 3 of Art. 212 of the Criminal Code of Ukraine						
10	285/1639/17	The case against the person, who, in order to evade taxes by forming a tax credit for non-commodity economic transactions, systematically performed the functions of the nominal (figure) director of a set of fictitious enterprises. He pleaded guilty on all counts.	8 797 960	314 000 + Confiscation of property	Link in USRCD	3,56

No	Case number	The circumstances of the case	Link
ACQUITTAL JUDGEMENTS			
11	569/6727/15-к	The case against the director of the enterprise, for allegedly VAT tax evasion by making transactions for the purchase of products / services that did not actually take place and falsifying documents. While ruling the judgment of no guilty, the Court noted that the tax deductions had been canceled by the court in an administrative manner, confirming the absence of tax debt of the enterprise where the person held the position of director. In addition, the allegations made by the prosecution for entering false information in the primary documents are refuted by the testimony of witnesses, including those who were directly responsible for tax accounting. Taking into account the established fact of the absence of a criminal offense, under the criminal offenses, the Court concluded that it was necessary to admit the director not guilty of committing the offenses charged against him.	Link in USRCD
12	640/3526/16-к	The case concerned the criminal prosecution of the director (founder) of the enterprise, who allegedly, according to the prosecution, conducted tax evasion by increasing the tax credit and expenses by documenting non-commodity transactions with fictitious enterprises. At the same time, the Court, while ruling the judgement of no guilty, analyzed the evidence available in the criminal proceedings for their sufficiency, appropriateness and admissibility. As a result, the Court found that the existence of sentences against other persons for fictitious entrepreneurship, on the basis of the principle of individual responsibility, could not indicate the criminal intent of the accused in the absence of evidence of concerted action and intent to evade taxes. At the same time, other criminal proceedings materials, such as expert opinions, do not meet the criterion of sufficient evidence to establish of the mens rea of tax evasion, and the electronic evidence does not have proper personalization	Link in USRCD
13	761/31966/15-к	The case against the director of the enterprise on the charge of acquiescence for detection in committing tax evasion by providing “services” to other business entities by illegally minimizing their tax liabilities to the budget, for a fee. According to the representatives of the prosecution, the perpetration of the incriminated actions was accompanied by the organization of the accused (as a co-organizer) of a sustainable criminal association, the activity was united by a single intention – assistance in tax evasion by creating, acquiring or re-registering subordinate entities – legal entities, as well as further "conversion transactions" activities. According to the results of the trial, the director was acquitted. At the same time, the judgement of no guilty was based on the lack of knowledge of the fact of the commission of the criminal offense, including as a result of recognition of the majority of the evidence inadmissible due to the violation of the procedural requirement for opening the case file by the prosecution under Art. 290 of the Code of Criminal Procedure of Ukraine.	Link in USRCD
14	332/2769/17	The case against the accountant of the enterprise who allegedly conducted VAT tax evasion by making fictitious business transactions and allegedly falsifying documents by introducing deliberately false information on the purchase of energy resources by enterprises with signs of "fictitiousness". While ruling the judgement of no guilty, the Court noted that the tax deductions from the inspections at the time of the trial were inconsistent, so there was no fact of tax evasion. Also, the allegations made by the prosecution for putting false information in the primary documents are refuted by the testimony of witnesses, including those who were directly responsible for tax accounting, as well as the existence of evidence to confirm the reality of the conducted energy purchasing transactions. In addition, while analyzing the relations with the "fictitious" counterparty, the enterprise where the defendant worked maintained due diligence in the selection of the counterparty, and the verdict on the officials was issued after conduction of business transactions – that is, the accused could not even guess at the shortcomings of the legal status of the counterparty, so that making business decisions in the choice of contractors is beyond the accountant competence.	Link in USRCD

15	210/2250/13-к	The case against the director of the enterprise who allegedly conducted VAT tax evasion by making fictitious business transactions. The Court, while ruling the judgement of no guilty, noted that Tax Audit Act by itself doesn’t produce any legal consequences for the taxpayer, and the act executed upon the tax audit results is only a duty performance by the tax officials for collecting evidence-based information on the existence or absence of the documentary proof of related operations and the said actions do not make for tax payers any legal consequences in the way of modification or termination of their rights and do not create for them obligatory legal consequences if the respective tax notification-decision has not been issued. Not a single tax notification-decision was issued to the Company upon conduction of such fictitious business transactions. The conclusions made by the prosecution regarding falsified information in the primary documents are refuted by the testimony of witnesses including those who were directly responsible for tax accounting. In addition, while analyzing the relations with the "fictitious" counterparty, the enterprise, where the acquitted worked, maintained due diligence in the selection of the counterparty, and the acquitted could not even guess about the verdicts, about the shortcomings of the legal status of the counterparty did not know. Transactions were commodity-based. Other criminal proceedings materials, such as expert opinions, do not meet the criterion of sufficient evidence to establish the guilt of the acquitted in conduction of tax evasion.	Link in USRCD
16	325/359/16-к	The case against the director of the enterprise who allegedly conducted VAT tax evasion by making fictitious business transactions and by falsifying primary documents. The Court, while ruling the judgement of no guilty, noted that the enterprise has no agreed tax obligations (the administrative case is under reconsideration). In addition, the conclusions made by the prosecution regarding falsified information in the primary documents are refuted by the testimony of witnesses. The same evidences/testimonies confirm the reality of the conducted transactions. Also, other criminal proceedings materials, such as expert opinions, do not meet the criterion of sufficient evidence to establish the guilt of the defendant in conduction of tax evasion. The Court also confirmed that the enterprise maintained due diligence in the selection of the counterparty.	Link in USRCD
17	554/10204/15-к	The case against the director of the enterprise who was accused of perpetration of crimes envisaged by Part 4 Article 190, Part 1 Article 212, Part 1 Article 366 of the Criminal Code of Ukraine. The accused had been acquitted on all counts. However, the tax evasion was incriminated to the acquitted on grounds of alleged unlawful obtaining of someone’s property. According to the prosecution, the director unlawfully obtained someone’s property and didn’t submit it as a subject of taxation in tax report/return evading taxes. However, according to the Court, the approach doesn’t correspond to the essence of the right and content/wording of Article 212 of the Criminal Code of Ukraine, as far as it provides an opportunity to legalize criminal offenses. Besides, tax evasion is not properly substantiated by sources of evidence including legally obtained acts of tax audits and the absence of agreed tax obligations inclusively.	Link in USRCD
18	759/1319/16-к	The case against the director of the enterprise on the charge of acquiescence for detection in committing tax evasion by providing “services” to other “fictitious” business entities by illegally minimizing their tax liabilities to the budget. The Court, while ruling the judgement of no guilty, analyzed the fact that the director of the enterprise was acquitted under the same facts of criminal offence, the position of the prosecution is based solely on the facts of violations of the tax legislation by other taxpayers. At the same time the quilt of the acquitted is not proven. Facts of fictitiousness are refuted by the testimony of witnesses. The respective enterprise has no agreed tax obligations.	Link in USRCD

No	Case number	The circumstances of the case	Link
LIABILITY RELEASE			
19	494/120/19	The case against the director for alleged VAT evasion through conduction of transactions for the purchase of products / services that did not actually take place. As the damage caused to the state in the form of non-payment of VAT was compensated in full before the notification of the suspicion and bringing him to criminal responsibility, the prosecutor appealed to the court to dismiss the director from liability under part 4 of Art. 212 of the Criminal Code of Ukraine.	Link in USRCD

Art. 212, part 1	The amount of evasion, UAH	The amount of fines, UAH	Final penalties in% of the amount of unpaid taxes
The minimum size	728 772,00	17 000,00	2,33
The maximum size	1 514 701,61	34 000,00	2,25

Art. 212, part 2	The amount of evasion, UAH	The amount of fines, UAH	Final penalties in% of the amount of unpaid taxes
Minimum size / Maximum size	2 723 622,98	51 000,00	1,87

Art. 212, part 3	The amount of evasion, UAH	The amount of fines, UAH	Final penalties in% of the amount of unpaid taxes
The minimum size	5 667 084,02	5 667 084,02	1,0
The maximum size	8 797 960,00	314 000,00	3,56