



**PROCEDURES FOR CONSIDERING TAX DISPUTES IN
ADMINISTRATIVE COURTS AND THE PARTICIPANTS IN THE
PROCESS: LEGAL ANALYSIS IN THE CONTEXT OF UZBEKISTAN'S
ADMINISTRATIVE JUSTICE SYSTEM**

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Abstract

This article examines the procedural framework and participants in the consideration of tax disputes in administrative courts in the Republic of Uzbekistan. The study begins with a doctrinal clarification of the foundational concepts of administrative procedure, administrative process, and administrative proceedings -- concepts whose precise delimitation is indispensable for the correct understanding of the procedural rules applicable to tax disputes. Drawing on the scholarship of Igor Tsai and Erkin Khodzhiyev, as well as on the constitutional foundations of administrative procedure in the United States, the article situates Uzbekistan's procedural framework within a broader comparative and theoretical context. The article then examines the tripartite distribution of jurisdiction over tax disputes among economic courts, civil courts, and administrative courts, analyzing the distinct procedural rules applicable in each forum. Special attention is devoted to the procedural architecture of administrative court proceedings in tax cases -- including requirements relating to applications, time limits, restoration of missed deadlines, the appointment and assessment of expert evidence, and the obligations of courts when reviewing tax audit decisions. The article addresses the powers of administrative courts upon finding that a tax authority decision is invalid or that official action is unlawful, including the obligation to impose corrective duties on the relevant authority. The article concludes that the development of specialized administrative courts in Uzbekistan marks a decisive transition from a general judicial form of administrative justice to a specialized judicial form, with significant implications for the quality and consistency of tax dispute adjudication.

Keywords: Administrative procedure; administrative proceedings; tax disputes; administrative courts; economic courts; civil courts; Uzbekistan; judicial review; tax audit; expert evidence; taxpayer rights; Code of Administrative Proceedings; procedural law.



Introduction

The effective resolution of tax disputes in the courts requires not only institutional clarity about which court has jurisdiction, but also procedural clarity about how that court must exercise it. These two dimensions -- the jurisdictional and the procedural -- are inseparable: the choice of forum determines the procedural code that governs the proceedings, and the procedural rules in turn determine the rights and obligations of the parties, the standard of review applied by the court, and the remedies available upon a finding in the taxpayer's favors.

In the Republic of Uzbekistan, tax disputes may be litigated before three distinct categories of court: economic courts, civil courts, and administrative courts. Each forum applies a different procedural regime, operates under a different statutory framework, and serves a different range of claimants. The correct identification of the appropriate forum, and the correct application of the procedural rules within that forum, is therefore of practical importance to taxpayers, tax authorities, and the courts themselves.

The present article addresses both the conceptual foundations and the practical procedural rules of tax dispute adjudication in Uzbekistan. Section 2 examines the theoretical distinctions between administrative procedure, administrative process, and administrative proceedings. Section 3 analyses the constitutional basis of administrative procedure with reference to United States experience. Section 4 sets out the tripartite distribution of court jurisdiction over tax disputes. Section 5 examines in detail the procedural rules applicable in administrative court proceedings. Section 6 analyses the powers of the court upon upholding a taxpayer's application. Section 7 concludes.

2. Administrative Procedure, Administrative Process, and Administrative Proceedings: Conceptual Distinctions

2.1. The Distinction Between Process and Procedure

The terms 'administrative procedure,' 'administrative process,' and 'administrative proceedings' are often used interchangeably in legal discourse, but precise doctrinal analysis reveals important distinctions between them. Scholar Igor Tsai has argued that, in the context of legal activity, the process should be understood as relating to content, whilst the procedure is concerned with form. This distinction -- between the



substantive course of administrative activity and the formal rules governing its conduct -- provides a useful organizing principle for the analysis that follows.

Administrative procedures in their primary sense refer to the procedural rules and formal steps by which administrative bodies issue individual administrative decisions and carry out other administrative activities. They are typically divided into preliminary procedures -- those preceding the issuance of an administrative decision -- and procedures following the issuance of a decision. The preliminary stage is the subject of administrative procedure law in the strict sense; the post-decision stage, which includes the right of challenge and appeal, falls within the domain of administrative justice and is the subject of the present article.

Administrative procedure may also be understood, as in other branches of law, in terms of the distinction between substantive and procedural legislation -- that is, as the procedural dimension of administrative law, governing the form and sequence of administrative action as distinct from its substantive content.

2.2. The Features of the Administrative Process: Khodzhiev's Analysis

Erkin Khodzhiev has identified five defining features of the administrative process. First, the administrative process is the purposeful activity of executive bodies. Second, such activity is based on legislation and is directed towards the resolution of specific issues within the competence of those bodies. Third, the result of the administrative process is the adoption of an administrative legal act. Fourth, the powers of executive bodies in this context are regulated by administrative law, and in particular by its procedural norms. Fifth, the administrative process is, as a rule, associated with the execution of relatively simplified administrative actions.

On the basis of these features, Khodzhiev concludes that the administrative process should be understood as the general procedural aspect of public administration in the relations between the state and private individuals, whereas administrative procedure refers more specifically to the process of preparing, adopting, amending, suspending, and cancelling an individual administrative act. The administrative process is accordingly the broader category, within which specific administrative procedures -- including the procedure for issuing tax assessments or conducting tax audits -- are particular instances.



2.3. Administrative Proceedings as a Distinct Category

Khodzhev further identifies administrative proceedings as a distinct sub-category of the administrative process. He defines administrative proceedings as a special type of administrative activity, constituted by specific procedural rules -- both general and special -- for the resolution of particular categories of case. Examples include proceedings for the review of citizens' complaints, proceedings concerning administrative offences, disciplinary proceedings, enforcement proceedings, and proceedings for the application of administrative restrictive measures.

Administrative proceedings are classified by type of activity. In the process of administrative lawmaking, they include the adoption of presidential acts, governmental and ministerial acts, and the record-keeping associated with such acts. In the process of applying administrative law, they include staffing decisions, privatization of state property, the application of incentive measures, allocation of resources, issuance of permits, registration, quality control, and inspection. In administrative jurisdictional proceedings, they include proceedings on citizens' complaints, administrative offences, disciplinary matters, enforcement, and the application of preventive measures.

The tax dispute proceedings examined in the remainder of this article fall within the category of administrative jurisdictional proceedings -- specifically, proceedings on citizens' and legal entities' complaints against the decisions, actions, and inaction of tax authorities.

3. The Constitutional Basis of Administrative Procedure: The United States Experience

The foundations of administrative procedure were first established in a comprehensive legislative form in the United States, and the American experience has had a significant influence on the development of administrative procedure law in many jurisdictions, including Uzbekistan.

In the United States, the constitutional basis of administrative procedure is grounded in the Fifth and Fourteenth Amendments to the Constitution, which together impose the requirement of 'due process of law' on any action by the government that affects a person's life, liberty, or property. The principle of due process is understood to require that the addressee of an administrative decision must be given a meaningful opportunity to be heard -- to present their arguments and evidence before the decision



is made or, where prior hearing is impractical, before adverse consequences take effect.

Whilst the direct impact of administrative actions on human life is relatively rare, the due process principle has its primary application in cases where administrative action affects human freedom and property interests. The protection extends not only to the direct infringement of property rights but also to encroachments on various legally recognized interests of the addressee. This broad understanding of protectable interests is particularly significant in the tax context, where the authority of the state to assess and collect taxes necessarily engages the property rights of taxpayers and therefore attracts the full procedural protections of the due process clause.

The core principle derived from due process -- the right to be heard -- finds its expression in Uzbekistan's administrative procedure law in the requirements that taxpayers be notified of audit findings, given the opportunity to submit objections, and afforded access to the courts to challenge adverse decisions. These procedural guarantees constitute the domestic implementation of a principle of universal application in modern administrative law.

4. The Tripartite Distribution of Court Jurisdiction Over Tax Disputes in Uzbekistan

The legislation of the Republic of Uzbekistan distributes jurisdiction over tax disputes among three categories of court: economic courts, civil courts, and administrative courts. The applicable forum depends on the identity of the parties, the nature of the dispute, and the procedural form in which the claim is brought.

4.1. Economic Courts

Economic courts exercise jurisdiction over tax disputes involving business entities. Under the current legislative framework, entrepreneurs who disagree with the results of on-site tax audits or tax inspections are entitled -- following amendments to the Tax Code -- to appeal the decision of the tax authority directly to the economic court, without first being required to exhaust administrative pre-trial remedies. This represents a significant procedural simplification compared to the previous regime, under which administrative pre-trial proceedings were mandatory before judicial recourse.



Where a tax authority applies to the economic court for the imposition of financial sanctions in cases of tax offences, such an application is subject to refusal on the ground that the imposition of financial sanctions falls within the exclusive competence of the tax authority itself, not the court. Similarly, where a tax authority applies for the suspension of banking operations of a taxpayer or tax agent, the court must examine not only the legal grounds for such suspension as specified in Article 111 of the Tax Code, but also whether a decision by the authorized head or deputy head of the tax authority to that effect has been properly adopted.

A specific procedural rule applies where a tax authority brings proceedings against a legal entity or individual entrepreneur that has been declared insolvent and is subject to ongoing liquidation proceedings. Claims for financial penalties or suspension of bank accounts in such circumstances are to be considered by the court on their merits, since they fall outside the scope of the insolvency proceedings. However, where the entity has already been declared insolvent and all its accounts have been closed with a single account opened by the liquidation manager, the liquidation manager must refuse to implement any order for the suspension of bank accounts under the applicable provisions of the Law on Insolvency.

4.2. Civil Courts

Civil courts exercise jurisdiction over tax disputes between individual citizens and tax authorities regarding taxes and other mandatory payments. Under Article 171 of the Civil Procedure Code, demands by a tax authority to recover tax arrears and other mandatory payments from citizens are resolved by the courts in civil proceedings by the issue of a court order. Where a dispute exists between the parties regarding the fact or amount of tax liability, the matter is resolved through ordinary claim proceedings.

When resolving cases concerning the recovery of taxes from citizens on income derived from the sale of property, the courts are required to verify the type of tax in question and the correctness of its calculation. Pursuant to Article 375 of the Tax Code, income from the sale of property is determined as the excess of the sale price over the documented acquisition cost; where acquisition cost documents are absent, the entire sale proceeds are treated as income. For real estate, the relevant comparison is between the cadastral value and the sale price. Where the cadastral value of the



property has not yet been determined or has been established at zero value, the tax may not be calculated until the cadastral body has made the necessary determination.

4.3. Administrative Courts

Administrative courts exercise jurisdiction over complaints against decisions, actions, and inaction of tax authorities and their officials, in the manner prescribed by Chapter 23 of the Code of Administrative Proceedings. The right of the taxpayer to apply to the administrative court is not extinguished by the failure of a higher tax authority to consider an administrative complaint within the statutory time limits: upon the expiry of those limits without a decision, the taxpayer acquires the right to bring proceedings directly before the administrative court. A taxpayer may also apply to the administrative court by way of complaint against the inaction of an official of the higher tax authority, where that inaction consists in the failure to examine the complaint within the prescribed period.

Where a higher tax authority leaves a complaint without consideration on any of the grounds specified in Article 234 of the Tax Code, or where it refuses to restore the missed deadline for filing a complaint, the taxpayer retains the right to appeal to the administrative court against the decision of the lower tax authority. Applications to the administrative court in these circumstances are subject to the time limits prescribed in Article 186 of the Code of Administrative Proceedings. The starting point for the computation of the deadline for judicial challenge is the date on which the taxpayer became actually aware of the contested decision -- including, for example, the date on which actions aimed at collecting tax based on that decision were taken against the taxpayer.

5. Procedural Rules in Administrative Court Proceedings on Tax Disputes

5.1. Time Limits and Their Restoration

The Code of Administrative Proceedings prescribes specific time limits for the filing of applications in administrative cases involving tax disputes. Compliance with these limits is a matter of procedural jurisdiction: where a limit has been missed, the application will be inadmissible unless the court grants restoration of the missed period. Under Article 186 of the Code, the court has the power to restore a missed deadline where valid reasons for the delay are established.



In determining whether reasons for missing the deadline are valid, courts are required to ascertain whether the applicant was or could have been aware of the contested decision or action, and what steps the applicant took to protect their rights following such awareness. The following circumstances have been recognized as capable of constituting valid reasons: emergencies or natural disasters, quarantine measures, serious and prolonged illness of the citizen, and the citizen's genuine ignorance of the contested tax decision. For each case, the court must individually examine the reasons advanced and reach a reasoned conclusion.

5.2. Appointment and Assessment of Expert Evidence

Administrative courts adjudicating tax disputes may appoint expert examinations where the issues specified in Article 79 of the Code of Administrative Proceedings arise. In determining the type of examination to appoint, courts should be guided by the nature of the object of the examination -- which may, depending on the circumstances of the case, call for a forensic-tax examination, a forensic-accounting examination, or another specialist form of expert analysis.

The procedure for charging a fee for court-appointed expert examinations is governed by Article 25 of the Law of the Republic of Uzbekistan 'On Forensic Examination.' Courts are required to take active measures to ensure the timely submission of the necessary documents to the appointed expert, in order to prevent delays in the resolution of cases. The expert's opinion does not have predetermined evidentiary force and must be assessed by the court in conjunction with the totality of all other evidence in the case. Where the court disagrees with the expert's conclusions, it is required to set out detailed reasons for that disagreement in its decision.

5.3. Matters for Examination in Reviewing Tax Audit Decisions

When considering an application or complaint against a decision, action, or inaction of a tax authority official, the administrative court is required to examine the following matters:

- Whether the decision to conduct a tax audit was made by a person with the requisite authority;
- Whether the procedures established by law for the conduct of the tax audit were complied with; and
- Whether the formal requirements for the registration of the audit were observed.



In cases involving disputes about value-added tax, including decisions to recover VAT following the cancellation of an input tax offset, courts must examine the presence of evidence confirming the grounds provided in Article 267 of the Tax Code -- for example, licenses for carrying out relevant activities, documentary evidence of vehicle usage, insurance policies, operational records, or the presence of excise stamps on purchases of regulated goods.

In disputes concerning the concealment or understatement of the tax base, courts must examine whether the circumstances constituting concealment or understatement under Article 223 of the Tax Code are present in the taxpayer's conduct. A distinction must be drawn between incorrect calculation of tax -- which consists in errors in the computation of the tax amount, such as the wrong application of tax rates -- and the tax offences defined in Articles 223, 226, and 227 of the Tax Code. The latter carry distinct legal consequences and must be assessed under the specific provisions that define them.

Where an inventory is conducted during a tax audit, the court must verify that the head or deputy head of the tax authority issued a proper order for the inventory, and that the inventory process complied with the procedural rules established in the Regulation on the Procedure for Organizing and Conducting Tax Audits, approved by Resolution of the Cabinet of Ministers No. 1 of 7 January 2021.

Where a dispute concerns the correspondence between the actual number of employees and the number reflected in tax reporting, courts must verify that the tax authority, during the audit, established the actual number of employed workers and drew up the required protocol in the prescribed form, and that written explanations or other evidence about the period of work and the amount of income received were obtained from employees absent from the tax reporting.

5.4. Intersection with Criminal Proceedings

The procedural framework for administrative court consideration of tax disputes contains specific rules for cases involving a parallel criminal investigation. Where the administrative case cannot be resolved before a decision is made in a related criminal case -- for example, because objections concern calculations that are also the subject of an ongoing criminal investigation -- the administrative court is required to suspend proceedings pursuant to Article 99 of the Code of Administrative Proceedings until the criminal case is concluded.



Under the Criminal Procedure Code of the Republic of Uzbekistan, a copy of the audit report appointed on the basis of a decision of an investigator, inquiry officer, prosecutor, or court ruling must be sent to the relevant authorized body for the taking of legal measures. Officials or representatives of the audited entity have the right to appeal the audit results to the investigator, inquiry officer, prosecutor, or court with a request for an additional or repeated audit. Any resulting decision by the authorized body constitutes an administrative act and may be challenged before the administrative court. Where such a challenge succeeds on the ground of a procedural violation in the adoption of the act, the court decision must obligate the authorized body to review the audit results afresh.

6. Powers of the Administrative Court Upon Upholding the Taxpayer's Application

Where an administrative court finds that a tax authority decision is invalid, or that the action or inaction of a tax official is unlawful, the court is not limited to a declaratory finding. Under Article 189(5) of the Code of Administrative Proceedings, the court must also address the issue of imposing on the relevant tax authority or official the obligation to take specific corrective action, so as to restore the violated rights and legitimate interests of the applicant.

The nature of the corrective obligation imposed by the court will depend on the specific violation found. Where the court identifies a breach of the essential conditions of the procedure for reviewing tax audit materials -- including failure to afford the taxpayer the opportunity to participate in person or through a representative in the review process, failure to provide the taxpayer with an opportunity to give explanations, or the conduct of the review by an unauthorized person -- the court must impose an obligation to re-examine the tax audit materials in compliance with the prescribed procedure.

The operative part of a court decision in a tax dispute must contain detailed and specific information about the decision of the tax authority that has been declared invalid, including its name, date, reference number, and the specific provision or clause of the decision in question, as well as a precise description of the official action or inaction that has been found to be unlawful. This requirement of specificity ensures that the corrective obligations imposed by the court are capable of effective



implementation and provides clarity for both the tax authority and the taxpayer as to the scope of the court's ruling.

The provisions of the Law of the Republic of Uzbekistan 'On Public Control' provide that the establishment, introduction, and abolition of taxes and fees, their calculation, and payment are not objects of public control. Accordingly, individual decisions of tax authorities -- or the actions or inaction of their officials -- may be challenged only through the mechanisms provided in Chapter 23 of the Code of Administrative Proceedings and not through public control procedures. Where a public control subject applies to the court on the basis of the Public Control Law in respect of a matter falling within this exclusion, the court must return the application on the ground that the matter does not fall within the scope of public control.

7. Conclusion

The analysis presented in this article supports the following principal conclusions.

First, the precise conceptual delimitation of administrative procedure, administrative process, and administrative proceedings is not merely an academic exercise but has direct practical consequences for the identification of the procedural rules applicable to tax disputes. The framework developed by scholars Khodzhiev and Tsai provides a coherent analytical foundation for understanding Uzbekistan's administrative procedural system and the place of tax dispute proceedings within it.

Second, the tripartite distribution of court jurisdiction over tax disputes -- between economic courts, civil courts, and administrative courts -- reflects the diversity of tax-related legal relations and the different procedural needs of different categories of claimant. Each forum applies a distinct procedural regime designed for the type of case it considers. A clear understanding of which forum applies in which circumstances is essential for the effective protection of taxpayer rights.

Third, the procedural rules applicable in administrative court proceedings on tax disputes constitute a sophisticated and detailed framework, covering time limits, restoration of missed deadlines, expert evidence, the specific matters for examination in tax audit cases, and the intersection with criminal proceedings. The consistent and correct application of these rules by the courts is essential for the quality and fairness of tax dispute adjudication.

Fourth, the powers of administrative courts upon finding in favor of a taxpayer go beyond a mere declaration of invalidity: the court is required to impose specific



corrective obligations on the tax authority or official concerned. This remedial dimension of administrative court jurisdiction is of fundamental importance for the practical effectiveness of judicial review as a mechanism for the protection of taxpayer rights.

Fifth, as the foregoing analysis confirms, administrative justice in Uzbekistan is organized as an organizational and legal mechanism for resolving disputes of a public law nature arising in the interaction of individuals and legal entities with administrative bodies. The establishment of specialized administrative courts marks a decisive transition from the general judicial form of administrative justice to the special judicial form. This transition will lead to the consideration of tax disputes by courts with genuine specialist expertise, producing higher quality and more consistent outcomes for taxpayers and tax authorities alike.

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