

By the Judgment of 8 December, 2017 No. 39-II/2017 the Constitutional Court appraised constitutionality of the provisions of Article 15, Item 1 of Article 1064 of the Civil Code of the Russian Federation and Sub-Item 14 of Item 1 of Article 31 of the Tax Code of the Russian Federation.

The contested provisions were the subject-matter of consideration insofar as they serve as a normative ground for the decision to exact on suits of prosecutors and tax bodies from natural persons, convicted of the commission of tax crimes connected with non-payment of taxes by an organisation, or in whose respect criminal persecution in connection with the commission of such crimes has been discontinued on non-rehabilitating grounds, monetary sums on account of compensation of damage caused to budgets of public-law entities.

The Constitutional Court has recognised the disputable norms as not contradicting the Constitution of the Russian Federation, since they:

contemplate the possibility to exact on suits of prosecutors and tax bodies for compensation of damages caused to public-law entities monetary sums in the amount of arrears and fines, not received by a respective budget from an organisation-taxpayer and exacted from natural persons, convicted of the commission of tax crimes which caused these arrears, or criminal persecution of whom in connection with the commission of such crimes has been discontinued on non-rehabilitating grounds, in establishment of all elements of the composition of a civil offence, whereas the very fact of passing of an accusatory sentence or discontinuance of criminal proceedings may not be regarded by court as unconditionally confirming their guilt of causing property damages;

may not be used for the exaction of penalties for tax offences imposed on the organization-taxpayer from the said natural persons;

do not allow, as a general rule, exaction on account of compensation of damage caused to budgets of public-law entities of monetary sums in the amount of arrears and fines from natural persons accused of the commission of tax crimes,

subject to entering in the respective budget, before the information about the discontinuance of the organisation-taxpayer is inserted in the unified State register of juridical persons or before court establishes that this organisation is actually non-operating and (or) the exaction from it or persons made accountable for its debts of the tax arrears and fines on the basis of the tax and civil legislation is impossible (except for cases, when court establishes that the organisation-taxpayer serves as a screen for actions of a natural person who controls it);

contemplate court's power in the estimation of the amount of the compensation of damage caused to the budget of a public-law entity by a natural person to take into account his property state (in particular, the fact of enrichment as a result of the commission of a tax crime), the degree of guilt, character of criminal punishment, as well as other essential circumstances significant for the resolution of a specific case.