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Trade Tax Evasion in Retail Markets: Causes and Ways to Overcome

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ABSTRACT

Cash register equipment is recognized as an effective tool for controlling the taxpayer's proceeds in settlements with the population. At the same time, scientific and practical literature lacks scientific and methodological analysis of approaches to the formation of preferential categories of participants of trade relations exempt from state control in retail markets. The **purpose** of this study is to form common universal approaches to the mechanism of transformation of the established financial and economic models of behavior in the market territories. In the course of the study, the **methods** of systematization, comparison, logic, and statistical analysis were applied. It has been revealed that there are no common law enforcement approaches to the implementation of trade in the territory having the status of a retail market, which imposes additional obligations on the seller, different from taxation, but bearing financial and administrative costs without providing any advantages in comparison with other formats of trade. There are very few effective tools to counteract these risks. The article substantiates that the exemption from the obligation to use cash register technology (CRT), based on a superficial description of the criterion of the premises used and the principle of ensuring the "safety of goods", does not provide a clear regulation of the boundary of the use of CRT in markets. According to the authors, when considering the issue of changing approaches to the formation of preferential categories exempted from state control in retail markets, it is important to establish what is the reason for exempting a person from using a cash register, i.e., why a taxpayer selling goods in the market is exempt from a cash register, but performing the same activity in a shop is obliged to use it? The article substantiates the **conclusion** that for a comprehensive solution to the problem, it is necessary to extend the privilege of non-application of KKT exclusively to payers of the unified agricultural tax (UAT), regardless of the category of the trading platform (markets, fairs, exhibitions, etc.), and to the relevant trade organisers (the organisation managing the market, fair, exhibition) – the obligation to control the use of KKT by other tenants with the introduction of the responsibility of landlords for the non-use of KKT by tenants.

Keywords: cash registers; tax legislation; revenue accounting; online cash register; operational tax control; retail market; shadow cash turnover; tax legal relationship; fiscalisation

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INTRODUCTION

In the process of seeking ways to eliminate the tax gap in retail market trading, one cannot overlook issues related to operational tax control implemented through cash register equipment (hereinafter referred to as CRE). Currently, conducting trade in areas designated as retail markets imposes additional obligations on sellers, distinct from taxation, but incurring financial and administrative costs without providing any advantages compared to other trading formats. The consequence of this approach is that, to date, the format of retail markets is becoming less popular and gradually

yielding to other forms of trade organization, specifically the organization of shopping centers or complexes. At the same time, there are very few effective tools to counter these risks.

The recognized effective tool for controlling taxpayer revenue in their transactions with the population is CRE. However, there is a lack of scientific and methodological analysis of approaches to the formation of privileged categories exempt from state control in retail markets in the scientific and practical literature, which will be examined in this article.

FEATURES AND CHARACTERISTICS OF RETAIL TRADE FORMAT PLATFORMS

Trade can undoubtedly be considered one of the fundamental criteria for the development of human civilization, not to mention the existence of the state. It is logical that the state seeks to give trade a certain form and regulate its basic rules.

Trade is understood as a type of entrepreneurial activity related to the acquisition and sale of goods. Russian legislation, distinguishing retail trade as a type of trade, indicates the intended use of the goods — personal, family, household, and other purposes without use in entrepreneurial activity (p. 1 and 3, Article 2, Federal Law No. 381 from 28 December 2009 “On the Fundamentals of State Regulation of Trade Activities in the Russian Federation”).

Retail trade as a type of commercial activity is carried out by taxpayers through various stationary and non-stationary trading facilities, which are located in special trading areas regulated by authorized state bodies. The most well-known formats of retail trade include fairs, exhibitions, and markets. The latter refers to a property complex intended for the sale of goods (performance of works, provision of services) based on freely determined prices directly at the conclusion of retail sale contracts and household contract agreements, and which includes trading places (clause 2, article 3 of the Federal Law from 30 December 2006, No. 271 “On Retail Markets and Amending the Labor Code of the Russian Federation” (hereinafter — Markets Law)). At the same time, other listed trade formats are not legally defined. For example, the definition of a fair includes only the relevant GOST, namely: a form of trade organized in a designated place and for a specified period with the provision of trading places for the purpose of selling goods (performing works, providing services) based on prices freely determined directly when concluding sales

contracts and household contracts.¹ As can be judged from the above description, in fact, at markets, just like at fairs, the form of interaction between buyers and sellers, as well as the settlements between them, do not differ, and the tax burden does not change. At the same time, conducting trade in an area designated as a retail market imposes additional obligations on the seller, distinct from taxation, but bearing financial and administrative costs without providing any advantages compared to other forms of trade.

In connection with the above, a situation arises where the cost of the same action (selling a product to a customer) in the retail market is higher than at a fair or exhibition complex.

The consequence of this approach is that, as of today, the retail market format is becoming less popular and gradually yielding to other forms of trade organization, such as shopping centers or complexes. Over the past 10 years, the official number of markets has decreased from 2 162 in 2013 to 761 in 2023.²

However, even under such conditions, the functioning of retail markets for goods and food is accompanied by the following specific features:

- tax payments are made by sellers-taxpayers in minimal amounts, and often they are completely absent;
- difficulty in monitoring the completeness of tax payments by sellers;
- shadow turnover of cash due to the absence or non-application of cash register equipment (CRE), which leads to the sale of cash and involvement in illegal banking activities;
- the lack of traceability of goods, which leads to the inability to identify their history, quality, warranty, and price at each stage in the resale chain;

¹ GOST R 51303–2023. National Standard of the Russian Federation. Trade. Terms and Definitions (approved by the order of Rosstandart from 30.06.2023 No. 469).

² Official website of the Ministry of Industry and Trade of Russia. URL: <https://minpromtorg.gov.ru/optovye-rynki/roznichnye-rynki> (accessed on 01.12.2024).

- violation of labor and migration legislation, which leads, among other things, to an increase in the criminal environment in the community;
- the sale of illegal/sanctioned, as well as counterfeit products. This circumstance can be viewed critically from the perspective of consumer health safety;
- organization of schemes for the illegal transfer of funds abroad (under the guise of everyday transactions), including for the purpose of financing the Ukrainian army and other terrorist groups.

APPLICATION OF CASH REGISTER EQUIPMENT AS A TOOL FOR TAX CONTROL AND REDUCING STATE BUDGET RISKS

The risk of shadow cash turnover due to the lack of tax control or the non-application of cash register equipment leads to an increase in the level of the shadow (informal) economy and the loss of tax revenues for the state budgets of the budgetary system.

The issues of the shadow and informal economy are widely researched in foreign literature [1–4]. As foreign experience shows, measures to counter the shadow economy are mainly related to reducing the impact of factors influencing the shadow economy, such as the tax burden (lowering tax rates, effectively introducing tax benefits, improving tax administration, etc.), the development of cashless payments (the availability and affordability of electronic payments, increasing the share of the population with card accounts), curbing the growth of cash turnover [5], trade liberalization, and encouraging exit from the shadow [6].

At the same time, there are very few effective tools proven by practice to counter these risks. The classic and recognized tool for controlling taxpayer revenue in their transactions with the public has become the cash register (CR). The use of CR is an essential condition for ensuring financial discipline among economic entities when conducting transactions, primarily in cash, as well as for the complete and accurate

accounting of conducted operations and the calculation of taxable income [7].

Regarding small and medium-sized enterprises that primarily provide services to individuals or produce goods for them, there has always been a problem, if not of “black”, then of “gray” cash turnover. [8]. However, the development and implementation in 2016 by the Federal Tax Service of Russia (hereinafter — FTS of Russia) of modern operational control tools — cash register equipment (CRE) that records taxpayer revenue and transmits it via the Internet to a unified database of tax authorities — significantly reduces the risk of unlawful behavior by participants in tax relations. The mechanism of tax control when using new format CRE ensures the formalization and transparency of transactions while reducing the administrative burden on individual entrepreneurs and legal entities, thanks to a decrease in the number of control activities.

The implementation of operational control in the technological frameworks of tax administration has allowed the Federal Tax Service of Russia to effectively create an ecosystem for trade tax administration. In the scientific literature, four main elements of the digital information system of the Federal Tax Service of Russia are highlighted:

- 1) automated VAT refund control system (AVRCS);
- 2) automated control system for the use of cash register equipment (ACSR);
- 3) information system for product labeling and tracking (IS PLT);
- 4) information system of the population registry and civil status records (IS ZAGS).

It is worth noting that this trend of societal transformation under the influence of globalization processes, international integration, the expansion of the service sector, and intangible production in the context of rapid scientific and technological progress and the implementation of information technologies in all areas of human, enterprise, societal, and state activities [9] is a global trend of recent years.

Taken together, these elements allowed the Federal Tax Service of Russia, on the one hand, to reduce the level of administrative pressure on businesses (decrease the frequency of on-site tax audits), and on the other hand, to ensure stable growth in tax revenues. Since 2016 (when digital technologies began to be widely used in tax administration), they have grown faster than the country's GDP, investments, and real incomes of the population [10].

PROBLEMS OF SUBSTANTIVE UNDERSTANDING OF LEGISLATIVE NORMS REGARDING EXEMPTION FROM THE USE OF CASH REGISTER MACHINES

Today's exemption from the obligation to use cash registers at markets, which has remained since 2003 (when the corresponding Federal Law was adopted), ambiguously describes the list of cases when cash registers may not be used.

Thus, the exemption from the obligation to use cash register equipment is formulated as follows (paragraph 6, section 2, article 2 of the Federal Law from 22.05.2003 No. 54 "On the Use of Cash Register Equipment in Settlements in the Russian Federation"): the cash register may not be required for trade at retail markets, fairs, exhibition complexes, as well as in other areas designated for trade, except for stores, pavilions, kiosks, tents, mobile shops, auto shops, mobile vending units, container-type premises, and other similarly equipped and ensuring the display and preservation of goods trading places (premises and vehicles, including trailers and semi-trailers), open counters inside covered market premises when trading in non-food products, except for trading in non-food products that are specified in the list approved by the Government of the Russian Federation.

An interesting point draws attention, which, as can be judged, was not the subject of consideration by the courts. It concerns the interpretation of the norm in the form of mandatory use of cash registers in retail markets for the sale of food products without

any exceptions. The legislator has structured the approach to the use of cash registers as follows: the cash register is mandatory for taxpayers during transactions (paragraph 26 of Article 1.1) with the exception of a closed list of cases (paragraph 1 of Article 1.2), named in Article 2 of the Law on Cash Registers. However, in the above-mentioned paragraph 6 of section 2 of article 2 of the Law on the Cash Register Equipment, at the end of the list of privileged places for the sale of goods in the retail market, there is a phrase "when selling non-food products". The question is as follows: based on current practice, both tax authorities and taxpayers interpret this exclusively as referring to the words "open counters inside covered market premises", thereby forming a separate group exempt from the application of the Cash Register Equipment — the sale of non-food products at open counters inside a covered market. However, the phrase "when trading non-food products" can also be applied to the entire paragraph. In this case, only traders of non-food products will be exempt from the CRE (excluding 17 types of goods,³ listed in the government list, for which the use of KKT is mandatory even in markets). Therefore, any sale of food products will require the use of CRE.

However, let's leave this interpretation aside for the purposes of the present article.

The existing exemption from the obligation to use cash registers, based on a superficial description of the criteria for premises where cash registers may not be used and the principle of ensuring "product safety", does not regulate clear boundaries for the use of cash registers in markets. Initially, it is worth noting that this approach to the mandatory use of revenue control tools for taxation purposes seems incorrect.

This is confirmed by contradictory judicial practice: similar trading places were recognized by some courts as falling under the criteria for

³ Decree of the Government of the Russian Federation dated 14.04.2017 No. 698. Collection of Legislation of the Russian Federation, 2017, No. 17, Art. 2624.

exemption from the cash register, while others did not. For example, by the ruling of the Arbitration Court of the Volga-Vyatka District dated 06.04.2022 No. F01–576/2022 in case No. A43–14768/2021, a trading place located inside a covered building and equipped with a counter on which the goods are placed was recognized as ensuring the preservation of the goods and, therefore, requiring the use of the cash register. In contrast, by the ruling of the Arbitration Court of the Central District dated 09.06.2023 No. F10–2616/2023 in case No. A68–1828/2022, a similar trading place, even with a refrigeration unit, was recognized as not ensuring the preservation of the goods, which exempts the corresponding calculations from the use of the cash register.

The aforementioned practice has a long-standing history throughout the entire country.

The consequence of such a legal formulation is that a conscientious taxpayer may be held administratively liable due to differing views on the concept of an “open counter”, while an unscrupulous one may have the opportunity to “mimic” the “privileged” categories, even though they do not actually have such a right.

In the matter of changing the approach to the formation of preferential categories exempt from state control in retail markets, in our opinion, it is important to determine: what is the reason for exempting a person from using a cash register, i.e., why is a taxpayer exempt from the cash register when selling goods at a market, but not when doing the same in a store? Generally, based on the content of the provisions of the Cash Register Law, the right not to use it applies to the sale of socially important goods and services, or low-margin activities where the use of a cash register may be physically difficult. In this regard, it seems that the legislator proceeded from the assumption that the majority of taxpayers selling goods in retail markets are individuals who are not individual entrepreneurs: grandmothers selling parsley or a butcher selling meat from a counter. However, individuals are exempt from the application

of cash register equipment (CRE) *ab initio*: the corresponding obligation applies only to individual entrepreneurs and legal entities (p. 1, Article 1.2 of the CRE Law). Self-employed individuals are also exempt (p. 2.2, Article 2 of the CRE Law). So, it seems that the discussion was apparently about individual entrepreneurs who sell their own products (for example, livestock and agricultural products from their own farm). Such sales are usually temporary (seasonal) in nature. However, the legislative norm does not link the exemption from the use of cash registers with the type of the goods sold or the temporary nature of the work (and the definition of seasonality and temporariness of the work is not contained in Russian legislation). It should be noted right away that, according to the Federal Tax Service of Russia, for example, in the Moscow region in 2021 (before the start of the industry project, which we will discuss below), 11.6 thousand taxpayers were engaged in market activities, of which 8.5 thousand (73%, i.e., almost 3/4) traded in the market for 8 or more months during the year. Only 7% of traders (865 people) conducted their activities for 1–2 months. At the same time, the average monthly revenue of a taxpayer in the retail market is 232 thousand rubles.

From the above, it can be concluded that, to date, the market territory is not a place where sellers temporarily sell goods merely to maintain a minimum subsistence level. Here, as a rule, “professional” sellers (individuals selling large volumes of products or engaged in resale) conduct trade. Consequently, the market territory has lost the status for which it was granted benefits in the form of soft state control, but no changes in legal regulation have occurred in this regard. Such a legal approach leads to a significant tax gap, as taxpayers who do not keep records of revenue in the state’s trusted zone — the cash register — “fall out” from state control.

It should be noted separately that predominantly small and medium-sized enterprises (SMEs) are engaged in this type of activity, playing a crucial role in stimulating economic growth. However, they often face

challenges in fulfilling their tax obligations due to limited resources and understanding of the content of legislative norms [11]. In this regard, issues of fine-tuning the supervisory and regulatory tools [12–15], as well as theoretical and methodological constructs, are relevant for research, especially in the context of achieving the goals of the national project “Small and Medium Enterprises and Support for Individual Entrepreneurial Initiative”.⁴

CASH REGISTER AS A TOOL FOR LEGALIZING TRADE TURNOVER IN SMALL RETAIL FORMATS

The practice of state control over market activities shows a lack of interest, and often even resistance, not only from tenants but also from market management companies towards the process of legalizing market trade. Therefore, conducting control measures for this format of trade has a number of significant difficulties. Market management companies are not interested in “whitening” the activities of their tenants, who are sometimes not even registered as individual entrepreneurs or legal entities when required by law, let alone conducting transactions using cash registers.

The above is facilitated by the lack of responsibility for market management companies for violations of the legislation on the use of cash register equipment by tenants of trading places, despite the obligation of market management companies to ensure compliance (p. 6, part 1, Article 14 of the Market Law), which is quite shortsighted, considering the stable connection between market management companies and tenants, as they are united by mutual financial interests (unfortunately, not always related to the completeness of revenue accounting and tax payments).

The lack of leverage over market managers for their failure to fulfill their duties does not allow for the creation of an effective tool for controlling cash discipline in the markets [16, 17].

At the XXIV St. Petersburg International Economic Forum, the President of Russia noted: “As for the “whitening” [of businesses — Ed.], I think it is clear to the interested parties what this is about: all receipts through the cash register, hiring workers “on the books”, and purchasing goods also “on the books”, through the cash register”.⁵ In his directives to the Government of Russia from 23.02.2019 No. 280 and the Federal Tax Service of Russia from 04.11.2020 No. 1799, President Vladimir Putin outlined, in particular, tasks related to:

- expansion of the grounds for the application of cash register systems in markets;

- the introduction of liability for market management organizations for providing trading space to tenants without registered cash registers.

The Federal Tax Service of Russia, in order to implement the directive of the Head of State, launched the industry project “Markets”⁶ and conducted an inventory of all trading spaces in the country: markets, fairs, exhibition complexes (a total of 2 259 facilities). According to the results of this inventory, as of the end of August 2021, more than 149 thous. taxpayers with 229 thous. trading places were operating in these areas. In just the first six months of implementing the industry project, the number of registered individuals required to have the status of individual entrepreneurs or legal entities operating in market territories increased by more than 23% (from 121 thous. to 150 thous. taxpayers). By July 2024, the number of registered cash register machines (CRMs) in the markets nearly doubled (from

⁴ National project “Small and Medium Entrepreneurship and Support for Individual Entrepreneurial Initiative”. URL: https://www.economy.gov.ru/material/directions/nacionalnyy_proekt_maloe_i_srednee_predprinimatelstvo_i_podderzhka_individualnoy_predprinimatelskoy_iniciativy/ (accessed on 01.12.2024).

⁵ Official website of the President of Russia. Official website of the President of Russia. URL: <http://www.kremlin.ru/events/president/news/65746> (accessed on 01.12.2024).

⁶ Industry projects. URL: http://www.nalog.gov.ru/rn77/industry_projects (accessed on 01.12.2024).

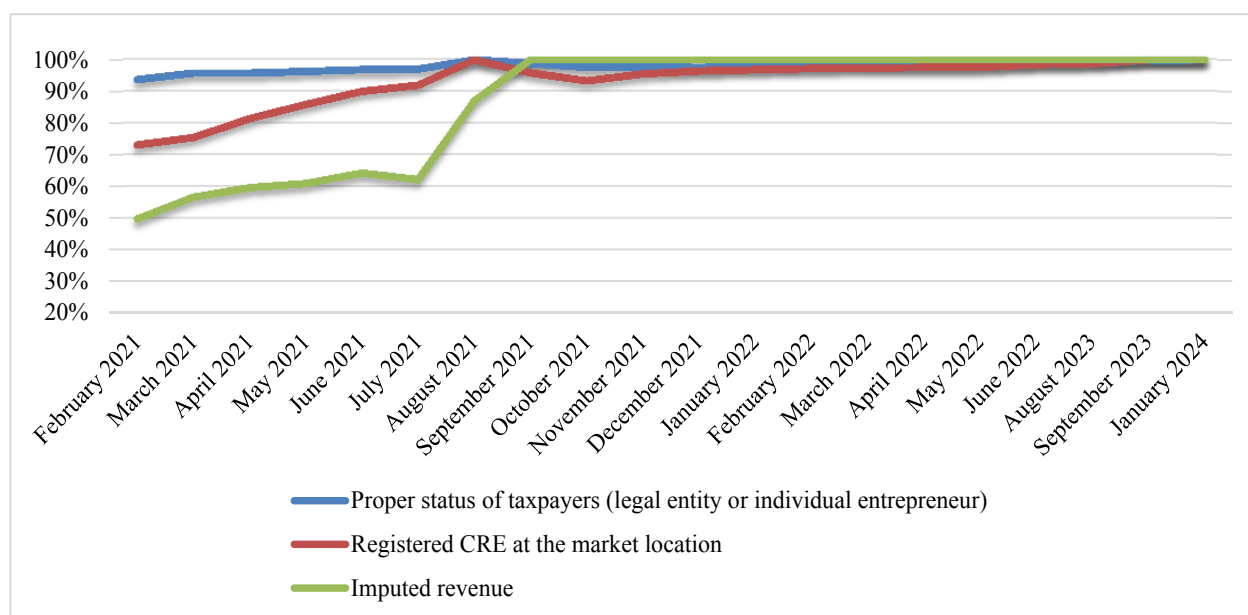


Fig. 1. Dynamics of Average Indicators of Achievement of the Target Model

Source: Compiled by the authors on the basis of operational data from the Federal Tax Service of Russia.

80 thous. to 152 thous. units), and the recorded revenue figures increased by more than 600% — from 15 to 95 billion rubles.

As part of the mentioned project, the Federal Tax Service of Russia developed a target model of merchant behavior in each market regarding the use of cash register equipment (CRE): the presence of the appropriate merchant status (registration as an organization or individual entrepreneur), the presence of registered CRE at the market's location, as well as revenue indicators. During the period from 2021 to 2024, the target indicators were achieved (*Fig. 1*).

However, despite the optimistic figures, such a result is undoubtedly temporary, and a regression to previous indicators is inevitable if control is weakened [18]. But efficiency is, after all, achieving the desired results using the minimum possible amount of resources or achieving the best result with a given amount of resources [19]. In this regard, to consolidate the achieved results and reduce the burden on both the tax inspector and the point of sale, it seems advisable to make legislative changes in the sphere of legal regulation of relations in trading areas. The necessity of such changes is clearly demonstrated by the unstable growth in the number of registered cash registers (*Fig. 2*).

DIRECTIONS FOR THE TRANSFORMATION OF THE FINANCIAL AND ECONOMIC BEHAVIOR MODEL OF TRADE RELATIONSHIP PARTICIPANTS

Considering the above, the transformation of the established financial and economic behavior model in market territories is seen in three main directions.

Clear and unequivocal establishment of the parameters for preferential categories in retail markets (who and under what conditions is entitled not to use cash registers).

This will protect conscientious taxpayers from inadvertently violating the legislation on the use of cash registers and, at the same time, eliminate the possibility of unscrupulous tenants "mimicking" preferential categories by using the current "vague" wording.

Earlier, we indicated that the goal of organizing market territories is to create conditions for individuals, individual entrepreneurs, and legal entities to sell their crop and livestock products.

Tax legislation already provides for a special tax regime today — the unified agricultural tax for organizations and individual entrepreneurs producing agricultural products, carrying out its primary and subsequent (industrial)

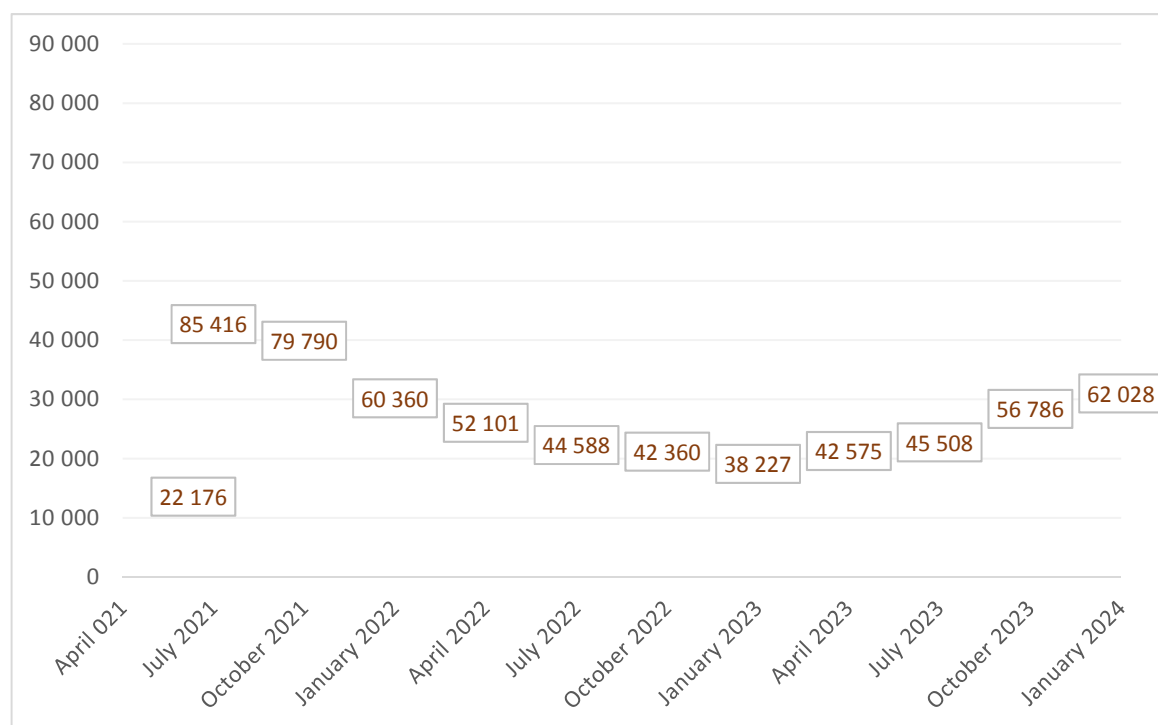


Fig. 2. The Indicator of the Increase in the Number of Registered Cash Registers in Relation to the Beginning of the Project

Source: Compiled by the authors on the basis of operational data from the Federal Tax Service of Russia.

processing (including on rented fixed assets), and selling these products, provided that the share of income from the sale of the agricultural products they produce and from providing services to agricultural producers, as specified in pp. 2, p. 2, Article 346.2 of the Tax Code of the Russian Federation, constitutes at least 70% of the total income from the sale of goods (works, services) of such organizations and individual entrepreneurs. The same approach is provided for agricultural consumer cooperatives.

In this regard, one can conclude that it is the payers of the unified agricultural tax (hereinafter — UAT) who are the target audience for whom not only the preferential regime itself exists, but also the preferential approach in control, which consists in the absence of accounting for taxable income in the form of the use of cash registers.

That is why the non-application of cash registers should concern only those who pay the Unified Agricultural Tax (UAS) and sell their products within a specified market

area in square meters. This approach will affect approximately 12,000 taxpayers who conduct their activities in markets, fairs, and exhibitions, which constitutes 11% of the total number of taxpayers operating in these areas.

The implementation of any other legislative and/or organizational initiatives to strengthen tax discipline while maintaining the existing benefits will affect no more than 2% of taxpayers, who are already required to use cash registers for the sale of 17 types of non-food products in retail markets.

Creating a clean environment in which all participants (tenants, market management companies, and tax authorities) have the opportunity to influence this environment.

In particular, this concerns market management companies to whom the necessary automated tools from the Federal Tax Service of Russia can be provided (a convenient service in the personal account for monitoring tenants, i.e., reflecting in the personal account of the market management company information about valid cash

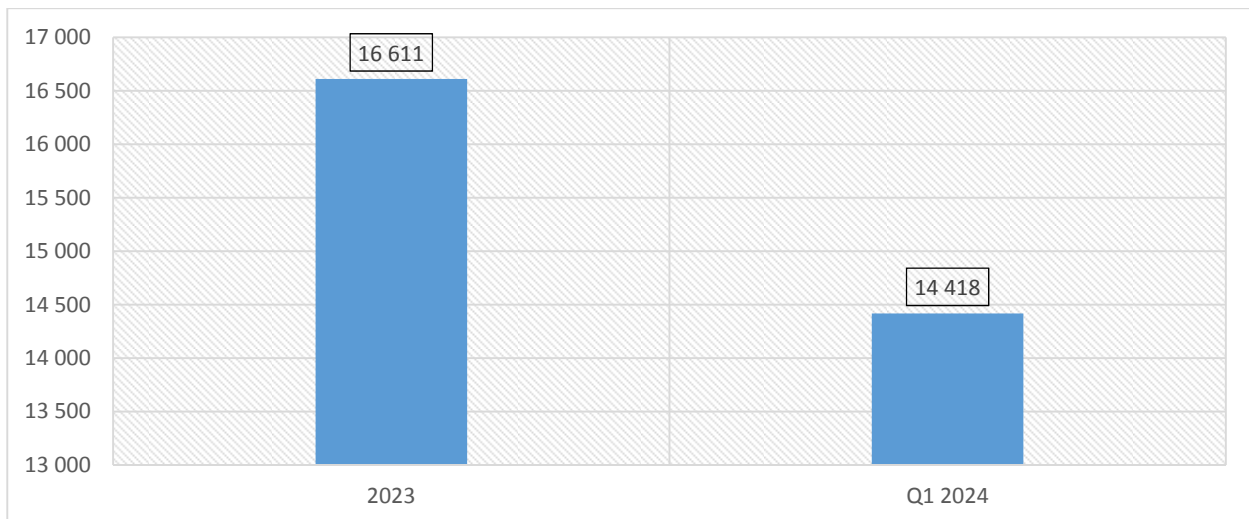


Fig. 3. The Average Amount of Rent Per Retail Space on the Market (RUB)

Source: Compiled by the authors on the basis of operational data from the Federal Tax Service of Russia.

register equipment registered by its tenants online). This circumstance will simplify the current obligation of the market management company to verify the compliance of sellers and the trading places they occupy with the requirements established by the Market Law. The specified inspection is mandatory and is conducted daily before the market opens, and in the event of any violations being detected during the inspection, the market management company must take the necessary measures to rectify the identified violations or notify the relevant regulatory and supervisory authorities on the same day (p. 10, part 1, Article 14 of the Market Law). As a result, the presence of an automated solution will allow the market management company to view and assess the compliance of tenants with cash discipline through the “eyes” of the Federal Tax Service of Russia and to monitor the fulfillment of tenants’ obligations without physically patrolling the market. This, on the one hand, will simplify proving the fault of the market management company for failing to fulfill its duty, and on the other hand, will allow it to reduce costs associated with the existing obligation to monitor the presence of registered cash registers with the tenant. This provision is relevant considering

the official decline in the rental cost of market space (Fig. 3).

The maximum amount of rent has increased: if in 2023 it was 1 494 565.33 rubles, then in the first quarter of 2024 it will be 1 680 000 rubles.

Also, in order to increase the share of self-regulation in the markets, it is advisable to empower market management companies with the authority to terminate lease agreements in case of the tenant’s violation of established rules of conduct.

Introduction of responsibility for those market operators who consciously do not wish to maintain a clean environment in the retail market.

To date, the rules for the application of cash register equipment (CRE) in retail markets among tenants are supported exclusively by the resources of tax authorities, and under current conditions, using the principles of public-private partnership, it is necessary to include market management companies in this process.

The specified responsibility should be differentiated depending on the number of violations committed due to the market-controlling company’s failure to fulfill its duty of monitoring tax discipline in the markets.

The refusal to introduce liability for market management companies will not allow the

creation of an effective tool for controlling cash discipline in the markets, including due to the lack of interest of management companies in adhering to the established trading rules in their territory.

Partially, these directions have already been implemented by one of the authors of this article, A.A. Batarin, in the design of legislative norms laid down in the foundation of federal laws from 08.08.2024 No. 273 “On Amendments to Articles 2 and 4.2 of the Federal Law “On the Use of Cash Register Equipment in Settlements in the Russian Federation” and the Federal Law “On Retail Markets and on Amendments to the Labor Code of the Russian Federation” and No. 284 “On Amendments to the Code of Administrative Offenses of the Russian Federation”.

The new regulation comes into effect on 1 March 2025.

It is important that the amendments provide for the introduction of a simplified procedure for holding sellers administratively liable in the form of a warning. Without the introduction of such a procedure, considering the specific nature of market trading (ease of migration), the effectiveness of control measures will remain at a low level. If a full cycle of procedural actions (from recording the violation to issuing a decision) is not carried out within a single “visit” to the market, systematic difficulties will subsequently arise in holding individuals accountable and enforcing decisions (deliberate failure to receive notifications about the case review, about the tax authority’s decision, i.e., a conscious refusal to communicate with the controlling authority). Thus, the balance of interests between the state and the taxpayer is disrupted, related to the easy access of the trader to the market and the difficulty of holding such an individual accountable in the general procedure.

This innovation is particularly important against the backdrop of the inclusion of control over the use of cash register equipment in the regulatory framework of Federal Law

No. 248 of 31 July 2020 “On State Control (Supervision) and Municipal Control in the Russian Federation” starting from 1 March 2022.⁷ This served as the basis for the imposition of significant restrictions on this type of control, established by the Resolution of the Government of the Russian Federation from 10.03.2022 No. 336 “On the Features of the Organization and Implementation of State Control (Supervision), Municipal Control”. Despite the goals declared by these regulatory legal acts, the bureaucratization of the control procedure has only increased, creating fertile ground for unscrupulous taxpayers, who now have greater opportunities to avoid punishment.

The above is reinforced by the fact that since mid-2022⁸ the Administrative Offenses Code of the Russian Federation has been supplemented by part 3.1 of article 28.1, according to which a case of an administrative offense, expressed in non-compliance with mandatory requirements, the evaluation of which is the subject of state control (supervision), can only be initiated after conducting a control (supervisory) measure in interaction with the controlled entity, in the presence of data indicating administrative offenses directly discovered by the inspector, as well as received from law enforcement and other agencies, public associations, individuals and legal entities, and the media.⁹ As a result, within the framework of cash discipline inspections, administrative proceedings can only be initiated based on the results of a control purchase, documentary, or on-site inspection.

⁷ Article 60 of the Federal Law from 11.06.2021 No. 170 “On Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law “On State Control (Supervision) and Municipal Control in the Russian Federation”.

⁸ Federal Law No. 290-FZ of July 14, 2022 “On Amendments to the Code of the Russian Federation on Administrative Offenses and Article 1 of the Federal Law “On Amendments to the Code of the Russian Federation on Administrative Offenses”.

⁹ The relevant clarifications are provided in the letters from the Ministry of Economic Development of Russia from 07.04.2022 No. D 24i-10329 and the Federal Tax Service of Russia from 19.04.2022 No. AB-4-20/4732@.

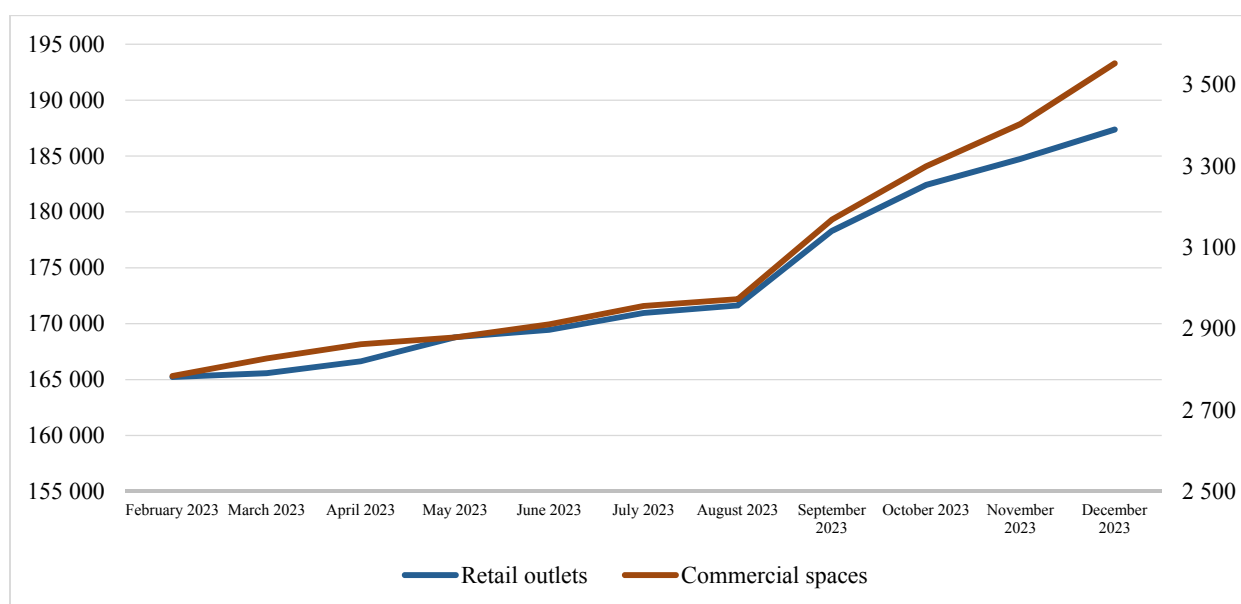


Fig. 4. Dynamics of the Number of Retail Spaces and Outlets in the Russian Federation in 2023

Source: Compiled by the authors on the basis of operational data from the Federal Tax Service of Russia.

Overall, the changes adopted in August 2024 should be viewed positively, but only as the first step towards creating a clean environment and realizing the state's aspiration for transparency in monetary circulation in market and other areas. Thus, the right not to use cash register equipment (CRE) is provided for individual entrepreneurs under the patent taxation system, who engage in a whole range of activities, including retail trade and providing public catering services at small weekend markets (up to 50 stalls). This number of trading stalls is justified by the fact that the average number of stalls at weekend markets in Russia in the second half of 2022 was 50 (4578 markets were held with a total of 228 207 stalls), and in 2023 it was 44 (10518 markets were held with a total of 458 091 stalls). At the same time, such a concession seems excessive, as the categories of individuals who are objectively entitled to the right not to apply cash registers and, consequently, to be exempt from fiscalization and revenue accounting in the interests of the state, are already defined by current and forthcoming legislation: these are individuals, self-employed persons (including individual entrepreneurs), organizations, and individual entrepreneurs engaged in activities listed in Article 2 of the

Law on Cash Registers (including those engaged in activities under a patent), and taxpayers under the simplified taxation system. Including additional categories in the list of privileged groups appears unjustified. Based on the goals described in this article, it is the taxpayers under the simplified taxation system who are entitled to expect exemption from fiscalization. Other individuals are required either to start using cash registers or to switch to the simplified taxation system. In this regard, an increase in the number of taxpayers under the simplified taxation system is to be expected.

The shortsightedness of the previously applied approach in weakening fiscal control over the specified retail formats is confirmed by the rapid growth in the number of not only retail outlets but also trading territories as a whole (Fig. 4). In just 2023, the number of trading spaces increased from 2 784 to 3 553 (while, as we noted earlier, the number of territories officially registered as markets, according to the Ministry of Industry and Trade, is declining), and the number of corresponding retail outlets on them increased from 165 218 to 187 365.

The provision of a temporary benefit (until 1 September 2025) for agricultural consumer cooperatives, recognized as such in accordance

with Federal Law No. 193 of 8 December 1995 “On Agricultural Cooperation”, is also poorly defined, both in terms of justification and technical-legal aspects: the introduction of a six-month exemption in the text of the Law on CRE instead of forming a transitional provision in the relevant Federal law.

CONCLUSION

As a result of the conducted research, it is proposed to comprehensively address the identified issues by extending the exemption from the application of CRE exclusively to UAT taxpayers across all trading territories (markets, fairs, exhibitions, etc.), and imposing on the respective trade organizers (the organization managing the market, fair, exhibition) the obligation to monitor the application of CRE by tenants, along with introducing liability for landlords for the non-application of CRE by tenants. Such a proposal is particularly important given that the legislator did not take into account the following fact: the established legal regime determines the market territory by self-designation, i.e., if the trade organizer registers the business as a market, then all obligations provided by law for market trading will apply to it. However, if they submit an application for registration as an “open-air museum”, exhibition, etc., then, despite the fact that it will outwardly look like a real market, the corresponding obligations for conducting trade there will not

apply to it. In this regard, the proposed in this article extension of the legal model of behavior to all trading territories will allow preserving the accumulated effect from the implementation by tax authorities of a set of measures to strengthen control in the trading sector. An important element in improving tax discipline [20–22] would also be the exclusion of individual entrepreneurs operating in market territories from conducting simplified cash operations, as provided by the Bank of Russia’s Instruction No. 3210 from 11.03.2014 “On the Procedure for Conducting Cash Operations by Legal Entities and the Simplified Procedure for Conducting Cash Operations by Individual Entrepreneurs and Small Business Entities”.

Overall, the full implementation of the developed proposals will contribute to the realization of the country’s leadership policy aimed at establishing effective monitoring of food prices, thanks to an automated revenue accounting system, which is crucial for ensuring the state’s tax security.

The approach to tax administration of market and other trading territories presented in this article will also provide a new impetus for the consideration of this topic by representatives of the scientific community, both for the formation of theoretical legal constructs regulating the discussed activities and for the analysis of the economic efficiency of existing and proposed trading formats.

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A.A. Batarin — problem statement, critical analysis of literature; scientific and practical analysis and substantiation of substantive understanding of legislative norms in terms of exemption from the use of KKT; study of KKT as a tool for legalisation of trade turnover on small formats of retail trade.

L. I. Goncharenko — scientific guidance of the research, determination of the structure of the article content presentation, implementation of the script of article writing, introduction, conclusions.

A.S. Advokatova — research of peculiarities of cash register application as a tool of tax control, substantiation of directions of transformation of financial and economic model of behaviour of participants of trade relations, critical analysis of literature.

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