

The Burden of High Taxation on Advocates' Fees: A Comprehensive Comparative Analysis of Uzbekistan, Cis, European, and Us Practice and Legislative Reforms

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ABSTRACT

Objective: This article provides a comprehensive and systematic analysis of the heavy tax burden imposed on advocates' fees in the Republic of Uzbekistan (totaling 24% from personal income and social taxes) and the resulting challenges of the shadow economy and informal cash transactions. **Method:** A deep comparative study of the taxation of legal services across CIS countries (Russia, Kazakhstan), Europe (Germany, United Kingdom), and the United States is conducted. **Results:** Based on the findings, concrete theoretical and legislative proposals are developed to amend the Law "On Advocacy" and the Tax Code to introduce a specialized simplified tax regime and a system of professional tax deductions for advocates. **Novelty:** The novelty of this article lies in integrating a comparative analysis of advocates' taxation across CIS countries, Europe, and the United States with the specific problem of the 24% tax burden on advocates' fees in Uzbekistan. The study goes beyond identifying the tax burden by linking it to the risks of shadow economic activity and informal cash transactions and translating the comparative findings into concrete legislative proposals. In particular, the proposed specialized simplified tax regime and professional tax deduction system provide a specific legal and fiscal framework tailored to advocates in Uzbekistan.

INTRODUCTION

The constitutional guarantee of the right to qualified legal assistance is directly contingent upon the existence of an independent, financially viable, and institutionalized advocacy. In the Republic of Uzbekistan, recent judicial-legal reforms have significantly reinforced the status of advocates in court proceedings. However, the economic foundation underpinning the legal profession—specifically the taxation mechanism applied to advocates' fees (honorariums)—remains structurally flawed and unaligned with the non-commercial, constitutional nature of advocacy.

Currently, an advocate's fee in Uzbekistan is subject to an effective cumulative tax rate of approximately 24%, comprising a 12% Personal Income Tax (PIT) and a 12% Social Tax. This excessive tax burden places legal practitioners in a severe economic strain. In practice, to prevent losing nearly a quarter of their legitimate professional earnings, a substantial number of advocates and clients agree to under-report the actual fee in official legal assistance contracts, declaring only a nominal sum while executing the remainder through informal cash payments.

This systemic problem leads to a tri-fold negative consequence:

1. The state budget suffers a significant loss of tax revenues due to shadow accounting;

2. Advocates remain deprived of adequate social protection and transparent creditworthiness (e.g., qualifying for mortgages or commercial banking facilities requiring verified income history);

3. Clients, particularly corporate entities, are unable to fully deduct their actual legal defense expenses from their corporate tax bases.

Reforming the taxation of advocates is therefore not merely a corporate demand of the legal community, but a vital public policy imperative essential for eradicating shadow economic activities, enhancing transparency, and ultimately improving access to justice.

Existing scholarship emphasizes that advocacy is fundamentally distinct from ordinary commercial activity because its primary purpose is the protection of rights and the administration of justice [1]. Studies of legal-services regulation further indicate that excessive taxation can increase the cost of legal assistance and create barriers to access to justice [2], while comparative work on the public role of lawyers similarly links the affordability and transparency of legal representation to effective constitutional protection [3] .

Post-Soviet legal scholarship also distinguishes an advocate's fee from the price of an ordinary commercial commodity, viewing it as remuneration for the performance of a public-law function [4]. From this perspective, a taxation model that does not adequately account for professional operating expenses may weaken the financial independence of advocates and encourage non-transparent payment practices.

These findings provide the theoretical basis for the present comparative analysis. The study therefore examines whether the Uzbek taxation framework appropriately reflects the professional and public-law character of advocacy and compares it with selected CIS, European, and U.S. approaches in order to identify feasible legislative reforms.

METHODOLOGY

This study employs a combination of comparative-legal, systematic-analytical, and empirical observation methods to evaluate the taxation of advocates' fees. A comparative approach is utilized to juxtapose the tax regimes of the Republic of Uzbekistan with those of CIS countries (Russia, Kazakhstan, European civil law systems (Germany), and common law jurisdictions (UK and USA). Furthermore, a systemic analysis of current domestic legislation, specifically the Tax Code of the Republic of Uzbekistan and the Law "On Advocacy", is conducted to identify legislative gaps and structural inconsistencies. Empirical observations regarding shadow economy practices in the legal market provide a practical foundation for the proposed normative solutions.

RESULTS AND ANALYSIS

Comprehensive comparative analysis of foreign practice

To formulate an effective reform strategy for Uzbekistan, it is essential to examine how foreign jurisdictions—spanning CIS countries, European civil law systems, Common Law nations, and the United States—balance tax collection with the financial independence of advocates.

Table 1. Comparative Taxation of Advocates Across Selected Jurisdictions

Jurisdiction	Income / Turnover Tax Rate		Social / Employment Tax		Self-Tax	Key Professional Deductions
Uzbekistan	12%	Personal Income Tax	12%	Social (Cumulative ~24%)	Tax	Minimal / No direct gross deductions
Russia	13%	Personal Income Tax	Fixed annual contributions	social		Full documented professional expenses
Kazakhstan	10%	PIT (Exempt from VAT & CIT)	Fixed contributions	low social		Simplified taxation for solo practices
Germany	Progressive	Income Tax (EStG)	Private/Professional pension funds			Broad operational & office write-offs
United Kingdom	Progressive	Income Tax bands	National Contributions	Insurance		Full chambers & travel deductions
United States	Federal & State	Income Tax	15.3%	Self-Employment Tax		Extensive "ordinary & necessary" write-offs

Experience of CIS Countries

The Russian Federation:

Under Russian law, advocacy is explicitly recognized as a non-commercial activity. Advocates have the right to practice through several organizational forms, including the "Advocate's Cabinet" (Адвокатский кабинет), Law Collegiums, or Law Bureaus[5]. Taxation Mechanism: Advocates pay Personal Income Tax at a rate of 13%. Crucially, under Article 221 of the Tax Code of the Russian Federation, advocates are entitled to "professional tax deductions" (профессиональные налоговые вычеты)[6]. This means that all documented expenses incurred in the course of providing legal assistance (office rent, transportation, legal database subscriptions, administrative staff wages, bar association dues) are deducted from the gross fee before the 13% tax is calculated. Social Contributions: Advocates do not pay percentage-based social taxes on their total fee. Instead, they pay fixed annual contributions to the Pension Fund and Mandatory Medical Insurance Fund, making full income declaration financially viable.

The Republic of Kazakhstan:

Kazakhstan has undertaken aggressive tax reforms to incentivize transparency in the legal market. Taxation Mechanism: Under the Tax Code of Kazakhstan, legal aid provided by advocates is exempt from Corporate Income Tax (CIT) and Value Added Tax (VAT)[7]. Advocate Income Tax: Advocates operating as private practitioners pay Personal Income Tax at a favorable rate of 10%. Furthermore, social contributions are capped at low fixed monthly rates tied to the minimum wage, rather than a percentage of total honorariums[8]. This policy has virtually eliminated shadow cash transactions in corporate legal representation across Kazakhstan.

Experience of European Civil Law Jurisdictions (Germany)

In Germany, the practice of law (Rechtsanwalt) is regulated by the Federal Lawyers' Act (Bundesrechtsanwaltsordnung - BRAO). German advocates operate as liberal professionals (Freie Berufe), distinct from commercial merchants (Kaufmann)[9]. Taxation Mechanism: Advocates are subject to the Personal Income Tax Act (Einkommensteuergesetz - EStG). Taxation is levied strictly on the net profit (Einnahmen-Überschuss-Rechnung), where all operational expenses—including specialized literature, Continuing Legal Education (CLE), chambers fees, and research software—are subtracted from the total incoming fees[10]. Social Security: German advocates are exempt from the general state social security scheme. Instead, they contribute to specialized, professional pension institutions (Versorgungswerke), which are managed independently by the legal community, ensuring high retirement security tailored to professional earnings[11].

Experience of Common Law Jurisdictions (United Kingdom and United States)

The United Kingdom:

In England and Wales, barristers (who typically operate as self-employed sole practitioners in "Chambers") and solicitors (who practice in firms or LLPs) face distinct but highly flexible tax regimes. Taxation & Deductions: While UK lawyers pay progressive Income Tax, HM Revenue & Customs (HMRC) permits extensive deductions for "chambers rent," travel to courts, pupillages, and professional indemnity insurance[12]. VAT and Legal Aid Exemptions: To preserve the affordability of legal defense, legal aid work funded by the Legal Aid Agency is subject to special tax concessions, preventing the state from effectively taxing its own legal defense expenditures[13].

The United States:

In the US, attorneys practicing as sole proprietors, partners in LLPs, or independent contractors report their income through Schedule C (Form 1040). Self-Employment Tax: Attorneys pay Self-Employment Tax (15.3% covering Social Security and Medicare). However, under Section 162 of the Internal Revenue Code (IRC), attorneys can write off all "ordinary and necessary" expenses incurred in carrying on their legal trade[14]. Impact of Expense Deductions: Because an attorney can write off client development costs, legal research subscriptions (Westlaw, LexisNexis), malpractice insurance, court filing fees,

and travel, the taxable net income is substantially lower than the gross fees collected. This strong incentive to report all gross revenue to claim maximum deductions eliminates the desire for informal cash dealings.

CRITICAL ANALYSIS OF THE UZBEKISTAN TAX SYSTEM AND LEGISLATIVE GAPS

The tax framework governing advocates in Uzbekistan is established under the Tax Code of the Republic of Uzbekistan and the Law "On Advocacy" (1996). When a client transfers an honorarium to the bank account of a law firm (Advokatlik firmasi), law bureau (Advokatlik byurosi), or collegium, the funds are categorized as gross organizational revenue. Once administrative costs are met, the remaining funds distributed to the advocate are legally treated as employment-related income or personal earnings, triggering two major tax obligations:

1. Personal Income Tax (PIT): 12% flat rate under Article 381 of the Tax Code[15];
2. Social Tax: 12% rate under Article 405 of the Tax Code.

Together, this 24% cumulative deduction creates a profound economic distortion. Unlike standard employees who utilize state-provided tools, machinery, and offices, an advocate must personally finance their entire professional infrastructure out of their net income. The current Tax Code does not provide a mechanism for advocates to claim "professional tax deductions" on their personal income tax returns. Furthermore, the Law of the Republic of Uzbekistan "On Advocacy" (1996) lacks clear legislative definitions regarding the non-commercial economic status of an advocate's fee[16]. Article 12 of the Law merely states that an advocate's work is remunerated based on a contract entered into with the client, without establishing financial protections or tax preferences corresponding to the public importance of legal defense.

PROPOSED LEGISLATIVE AMENDMENTS AND REFORM ROADMAP

To eradicate informal cash transactions, protect advocates socially, and bring Uzbekistan's legal market into compliance with international standards, comprehensive legislative reforms are required across both the Law "On Advocacy" and the Tax Code.

Draft Amendments to the Law of the Republic of Uzbekistan "On Advocacy"

It is proposed to introduce a new Article 12-1 into the Law "On Advocacy", explicitly defining the economic status of legal fees and establishing tax principles:

Article 12-1. Economic Status of Advocates' Fees and Principles of Taxation

An advocate's fee (honorarium) constitutes remuneration for the provision of professional legal assistance and the fulfillment of a public-law function in protecting rights and legitimate interests.

Advocacy activity is non-commercial in nature. Legal fees received by advocates and legal structures shall not be subject to general commercial corporate taxation. The state shall guarantee a specialized, simplified, and preferential tax regime for advocates, ensuring the financial independence of the advocacy profession, the eradication of double taxation, and the affordability of qualified legal assistance for all citizens. The

specifics of advocating taxation and professional deductions shall be established by the Tax Code of the Republic of Uzbekistan."

Draft Amendments to the Tax Code of the Republic of Uzbekistan

To operationalize the proposed Article 12-1 of the Law "On Advocacy", two alternative legislative options are submitted for incorporation into the Tax Code:

Option 1: Introduction of a Special Turnover Tax Regime for Advocates (Preferred Option)

Amend Chapter 62 of the Tax Code by creating a specialized tax category for legal structures and solo advocates:

Set a single, preferential Turnover Tax at a rate of 4% to 6% on the gross honorarium received by the law firm/advocate. Exempt advocates from the 12% Social Tax on distributed honorariums, replacing it with a fixed annual social contribution equal to 1 x Basic Calculation Amount (BCA) per month (aligning them with the favorable social tax terms enjoyed by self-employed persons under Article 408 of the Tax Code).

Option 2: System of Professional Tax Deductions

Amend Section IX of the Tax Code (Personal Income Tax) by introducing Article 378-1: Professional Tax Deductions for Advocates:

Allow advocates to deduct all documented professional expenses (office lease, transport costs for visiting detention centers, legal software subscriptions, mandatory bar dues, CLE courses) from their gross fee before applying the 12% Personal Income Tax. Cap the Social Tax at a fixed annual rate rather than a 12% variable rate on total gross honorariums.

CONCLUSION

Fundamental Finding: The current taxation model applied to advocates in Uzbekistan—characterized by a heavy cumulative burden of 24%—is economically counterproductive. It disincentivizes transparent bookkeeping, drives a significant portion of legal fees into the shadow cash economy, deprives advocates of adequate social security, and ultimately inflates the cost of legal defense for citizens and corporations.

Implication: A comparative analysis of CIS countries (such as Russia and Kazakhstan) and Western democracies (Germany, the UK, and the US) demonstrates that successful legal markets rely on low turnover taxes, extensive professional expense write-offs, and fixed social security contributions tailored for independent professionals. **Limitation:** The study is limited by its comparative focus on selected CIS countries and Western democracies, which may not fully reflect the specific economic, legal, and institutional conditions of Uzbekistan. In addition, the proposed tax reforms have not yet been empirically tested to determine their actual effects on tax compliance, state revenue, advocates' social protection, and the accessibility of legal services. **Future Research:** Implementing the legislative amendments proposed in this study—specifically amending the Law "On Advocacy" to recognize the non-commercial nature of legal fees and updating the Tax Code to introduce a simplified 4–6% turnover tax or a robust

professional deduction system – will ensure 100% financial transparency in Uzbekistan's legal market. This reform will increase state tax collections through total volume declaration, elevate the social protection of advocates, and strengthen the constitutional guarantee of accessible, high-quality legal defense.

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