COMPULSORY COLLECTION OF TAX LIABILITIES, PENALTIES AND FINES FROM INDIVIDUALS-TAX PAYERS

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ABSTRACT

The article analyzes the tax legislation of the Russian Federation. The cases and features of the compulsory collection of tax liabilities, penalties, fines from individuals-tax payers are also considered. Definition of institute of compulsory collecting tax liabilities, penalties and fines from individuals-tax payers in the following systems: branches of the Russian legislation; branches of Russian law; financial right; the legislation on taxes and fees; the tax right as branches of the right, as science and a subject matter. The doctrine of the legal system in the theory of law contains many scientific concepts about the presence in the legal system of mixed, inter-branch, complicated, complex, and other similar institutions. As a rule, such scientific concepts are formed when an attempt is made to classify a subject of scientific research. For example, it is proposed to classify the institutions of law according to their content into simple and complex. A simple institute of law may be considered as a kind of union of legal norms within one branch of law. Complicated legal institution-as a set of legal norms that are part of various branches of law aimed at regulating related and interrelated matters. Compulsory collecting tax liabilities, penalties and fines from individuals-tax payers as a system of tax unite a certain set of rules of law. Such rules of law regulate in accordance with the contents and rather small group of the uniform public relations. The institute of compulsory collecting tax liabilities, penalties and fines from individuals-tax payers includes the regulations of law, which are related to other tax institutes, such as institute of public administration; institute of a tax duty, etc. Institute of compulsory collecting tax liabilities, penalties and fines from individuals-tax payers has the tax and legal nature. It may be considered as tax institute in system of branches of Russian law, also as sub-institute of the financial right, as institute in system of the legislation on taxes and fees, as inter-industry institute in system of the Russian legislation and as institute of science of the tax right and a subject matter.

Keywords: System of the Right, Branch of the Right, Institute of the Right, Institute of the Tax Right, Sub-Branch of the Financial Right, Institute of Compulsory Collecting Tax Liabilities, Individuals-Tax Payers.

INTRODUCTION

The system of tax law is closely interrelated with the system of financial law (Halfina, 1952). Financial system branches were at the basis of a financial law system formation. The financial law system itself is considered as a branch of law consisting of sub-branches and institutions (Cross & Prentice, 2007). However, there is no consensus on determining the criteria for distinguishing sub-branches and institutions in financial law. The developed theoretical approaches to determining the elemental composition of the financial law system did not help as well.

There is no unity in scientific circles on the issue of determining the place of tax law in the system of Russian law. In particular, some authors suggest attributing tax law to an independent branch of law (Tikhomirov, 1995; Vinnitskii, 2003). Others suggest placing it to an institution of financial law (Kucheriavenko, 2003; Khudyakov et al., 2002). According to others, tax law is an inter-branch legal institution based on the legal norms of constitutional, civil, administrative and financial law (Cherkaev, 2000). The fourth groups of researchers attribute tax law to an independent branch of legislation (Grytsenko, 2006). The fifth group formed a stable position: tax law is a sub-branch of financial law (Khimicheva, 2002; Orlov, 1996), justifying its position by the development of finance-legal science in general and tax law in particular. Among the given options for determining the place of tax law in the legal system, the last option is preferable, as it summarizes tax law as a sub-branch of financial law. The general theory of law contains various approaches to the allocation of the branch and the sub-branch of law in the legal system. Traditionally, there are two main criteria. The first main criteria are the existence of its own subject of legal regulation (Tikhomirov, 1995).

There is also no common term. The terminology was not consistent through the centuries. The Saladin Tithe referred to rents or revenues and movables and the fifteenth and tenth referred to movables. The poll taxes of 1379 and 1380 referred to estates and ability. The 1404 subsidy referred to yearly value and movables as did the definitional subsidies of 1450 and 1512. Local taxation emphasized ability and this was reproduced in the Poor Law in 1601 and earlier. The royal instructions for the ship writs of the 1630s referred to ability. The classified and graduated poll tax of 1641 referred to what a person could spend per annum. The monthly assessments spanning from 1645 to 1691 referred to the yearly value of real and personal estate. The classified and graduated poll tax of 1660 referred to persons having specified amounts per annum (Kwass, 2006). The aids that developed into the land tax referred to the favorite yearly value. The poll tax of 1696 referred to both yearly value and yearly income or profits. The Triple Assessment of 1798 and the income tax of 1799 referred to annual value and annual income (Harris, 2006).

With regard to the tax law, as a sub-branch of financial law, its subject of regulation is property and related non-property relations. Such relations are both corporeal and procedural in nature. They could be formed between the state and taxable persons in relation to the establishment, imposition and levying of taxes, fees and insurance contributions to budgets of different levels and extra budgetary funds. These relations could arise from the tax control measures; tax liability; appealing against non-regulatory acts of tax authorities or actions (inactions) of officials (Krokhina, 2003; Burova et al., 2017). Based on the elemental structure of the legal system, tax law as a branch of financial law consists of various institutions that regulate various social relations in the tax sphere.

Public relations arising from and in the process of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers have all the signs of the institute of tax law. The latter unites the legal norms regulating a close and relatively small group of public relations. Such conclusions arise, in particular, from the general theoretical provisions on the concepts of "*institute of law*" and "*sub-institute of law*".

The subject of regulation of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers are homogeneous social relations in the field of compulsory collection of taxes, other mandatory payments, as well as penalties and sanctions from taxable citizens. This indicates that the subject of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers corresponds with the subject to tax law. Other

main criterion that makes it possible to distinguish tax law as a sub-branch in the system of financial law could be as following the methods, techniques and means of influencing regulated public relations, which are called the method of legal regulation.

Due to the fact that tax law is a major component of financial law, the specific of the method of legal regulation of tax law corresponds with the method of financial law. In the latter, in addition to the imperative method of legal regulation, the dispositive method is used (Karaseva, 2003), which differs from the dispositive method used in private law. Thus, the method of tax law is based primarily on the imperative impact on social relations in the field of taxation. With the help of the imperative method of regulation, the necessary legal regulations are communicated to the participants in legal tax relations. The dispositive method of legal regulation in legal tax relations has powerful elements of expression; it is used in the form of permissions, though limitedly. As correctly indicated by Tsindeliani (Burova et al., 2017), neither imperative nor dispositive regulatory methods could be referred as financial and tax laws' sole methods of regulating. Solely defined types of regulation for tax and financial law are those based on a combination of ways to influence subjects of law in the form of precepts, permissions and prohibitions. The regulation of public relations within the framework of the institute of tax liabilities, penalties and fines from individuals-taxpayers is carried out mostly by the imperative method in the form of precepts and prohibitions. Proportion of permissions in the regulation method is insignificant. Thus, the right to make decisions on the compulsory collecting tax liabilities from taxpayers-citizens is implemented within the framework of the method of permission, but the right to make such decisions belongs to the tax authority-the representative of the state-an expression of the imperative method of regulation. Providing to taxpayers-citizens the opportunity to fulfill the tax authority's request voluntarily (as part of tax proceeding) is also an effect of the permission method, and the obligation to undergo compulsory collection of tax liabilities, penalties and fines is an example of the imperative method.

The dispositive method of regulation in the form of permissions within the framework of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers has an incentive meaning. Regulatory permissions create conditions for the active behaviors of taxable citizens, allowing them voluntarily fulfill the requirement of the tax authority. After that, within the framework of judicial proceedings, the mentioned regulatory permissions create conditions for the protection of taxable citizens' violated rights. The institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers should reasonably combine the use of both imperative and dispositive regulatory methods. A study of the subject and method of legal regulation of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers shows that this institution is of tax and legal nature and is an element of the system of tax law. In this regard, it is necessary to determine the place of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers in the system of tax law and financial law.

Financial law in scientific works (Grytsenko, 2005) is defined not only as an independent branch of law, but also as a legal science, and as a branch of Russian legislation, and as an academic discipline. The tax law, acting as an integral part of financial law as its sub-branch, is simultaneously a sub-branch of financial law as a branch of legal science and as a branch of Russian legislation, as well as an independent academic discipline (Rovinskii, 1957; Karaseva, 2000; Vinnitskii, 2003). A similar approach can be applied to the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers. Consequently, this legal institution can be viewed not only as an institution of tax law in the system of branches of

Russian law, but also as a sub-institute of financial law, as an institution in the system of legislation on taxes and fees and as an institution of science of tax law and academic discipline.

The system of tax law, like any legal system, consists of many legal norms systematized in a special way into certain structural elements. It is generally recognized that the tax law system is divided into general and special parts, which include tax and legal norms, tax law institutions and sub-institutions of tax law as structural elements.

In relation to the topic of this study, there are institutions, which are identified in the general part of tax law, which contain the rules of law applicable to any legal tax relationship. The above provisions of the general theory of law on the concept of institutions and sub-institutions allow us to conclude the following. The institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers combines a certain set of separate rules of law contained in the Tax Code of the Russian Federation, regulating a similar (in regards of the content) and a relatively small group of homogeneous social relations. The compulsory collection of tax debts from individuals is carried out not only within tax proceedings, but also within court proceedings, the regulation of which goes beyond tax law. Considering that, it might be appropriate to attribute the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers to a more complex entity, called in theory of law an inter-branch, complicated, complex or mixed institution.

METHODS

The doctrine of the legal system in the theory of law contains many scientific concepts about the presence in the legal system of mixed, inter-branch, complicated, complex and other similar institutions. As a rule, such scientific concepts are formed when an attempt is made to classify a subject of scientific research. For example, it is proposed to classify the institutions of law according to their content into simple and complex (Kikot and Lazarev, 2008). A simple institute of law might be considered as a kind of union of legal norms within one branch of law. Complicated legal institution - as a set of legal norms that are part of various branches of law aimed at regulating related and interrelated matters. N.I. Matuzov offers a slightly different classification of legal institutions (Matuzov and Malko, 2001). The mentioned author identifies simple and complicated, inter-branch and branch institutions of law, as well as protective, regulatory and constituent institutions. Simple law institutions, as a rule, do not have independent entities. Complicated (complex) institutions of law form complexes consisting of sub-institutes - small independent entities. Inter-branch (mixed) institutions combine norms that are part of two or more branches of law. Branch legal institutions consist of the legal norms of one branch. From the perspective of this author, a legal institution can be both complex and inter-branch at the same time. At the same time, in scientific works there are approaches that do not delimit the concepts of "*inter-branch"* and "*complex*". Most of the researchers (Prokopovych, 2004; Goshulyak, 2013; Cherkaev, 2000) use these concepts as synonyms to denote social relations, governed simultaneously by the norms of several branches of legislation.

The mentioned classification of legal institutions concludes that the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers can be considered as an inter-branch institution. Since it is regulated not only by the corporeal and procedural rules of tax law, combined into the institution of tax law, but also by procedural rules of judicial administrative procedural law (Makhina, 2018; Zelentsov and Iastrebov, 2017; Leshchina and Magdenko, 2015). In some cases, it is regulated as well by civil procedure. At the same time, the institute of compulsory collecting tax liabilities, penalties and fines from

individuals-taxpayers can be considered as a simple institution of tax law. When the latter is sub-institutional to complex institution of financial law-an institution of state financial activity.

Any legal institution, as well as a legal sub-institution, must have certain material and legal characteristics (Arner, 2007). Material characteristics refer to an independent group of public relations, and legal ones refer to a set of legal norms governing this group of public relations. Therefore, in the framework of this study, it is important to substantiate the tax and legal nature of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers, as well as to determine its place not only in the tax law system, but also in the system of Russian legislation. The legal literature (Alekseev, 1995; Kirimova, 1998; Baitin, 2005) repeatedly draws attention to the inadmissibility of mixing the structure of law and the structure of its sources, which constitute a certain set of legislative acts. Thus, the basic criterion for distinguishing these categories is based on the following position. In the structure of the law there are branches of law, which are identified as such on the basis of independent subject and method of legal regulation. In the structure of sources, there are branches of legislation as well, which are determined solely by the subject of regulation (Kirimova, 1998).

In connection with the above, it is necessary to consider financial law not only as a complex branch of law, but also as a complex branch of legislation. Therefore, tax law can also be defined as a complex branch of legislation governing financial public relations in the field of taxation. The latter is also a part of financial legislation. In the Russian legal framework, it represents a combination of sources of regulatory and legal nature of the federal, regional and local levels.

RESULTS

In relation to the system of legislation on taxes and fees and for the reasons outlined above, the following might be stated. The institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers can be defined as a set of regulatory precepts. The precepts, which regulate public relations. The public relations, which are predominantly financial in relation to the enforcement measures aimed at compulsory collection of unpaid taxes, fees, insurance contributions, penalties and fines. The legal institute of compulsory collection of tax liabilities, penalties and fines from individuals-taxpayers also finds its external expression in other legal sources. Thus, the Constitution of the Russian Federation is the fundamental source, which contains both provisions on the general obligation to pay taxes (article 57) and provisions that guarantee the right to judicial protection (articles 46-54).

Matters related to the compulsory collection of unpaid taxes, fees, insurance contributions, penalties and fines from individuals are also regulated by the norms of various legislative acts. In addition, relations on the compulsory collection of unpaid taxes, fees, insurance contributions, penalties and fines from individuals also affect other matters. Such matters are related to the implementation of banking operations, which are regulated by other legal acts, such as the Regulation of the Central Bank of the Russian Federation on the Payment System of the Bank of Russia, which actually regulates the technical side of any settlements made within RF. The Budget Code is another regulatory act that regulates mentioned legal relations. This conclusion is based on the fact that the compulsory collection of unpaid taxes from individuals is carried out within the framework of the financial activities of the state. Such activities are aimed at the formation of public financial funds. That is, the amounts of compulsory collected taxes, fees and insurance contributions, penalties and fines are directed to

the formation of budgets. Such budgets are of various levels and budgets of extra-budgetary funds of any state.

The study concludes that the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers is an inter-branch institution in the system of Russian legislation. Such inter-branch institution combines the regulatory legal acts of constitutional, civil, financial (tax, budget), banking, procedural (civil and administrative) and other related branches of legislation. The place of the institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers will be considered below as a science and academic discipline in the system of tax law.

The tax law as a science is currently regarded as an independent area of legal science. As long as within its framework there is a wide system of knowledge, scientific concepts, positions and attitudes, this has a sufficient degree of generality and unity. As a scientific discipline, the tax law investigates legal norms that are equally oriented towards the regulation of public relations in the field of taxation, recognition and elimination of gaps in the legal regulation of taxes, and minimization of contradictions in the tax legislation (Grytsenko, 2005). One may argue that the goal of tax law science is to improve tax legislation while taking into account social, economic and political contexts. Its meta-task is to improve the quality of public life in general and households in particular.

The rules of law are also the subject of tax law science. The rules of law regulate relations for the compulsory collection of unpaid taxes, fees, insurance contributions, penalties and fines. Issues related to identifying gaps in the regulation of these relations are also regulated by the rules of law. Therefore, compulsory collection of unpaid taxes, penalties and fines from individuals should be defined as an institution of tax law science. Mentioned institution is regarded as an integral system of scientific positions, concepts, ideas and attitudes, which are aimed at resolving issues. Aforementioned issues are related to the application of compulsory measures to individuals concerning tax debts. This requires the law-making bodies to identify place of the institute of compulsory collecting tax liabilities, penalties and fines from individuals in the system of tax law science, which potentially may serve a field for further study and application.

DISCUSSION

According to Luca Cerioni, while considering the tax law of the European Union countries, one of the main objectives of tax law is to eliminate the shortcomings in the field of taxation. There is a goal of eliminating the tax shortcomings on intra-EU operations in comparison with the same operations at national level. This goal would be achieved if there were no significant differences between transactions carried out whether at intra-EU or domestic level (Bolkestein, 2003). In such case, tax rules would be completely neutral from the viewpoint of competition. Nevertheless, it would be difficult to reconcile with that ‘tax competition’ between Member States which (Baelz and Baldwin, 2002) lies at the root of those diversities between national provisions which make the conditions for intra-EU profits distributions and restructuring operations different from one Member State to another (Cerioni, 2007).

Harding considers in their research the taxation of schools and universities. The Internal Revenue Service began looking at the hospitals first. In 1992, the IRS issued the Hospital Examination Guidelines, which served as a blueprint for agents conducting hospital audits (Hyatt and Hopkins, 2001). Later the same year, the IRS issued proposed audit guidelines for college and university audits and in the same general time frame selected seven schools to serve as pilot

audits. It was reported in the educational press that these seven schools were the University of Michigan, Michigan State University, the University of Nebraska, St. John's University, Stanford University, Texas Christian University, and Vanderbilt University. As an indication of how lengthy and thorough these coordinated audits were, several of these audits were still open three years later (Harding, 2007).

Hopkins considers cases of exemption of companies from taxation. Nearly all tax-exempt organizations are subject to the unrelated business rules. Thus, an organization must first qualify for tax-exempt status (Hopkins, 2003). Once that is accomplished, the organization may have to contemplate the extent to which it can engage in unrelated business and retain its exemption (IRC §§ 527)[1].

The term tax-exempt organization is an anomaly. Inasmuch as few organizations are wholly exempt from tax, as a matter of federal tax law. Aside from governmental entities, just about every nonprofit organization that enjoys general tax exemption is subject to one or more federal income or excise taxes (as well as state and/or local taxes). Levies that may be imposed on otherwise exempt organizations include taxes on charitable organizations that might be engaged in excess expenditures to influence legislation (IRC §512 (a)(3)(A))[2] or for political activities (IRC §§ 4941–4948)[3]. A tax on the investment income of social clubs (IRC § 4958(a)(1), (b))[4]. Taxes on private foundations, taxes on exempt organizations that are disqualified persons in excess benefit transactions (IRC §6033 (e)(2))[5]. A tax on membership organizations that are engaged in forms of advocacy (IRC §170 (f)(10)(F))[6]. A tax on charitable organizations that pay fees on personal benefit contracts. Nonetheless, the federal tax that tax-exempt organizations in general are most likely to pay (or engage in planning to avoid) is the tax on unrelated business income (Hopkins, 2006).

With transformations of public life that take place against the background of globalization deepening, the manifestations of taxation undergo changes too. Digitalization of finance has changed the forms and methods of levying taxes and fees, both technically and conceptually, since, besides notification and payment tools (software, push notifications, e-mail reminders), taxation often takes a preliminary or deposit form. Advances in information technologies and, consequently, the emergence of diverse sources of income open up opportunities for tax evasion. Thereby, the governance needs to motivate taxpayers to contribute to the budget. A deposit system helps raise funds before the local or federal budget needs them and the discount system reduces the level of debts and debtors on condition that payments are made within a fixed timeframe. With appropriate marketing support and promotion, this generates a stable economic effect (Dorskii et al., 2017). However, it is the reduced tax burden that becomes an instrument of political manipulation in the election process. Electoral processes that are not protected from the ungrounded promises by government activists provoke social crises that adversely affect the country's financial stability (Bilyalova et al., 2019).

The inconsistency of economic policy results in regional inequality and disharmony of legal acts regulating the local executive power. Such a misbalance also affects the quality of execution of decisions made by international courts, which in turn affects the investment attractiveness of the country (Sarina et al., 2016). The decrease in attracted capital is reflected in capital productivity and, accordingly, reduces tax deductions. In the mineral resources sector, where the state often acts as a recipient of rents (i.e., oil, gas and coal rents), a boost to financial and tax efficiency is delivered extensively and forms a resource-intensive mechanism for regional development. In the medium-and long-term, this leads to destabilization of environmental and, consequently, socio-economic components, undermining the foundation of

the tax process (Voskresenskaya et al., 2018). Today, the paradigm core of tax regulation, previously based on the concept of targets, needs to be adapted to the turbulent environment of the local market and global demands.

CONCLUSION

The institute of compulsory collecting tax liabilities, penalties and fines from individuals-taxpayers has a tax-legal nature. Such institute might be considered as an institution of tax law in the system of branches of Russian law, as well as a sub-institution of financial law. As an institution in the system of legislation of taxes and fees. As an inter-branch institution in the system of Russian legislation and as an institution of tax law science and academic discipline.

The transdisciplinarity of tax law is due to the deep interweaving of public relations that underlie the legal relations that are regulated by this law. The formation of the regulatory "norm" is based on the socio-cultural traditions of a particular society, as well as on the vectors of political development and the needs of the state budget.

The tax mechanism of a federal state conceptually differs from a unitary state not so much in the way of collecting taxes and fees, but in distribution and redistribution. Taxpayers de facto feel the changes in taxation policies only in terms of changes in the amount of tax burden and instruments for direct payments, all other transformations become noticeable only at the macro level. Therefore, harmonization at the macro level of regulatory legal acts and actions of the executive branch becomes especially valuable and important.

The meta-task of tax law is to improve the quality of public life and households by satisfying public and state needs through distribution of the collected tax funds. However, the target taxation paradigm has lost its relevance, as it does not meet the turbulent local market environment and the demands of global society. The current tax situation is not about forcing the taxpayer to pay taxes and other fees but to motivate and stimulate him/her not to hide income. Individual countries have already rejected excessive imperative tax regulation and thus a positive social effect is achieved, although it is difficult to predict the consequences of such practice over time.

ENDNOTE

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