Shokhin Sergey Olegovich, No. 3 2018

Combination of public law and civil law instruments in budget financing

Annotation. This article is devoted to the study of issues related to the use of civil law instruments in budget financing. So, on the basis of the study, the author comes to the conclusion about the deepening convergence of public law and private law methods. As an example of the use of private law instruments in budget financing, the practice of using a treasury letter of credit for the purpose of hedging public expenditures is given. With the transfer of the function of internal state financial control to the Federal Treasury, the use of the letter of credit form of government settlements becomes a key tool for ensuring effective current control over the spending of budget funds. The letter of credit can significantly increase the transparency of cash flows, which contributes to the reduction of unscrupulous suppliers in the chain of co-executors. The Treasury letter of credit provides for the transfer of advances in the amount of actual requirement.

The paper also analyzes the practice of using such instruments as treasury support and authorization of financial transactions, which are the cornerstone of current budget control. According to the author, in the near future it is possible to outline the following tasks of the development of the treasury support system using letters of credit. First of all, it is necessary to further integrate the treasury and banking support, full-scale use of the treasury letter of credit for the treasury support. Particular attention should be paid to developing approaches to integrating a treasury letter of credit into the process of banking support for government contracts. It is necessary to extend treasury support to the means of advance payments under contracts (agreements) for the supply of goods, performance of work, the provision of services concluded by federal budgetary and autonomous institutions at the expense of subsidies provided from the federal budget. You should use treasury support and budget monitoring of investment objects included annually in the federal targeted investment program. At the same time, treasury support should be integrated into budget monitoring.

Turbanov Alexander Vladimirovich, No. 3 2018

Self-regulation in audit: reflection in legislation, science and practice

Annotation. This article is devoted to the study of the institution of self-regulation in audit. Within the framework of the study, the normatively fixed definition of “self-regulation” is analyzed. In general, according to the author, the definition of self-regulation, enshrined in Art. 2 of the Federal Law of 01.12.2007 No. 315-FZ "On self-regulatory organizations" in general and in some details reflects the essence of self-regulation, but it is difficult to recognize it as flawless. It attempts to reveal the concept of “self-regulation” through a description of the directions of activity, ie. functions of self-regulatory organizations. At the same time, according to the author, the wording of this definition can be improved by removing unnecessary words from information noise (instead of the words “standards and rules”, it is enough to write down “rules”, instead of “development and establishment” - “establishment”).

The paper also correlates self-regulation and government regulation. The study has shown that government regulation and self-regulation are links in the same chain or elements in the system of public administration.

The study of the legal nature of the compensation fund gives grounds to conclude about its public nature. This fact, in turn, allows us to talk about self-regulation in the field of auditing as a financial and legal institution.

Boltinova Olga Viktorovna, No. 3 2018

"Planning" in the draft of the new edition of the Budget Code of the Russian Federation

Annotation: The article is devoted to the study of the role of planning in the budgetary process of the Russian Federation. The paper analyzes the new edition of the RF BC, which introduces a new term "planning" as a stage of the budget

process, covering not only the preparation of the draft budget, but also its consideration and approval, as well as the consolidated budget list and cash plan. Various points of view on the essence of planning, its place in the system of financial law are analyzed. The article delineates the stages of the budget process, their relationship with planning, examines the system of budget planning documents in the light of the new edition of the RF BC.

Yagovkina Vita Aleksandrovna, No. 3 2018

Return of a subsidy for the fulfillment of a state (municipal) task at the expense of other funds of the institution

Annotation: The article deals with the problem of the possibility of returning a subsidy for the fulfillment of a state (municipal) task in the event of insufficient funds of the subsidy itself. Based on the results of the study, the author expresses the opinion that the procedure and conditions for the return of the subsidy, including in the case of full use of the provided budget funds, should be recognized as one of the mandatory elements of the mechanism for financing public (municipal) services, without which the achievement of efficiency and targeted use of budget funds will be insufficient. At the same time, in the case of a return of funds not at the expense of the subsidy directly, but at the expense of other funds of the institution, it is more likely to compensate the returned part of the subsidy than to return the actual budgetary appropriations.

Andreeva Elena Mikhailovna, No. 3 2018

Ndrawbacks of legal regulation of financial control (for example, interbudgetary transfers)

Annotation. This article is devoted to the analysis of the legal regulation of state financial control in the Russian Federation. The author, not intending to consider all the components of financial control, focused only on some of the shortcomings of the organization and implementation of budgetary control. Thus, the publication explores the issues of the distribution of budgetary powers between the financial control bodies of both different levels of government and departmental affiliation, the interaction and coordination of plans for the control activities of the financial control bodies, and the directions of budget control. The author has made suggestions for improving the budgetary legislation in the area under consideration. In particular, it is proposed to detail the competence of individual budget control bodies, to establish barriers to duplicate control activities, to clarify the wording of the Budget Code of the Russian Federation in terms of the vertical delineation of the budgetary powers of the financial control bodies. The study is based on the analysis of financial control in the field of the use of interbudgetary transfers.

Alimbekova Anastasia Sergeevna, No. 3 2018

Novelties of Russian legislation on compulsory fiscal fees: interaction of theory and practice

Annotation. The article discusses topical issues of establishing, introducing and collecting mandatory fiscal fees. In the work, the author points to the novelties of Russian legislation, according to which fees are introduced in the Russian Federation that have all the signs of fees included in the current system of taxes and fees of the Russian Federation, but are not included in it. The author proposes to amend the Tax Code of the Russian Federation and to include in it the newly established resort tax. The need for the state to comply with constitutional principles when introducing new fiscal payments and encumbrances on citizens on the territory of Russia is argued.

Tsaregradskaya Yulia Konstantinovna, No.3 2018

Credit rating agencies as subjects of financial legal relations

Annotation. Modern debt policy is of decisive importance for the functioning of the state debt of Russia, since it lays down the main directions for the development of debt relations, consisting in determining the types of loans, the composition of creditors, and strengthening the credit rating of the state.

Currently, in the context of debt relations, the determining role is played by the state's credit rating as a sovereign borrower in the international financial market, which is taken into account by investors. Traditionally, the credit rating of the Russian Federation was determined by three leading international credit rating agencies -Fitch, Standard & Poor's (S&P) and Moody's. Due to the understatement of the credit rating of the Russian Federation to a low level in recent years, it was decided to develop the national system of these agencies and develop its own rating scale, taking into account international experience. Of the previously existing national agencies, only two have been accredited by the Central Bank of the Russian Federation - ExpertRA, the Analytical Credit Rating Agency (ACRA) and three branches of the aforementioned international organizations. It is proposed to consider credit rating agencies as derivative (auxiliary) subjects of financial legal relations.

Tkachenko Roman Vladimirovich, No. 3 2018

Fiscal policy of the Russian Federation in 2014-2017: from economic recession to its recovery

Annotation. This article is devoted to the consideration of a number of problems associated with the modern budgetary policy of the Russian Federation. The article reveals the concept and significance of budgetary policy in the mechanism of financial activity of the state, resolves the issue of the relationship between the concept of "financial policy" and "budgetary policy". Based on the study of official documents (analytical reports, articles) of various international

organizations (International Monetary Fund, World Bank, European Bank for Reconstruction and Development), the paper analyzes the main directions of the budgetary policy of the Russian Federation in the period from 2014 to 2017, chronologically identifies periods of significant the fall of the national economy (2014-2015) and its recovery (2016-2017). Based on the forecast of the socio-economic development of Russia, given in the reports of international financial institutions and documents of the Ministry of Economic Development of the Russian Federation, the article examines trends in the development of the Russian economy and measures of the state's legal impact on economic processes that ensure this development. In the course of the study, the actions of the Government of the Russian Federation, aimed at regulating and stabilizing the national economy in a crisis, and the results of the budget policy applied by the state were compared, and their assessment was carried out based on an analysis of the available statistical information. The author draws a general conclusion about the effectiveness of the budgetary policy of Russia during the crisis period and about the growing importance of the regulating function of finance in the system of direct and feedback links of the financial activity of the state. The article examines trends in the development of the Russian economy and measures of the state's legal impact on economic processes that ensure this development. In the course of the study, the actions of the Government of the Russian Federation, aimed at regulating and stabilizing the national economy in a crisis, and the results of the budget policy applied by the state were compared, and their assessment was carried out based on an analysis of the available statistical information. The author draws a general conclusion about the effectiveness of the budgetary policy of Russia during the crisis period and about the growing importance of the regulating function of finance in the system of direct and feedback links of the financial activity of the state. The article examines trends in the development of the Russian economy and measures of the state's legal impact on economic processes that ensure this development. In the course of the study, the actions of the Government of the Russian Federation, aimed at regulating and stabilizing the national economy in a crisis, and the results of the

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Arzumanova Lana Lvovna, No. 3 2018

Tax interaction of the BRICS states in modern conditions

Annotation: The article presents a view on the development of tax relations of the BRICS member states, taking into account the new alignment of forces on the world Olympus and the policy of sanctions. The author analyzes the process of developing common approaches in the field of international taxation, transfer pricing, prevention of tax evasion and information exchange within the BRICS. The paper examines the principles of taxation formulated in the BRICS documents and,

in particular, the principle that taxes should be levied in the jurisdiction in which economic activity is carried out. Based on the results of the study, the author concludes that today there is a foothold in the field of modernizing the existing rules of the Model Convention and defining approaches within the framework of closer cooperation, including information,

Morozova Olga Sergeevna, Kochetova Valeria, No. 3 2018

Legal limits of tax planning

Currently, a fairly extensive domestic and international toolkit has been developed to combat tax evasion and circumvention of the law. The article reveals the mechanisms operating in the Russian Federation through a comparative analysis with other jurisdictions, as well as the tools created at the international level within the framework of bilateral interaction between countries and international organizations.

Yem Artemy Vladimirovich, No. 3 2018

The main directions of improving the system of levying value added tax when foreign organizations provide services in electronic form

Annotation. On January 1, 2017, a number of amendments to the Tax Code of the Russian Federation came into force. A special regulation was introduced in the field of services rendered in electronic form. Now such services rendered on the territory of the Russian Federation by foreign organizations are subject to value added tax (VAT). Electronic service providers are required to register with the Russian tax authorities, report on VAT annually and pay tax.

Unfortunately, a detailed analysis of the introduced VAT collection system for the provision of services by foreign organizations in electronic form shows that the innovations have a number of serious shortcomings. Their presence is caused not by single mistakes of the legislator, but by the imperfection of the entire system as a whole. This imperfection is largely due to the relative novelty of the electronic

services market and, consequently, the lack of extensive experience in regulating this area in world practice.

This article examines and examines the methods proposed in science to improve the system of collecting VAT when foreign organizations provide services in electronic form. The author analyzes the disadvantages and advantages of each method and, on this basis, concludes which of them should be preferred.

Khabibulin Rustam Radikovich, No. 3 2018

Models of legal regulation of migration in the Russian Federation

Annotation. The article is devoted to the problem of choosing a model of legal regulation of migration in relation to the domestic legal order. Based on the analysis of regulatory legal acts, the author comes to the conclusion about the existence of a centralized model of legal regulation of migration in the system of Russian law. The article examines another model of legal regulation of migration - a decentralized model or a model of migration federalism. Widespread in the system of common and continental law, the decentralized model of legal regulation of migration is based on local governments and federal subjects, which have the corresponding powers delegated by federal authorities to regulate migration.

Vasiliev Pavel Vyacheslavovich, No. 3 2018

On the timeliness of the introduction or change of legal criteria in the field of public administration

Annotation: The article substantiates the existence and attempts to solve the theoretical and applied problem of conceptually unfounded and untimely introduction or change of legal criteria in the field of public administration. The legal criterion in the field of public administration is defined as a formalized legal means (tool) used to guide lawmaking and law enforcement activities in the field of public administration with the subsequent assessment of its results. Legally significant features of the public administration sphere for choosing the time of introducing or

changing legal criteria are its possible clearly expressed cyclicality, as well as the obligatory presence of at least three groups of participants with independent social roles and interests: subjects of public administration, direct addressees of management decisions and those persons on whose life the implementation of management decisions ultimately affects. The article is based on the provisions of the theory of social management about its stages (functions), presented taking into account the validity of normative legal acts in time, contains an analysis of the practice of enacting certain normative legal acts and ends with proposals to ensure the timely establishment and change of legal criteria in the field of public administration.

Poduzova Ekaterina Borisovna, No. 3 2018

Prohibition of cession as an organizational condition of the contract: problems of theory and practice

Annotation. In the article, based on the analysis of modern civil legislation, civil doctrine and law enforcement practice, a study is carried out related to the condition on the prohibition of cession, which can be provided both in the original contract and in a separate agreement.

The legal nature of the condition on the prohibition of cession and the agreement on it is analyzed, their organizational legal nature is revealed.

The article examines the current law enforcement practice regarding the consequences of non-compliance with a condition or agreement on the prohibition of cession within the framework of various subject composition of relations, in particular, the Resolution of the Plenum of the Supreme Court of the Russian Federation of June 23, 2015 No. 25 "On the application by courts of certain provisions of section I of part one of the Civil Code of the Russian Federation Federation ", Determination of the Supreme Court of the Russian Federation of March 13, 2017 No. 310-ES17-595 in case No. A36-6801 / 2015.

The author concluded that the current state of civil legislation and the changes that come into force significantly narrow the scope of the practical application of the condition or agreement on the prohibition of cession.

Gyulumyan Vladimir G., No. 3 2018

On the problem of scientific search for the essence of a legal entity

Annotation. The article notes the skeptical view of the legal meaning of the problem of the essence of a legal entity and the scientific prospects for its solution, which has developed in modern Russian civil law. The wide spread of formal theories of a legal entity, which ignore this issue, is stated. The main milestones in the history of philosophical and legal thought about the essence of a legal entity are considered. Attention is drawn to the dominant importance in the pre-revolutionary legal science of theories of personification and the real subject. Opposite results of these theories from the standpoint of generally accepted norms of scientific research are defined as admissible and are assessed as positively solving the problem of the essence of a legal entity. At the same time, the incompleteness of this search in the domestic legal science is noted. The problematic aspects of the search for the essence of a legal entity are associated with the definition of the scope and limits of application of a particular theory, the prioritization between them, or the choice of a certain doctrine as a philosophical basis for the interpretation and application of legislation. It is concluded that further research into the essence of a legal entity can go in the direction of solving these issues.

Fatherly Ivan Evgenievich,

Volodina Daria Vladimirovna, No. 3 2018

The role of judicial practice in the protection of violated rights of consumers of tourism services

Annotation. Tourism is an integral part of the life of a modern person. From an economic point of view, for the development of tourism in each state, it is important to create an appropriate infrastructure. Tourism combines travel and a service industry that is designed to meet the needs of the people who travel.

The results of the activities of the Rospotrebnadzor authorities in various regions of our country indicate that violations of the rights of tourists are not uncommon in the work of travel companies. Today, the issues of legal regulation of the protection of the rights of consumers of tourist services from numerous violations by travel agencies are very relevant.

A certain part of the reasons for violations of rights in the field of tourism lies in the insufficient legal regulation of the rights and obligations of the parties to a tourist agreement when concluding, executing and terminating legal relations between a tourist and a tour operator.

The authors analyzed the judicial and law enforcement practice on violations in contractual work with consumers of tourism services, reflecting the shortcomings of legal regulation of protecting the rights of consumers of tourism services from numerous violations of the law by professional participants in the tourism market.

Starovoitova Anna Sergeevna, No. 3 2018

Recognition of rights as a way to protect property rights

Annotation. The article substantiates the conclusion about the need for legislative consolidation of the recognition of rights as a way to protect property rights. The emergence of this method of protecting property rights is associated with the category of real estate. It is concluded that it is necessary to differentiate legal structures similar to the recognition of law. In particular, it is noted that it is necessary to distinguish between private ways of recognizing property rights, considered in the doctrine as recognition of rights, from recognition of rights as a way to protect property rights. The conclusion about their different legal nature and purpose has been substantiated. Particular attention is paid to the legal structure of

the claim for the recognition of rights. A number of complex controversial issues of civil law are considered: about the object, the conditions for filing a claim for the recognition of law, about the subjects of the claim. The conclusion is made, that the defendant must be established in all cases of filing a claim for the recognition of a real right. When determining the conditions for filing a claim, the work highlights not only the existence of a dispute about the right, which must be recognized, but also the legal interest in judicial confirmation of such a right. The features of the application of the requirement for the recognition of real rights are revealed The conclusion is argued that the civil regulation of relations for the protection of property rights needs to be updated and reformed.

Ovcharov Anton Olegovich

Ignatieva Yulia Ivanovna, No. 3 2018

Legal mechanisms for the formation of an effective contract system in the field of public procurement

annotation... The article analyzesdirections of the formation of an effective contract system, regulated by Law No. 44-FZ. Pa comparative analysis is underway Russian and American legislation in terms of individual legal mechanisms for public procurement. There are three main problems that prevent efficient course of the public procurement processin our country: low level of training of specialists, low quality of supplied goods, works, services, high corruption risks of public procurement. Particular attention is paid to the development of recommendationsto solve these problems and improve the state contract system. ABOUTthe need is baseddevelopment of standard technical specifications for certain product groups, implementation of a mechanism for partial centralization of purchases, etc....The article uses historical-legal and comparative-legal methods, as well as general scientific research methods - analysis, generalization, induction and deduction.

Rossinskaya Elena Rafailovna, No. 3 2018

THEORETICAL AND ORGANIZATIONAL AND TECHNOLOGICAL PROBLEMS OF NEW GENERA (TYPES) OF FORENSIC EXAMINATIONS

Annotation. The article deals with the problems of the production of forensic examinations of new types and types of forensic examinations. The author describes modern options for the training of forensic experts within the framework of a single specialty in accordance with the Federal State Educational Standard of Higher Education (FSES HE) 40.05.03 - "Forensic examination" and through professional retraining. The process of the emergence, formation and development of new classes, genera and types of forensic examinations is analyzed, which goes along two main directions. First, it is the process of enlargement from a species (subspecies) to a genus; from clan to class. Secondly, it is a process of division from a class into genera and species, when it becomes necessary to solve a complex of qualitatively new general expert problems, and in this connection new objects of research appear. The key problems for these situations are considered, related to the choice of methods of expert research, the definition of general and special competence of experts, and the training of expert personnel. A roadmap is proposed for optimizing the production of the above-described types (types) of forensic examinations.

Gusarenko Dmitry Mikhailovich, No. 3 2018

Criminalization of encroachments on especially valuable wild animals: the problem of statistical accounting and analysis

Annotation. The article examines the problem of the absence of scientifically grounded criteria for determining the special value of wild animals for the purpose of criminalizing encroachments on them. Based on the analysis carried out, it is concluded that one of the criteria is the number of encroachments on these animals. In other words, those species of animals that are the subject of the most active poaching can be classified as especially valuable. However, the author believes that such a task today cannot be solved qualitatively, since in Russia there is no organized and statistical record of the number of encroachments on wild animals by their species. It is noted that the lack of accounting significantly complicates the receipt, analysis and use of information necessary to determine the special value of wild animals, as well as research on other issues of criminalization in this area. In order to resolve the problem posed by the authoroffers practical recommendations for optimizing statistical monitoring of environmental crime in the country.

Andriyanov Dmitry Vadimovich, No. 3 2018

Eurasian Economic Union: the fight for the "third space" and integration through law

Annotation. The article examines the influence of the theory of proportionality, which in the philosophy of international law explains the existence of a "third space" between politics and law, on the integration of the states of the Eurasian Economic Union (EAEU). Taking into account modern judicial and contractual practice, issues of building a single legal space, training lawyers in EAEU law were analyzed, the advantages of using the “second regime” method were assessed, the role of the EAEU Court, etc. behind this right of the properties of supremacy and direct action, the insufficiently active position of the EAEU Court, "towing" the harmonization of the national legislation of states, undeveloped international cooperation with other subjects of international law, preventing the construction of the "third space". Using the approaches of representatives of the school of “integration through law”, a number of solutions to these problems have been proposed. In particular, it is proposed to develop a unified concept for teaching

the discipline "EAEU Law" and introduce it into the educational programs of law universities and faculties not only in Russia, but also in other EAEU states.

Vasilevskaya Lyudmila Yurievna, No. 3 2018

General and specific in the regulation of the pledge of rights under Russian and German law

Annotation. The article is devoted to the comparative legal analysis of the pledge of rights in Russia and Germany. Highlighting the general and specific in the legal regulation of the pledge of rights in two states, the author draws attention to the difference in conceptual grounds in the establishment and termination of the pledge right of the pledgee to the right. Unlike Russian law, the pledge of rights in the Federal Republic of Germany is considered not as an obligation, but as a limited real right. It is concluded that the legal regime for the pledge of rights under the German Civil Code (GSU) is determined by the rules on the pledge of movable things. The legislative method of transferring the regime of things to the regime of rights is not accidental: according to German law, the object of real rights is not only things, but also rights. This approach is incompatible with either Russian legislative regulation or with the prevailing doctrinal concepts,

The model of pledge of rights in Germany is based on the principle of a two-stage registration of contractual relations, which implies the conclusion of a contract of obligation and a real contract, the design of which is unknown to Russian legislation. With regard to the pledge of rights, we are talking about a specific structure of a real contract in the State University of Humanities - an agreement on the assignment of rights.

Considering the features of the legal regulation of the pledge of rights under the Civil Code of the Russian Federation, the author draws attention to the

contradictory provisions of the law, in particular, the prescriptions of Art. 358.6 on the performance of the obligation by the debtor of the pledger.

Kim Vyacheslav Vladimirovich, No. 3 2018

Legal division of real estate:
research institutes in France and Russia

Annotation. This article analyzes the issue of legal division of real estate within the framework of the lease legal relationship in relation to the legal order of Russia and France. In particular, special attention is paid to the French institute of superficie, theories of its legal nature. The author comes to the conclusion that this institution, contrary to the prevailing opinion in French jurisprudence, is a limited property right to a land plot. Based on the data of comparative studies, including the study of superficie, an attempt is made to distinguish between property and obligation in the lease in general and lease for the purpose of construction in the Russian system of law.

The author comes to the conclusion that such proprietary elements as “the right of succession”, absolute protection, by themselves, do not give grounds for qualifying a lease as a proprietary right. However, a special case is a lease for the purpose of construction, within which it is advisable to recognize the existence of a limited property right to a land plot. This property right should also include the ownership of the building, which was erected on the basis of a lease for the purpose of construction and, in general, have a regime close to the ownership right, primarily in matters of protection. In addition, the conceptualization of this institution can transform the practice of unauthorized construction, clarify other issues of theory and practice.

Elena Pokachalova Vyacheslavovna

Petrova Inga Vadimovna, No. 3 2018

Review of the All-Russian scientific and practical conference "Security in fiscal, customs and other areas of financial activity: economic and legal

problems", 31.10.2017, Moscow-Saratov.

Annotation. This article provides an overview of the All-Russian scientific and practical conference "Security in the budget-tax, customs and other areas of financial activity: economic and legal problems", held by the Department of Financial, Banking and Customs Law and the Department of Economics of the Saratov State Law Academy, and the departments financial and tax law of the Moscow State Law University named after O.E. Kutafina (Moscow State Law Academy). The article contains the main provisions of the reports of the participants of this conference, analyzes the actual problems of financial law at the present stage of the historical development of Russia.