Artemov Nikolay Mikhailovich,

Bortnikov Sergey Petrovich, No. 11 2020

Comparative legal analysis of the relations of tax liability for tax, financial and administrative offenses

Annotation. This article is devoted to the study of issues related to the definition of the legal nature of tax liability. The work is aimed at distinguishing and defining the essential nature of tax liability as an institution of administrative or financial (tax) law. The implementation of this task is connected not only with the definition of the unique properties of the phenomenon of responsibility in the field of taxation, but also with the study of the need to separate this protective institution within the framework of tax or administrative legal relations.The authors come to the conclusion that administrative and tax liability (liability for violation of tax legislation) relate to each other as general and private and have a common administrative public nature, characteristic of such branch types of liability as tax, financial, The obtained results provide a promising opportunity to identify the legal relations of the institute, to study the features of its industry application, to determine the current trends in the transformation of the approaches developed by the science of financial and administrative law.

Tolstopyatenko Gennady Petrovich, No. 11 2020

Integration tax law and the new World Order

Annotation. The article is devoted to the study of the main factors of the development of integration tax law in the new world order. The author analyzes the features of the legal mechanism of the EU tax policy, acts of "soft law" (soft law) The OECD and their impact on the legal regulation of cross-border activities of international companies.According to the results of the study, the author concludes that the new world order, the main feature of which is still the process of globalization of economic and political relations, in the last few years is characterized by the strengthening of the opposite trend, called the "new" state sovereignty. This phenomenon is reflected in the policy of economic restrictions ("sanctions") against individual states (the United States, the EU – Russia); in the strengthening of the policy of protectionism (the United States – China); in the policy of isolationism as a consequence of the global economic crisis caused by the pandemic; in the special position of some EU member states (for example, Hungary) on certain issues of migration and economic policy, etc.The strengthening of the "new" state sovereignty also entails the improvement of the political and legal mechanism for coordinating the positions of states for making compromise decisions. And this, in turn, means expanding the application of the

norms of "soft law", and strengthening the role of international organizations as their main source in the regulation of international relations and in the development of national law in accordance with international standards.

Natalia A. Sheveleva, No. 11, 2020

Tax and legal mechanisms of state support of entrepreneurship in modern conditions

Annotation. Attracting domestic investment to the real sector of the Russian economy is an urgent task of public administration at the present stage. As part of the measures of state support, there are logically tax preferences, which include both tax benefits in economic terms and in legal form. Residents of special economic zones and other territories with special status, as well as participants in regional investment projects, have the right to use reduced corporate income tax rates, accompanied, however, by a whole system of prohibitive conditions and restrictions. An assessment of the totality of existing conditions and restrictions for various economic entities makes it possible to doubt the real attractiveness of the status of a resident or participant for carrying out such significant investment activities for the state. The lack of confidence in the immutability of business conditions, including tax conditions, is a factor that negatively affects the attractiveness of investment activities. The significance of this circumstance is evidenced by the adoption of the Federal Law No. 69-FZ of 01.04.2020 "On the Protection and Promotion of Capital Investments in the Russian Federation", which was widely discussed in the draft stage by business circles, which provides for a stabilization clause that also covers tax regulation. The new law does not solve many problems, however, and the conclusion of a corresponding agreement with a stabilization clause will not be available to all economic entities, real and potential residents of territories with a special status, or participants in regional investment projects.

Voronin Yuri Viktorovich, No. 11 2020

The Institute of the Financial Ombudsman as a tool for improving the procedure for settling standard disputes in the financial market (an attempt at inductive analysis)

Annotation. The article analyzes the experience of the newly created institute of the financial commissioner, which is called upon to pre-trial consider property disputes arising between consumers and financial organizations, examines the main trends and patterns that emerged at the initial stage of the institute's operation, provides forecasts and recommendations for the development of the

institute of pre-trial dispute resolution in the financial markets. The role of the financial ombudsman in the development of the procedural aspect of the resolution of standard financial disputes is particularly analyzed. Based on the results of the study, the author comes to the conclusion that the institution of the financial commissioner can and should be developed taking into account the comments made on possible areas of expanding functionality, based on the main task: to create a business environment in which the rights of consumers of financial services will be protected as much as possible. However, it makes sense to move on to this after the completion of the stage of entry of Federal Law No. 123-FZ of June 4, 2018 "On the Commissioner for the Rights of Consumers of Financial Services" into force in full, i.e. after January 01, 2021.

Omelekhina Natalia Vladimirovna, No. 11 2020

Financial law in the intersectoral Institute of the Dignity of the Individual

Annotation. Referring the dignity of the individual to the meta-legal categories, considering it as a principle of law, forming a complex intersectoral institution aimed at ensuring the implementation and protection of human rights, the paper analyzes the role and place of financial law in it. Taking into account the peculiarity of the subject-methodological basis of the financial and legal industry, it is concluded that the studied branch of law should be considered as a security legal instrument for generating and realizing the dignity of the individual, its dynamic essence through a unique legal mechanism for the redistribution of material resources in the state. Recognizing positive binding as the main legal means of such an instrument, the author analyzes the subjective rights of the individual in financial relations, in particular, their property component, in two aspects of the financial activities of the state and public legal entities: in the formation and in the distribution and use of public funds of funds. In order to ensure the implementation of the human-centered spirit of financial law, it is concluded that there is a need for a doctrinal analysis and legal consolidation of the financial and legal status of the individual, the formation of a system of so-called "monetary rights" of the individual in the process of formation, distribution and use of funds of monetary funds of the state and municipalities.

Alexander Alibievich Yalbulganov, No. 11, 2020

Reforming the internal State financial control: goals, objectives and legal challenges

Annotation. The objectives, tasks and directions of reforming the internal state financial control in order to improve it and increase the effectiveness of control measures are considered. The article identifies the reasons that prompted the legislative and executive authorities to transform the state financial control, which is of a systemic nature. Significant attention is paid to the functional forms of state financial control – internal financial control and internal financial audit, carried out by budget administrators who are not internal state financial control bodies. Based on the analysis of regulatory legal and other acts, methodological recommendations, the essence of internal financial control and internal financial audit, their relationship with each other and internal state financial control, are identified, and measures are proposed to improve the quality of the work of control bodies. The system and levels of legal regulation of all areas of financial control implemented by executive authorities are presented, and ways to ensure the independence of bodies implementing functional forms of financial control are proposed.

Arzumanova Lana Lvovna,

Logvencheva Anastasia Olegovna, No. 11 2020

History of Legal regulation of metal money systems in Russia

Annotation. The article presents a study of the history of regulation of metal money systems in Russia.Since the tenth century, precious metals have been used for coinage. In the XVI century, the scope of use of precious metals for the needs of the state expanded – the production of valuables began, which were received as a reserve in the treasury.The formation of metal monetary systems in Russia is directly related to the need to secure the banknotes issued in circulation in 1768.The initial measures to secure the banknotes with precious metals did not have the proper result. Due to this circumstance, in the XIX century, it was decided to carry out reforms in order to introduce a system of monometallism. As a result of the reform of E. F. Kankrin, silver monometallism was established. At the end of the XIX century, as a result of the reform of S. Yu. Witte, the transition to the gold standard, which existed before the beginning of the First World War in 1914, was carried out.

Sitnik Alexander Alexandrovich, No. 11 2020

Digital currencies: problems of legal regulation

Annotation. This article analyzes the provisions of Federal Law No. 259-FZ of July 31, 2020 "On Digital Financial Assets, Digital Currency and on Amendments

to Certain Legislative Acts of the Russian Federation" (hereinafter referred to as Law No. 259 – FZ) concerning the legal regulation of the circulation of digital currencies. The paper analyzes the legal definitions of such concepts as" digital currency"," organization of the issue of digital currency"," issue of digital currency"," organization of the circulation of digital currency", and notes their shortcomings. The paper also highlights the features of digital currencies, types of transactions with this financial instrument, outlines the range of subjects of relations that arise in the process of circulation of digital currencies. In general, it should be recognized that the adoption of Law No. 259-FZ did not lead to the creation of a full-fledged system of legal regulation of the circulation of digital currencies, its provisions are fragmentary and sometimes controversial. At the same time, the above-mentioned normative legal act is of fundamental importance, since it for the first time at the legislative level fixed the norms regulating public relations that develop in the process of circulation of digital currencies.

Gorlova Elena Nikolaevna, No. 11 2020

Parapublic organizations as subjects of financial law

Annotation. The article analyzes the classification of subjects of financial law, it is proposed to include in it, along with public and private entities, also parapublic entities, by which it is proposed to understand the legal entities with authority, created on the basis of the law for the implementation of management, provision of public services and performance of other public functions. The basis for the allocation of this category is the need to implement public interests in modern conditions. The analysis of the foreign experience of delegating state powers to parapublic organizations in Brazil and the United Kingdom is carried out, including the legal status of non-governmental organizations performing public functions. It is proposed to use the contractual method of regulating financial relations, including the use of public contracts in financial law. The introduction of the institution of contract, autonomy, financial independence and self-government into the mechanism of public administration will help to solve a number of key problems of financial activity. At the same time, it is necessary to develop the institution of public contracts already existing in financial law, which we propose to understand as an agreement concluded in a prescribed form for public purposes by two or more entities, one of which is a public authority, aimed at the realization of the public interest.

Tkachenko Roman Vladimirovich, No. 11 2020

The role of budget regulation in modern society

Annotation. This article is devoted to the consideration of issues related to the legal regulation of the system of methods of distribution and redistribution of part of the national product between different budgets of the budget system of the Russian Federation-budget regulation in the Russian Federation. In the course of the study, the features and features of the financial and legal category "budget regulation" are highlighted, various approaches to the definition of this concept are considered, the key principles of budget law on which the system of budget regulation methods is based are studied, and the importance that budget regulation acquires in modern society is shown. It is determined that the norms of financial law regulate a whole range of public relations related to public financial activities in the area under consideration, including a system of primary and secondary legal measures aimed at ensuring the balance and independence of the budgets of the budget system of the Russian Federation. It is concluded that in modern conditions, budget regulation in the Russian Federation is aimed not only at the distribution and redistribution of income, but also at optimizing and restructuring the expenditure obligations of public legal entities.

Zemlyanskaya Natalia Ivanovna, No. 11 2020

Public law company as a subject of financial law

Annotation. The article substantiates the need to consider public law companies as subjects of financial law. This is due to the peculiarities of the legal status of these non-profit organizations and the implementation of their respective financial and legal statuses. Special attention is paid to certain aspects of the financial activities of the public law company "Fund for the Protection of the Rights of Citizens Participating in Shared – Equity Construction".The author notes that as a subject of financial law, a public law company should be characterized by its participation in various types of financial legal relations: budget, tax, and others. For this purpose, it is endowed with a special legal personality, which is expressed in the provision of appropriate powers (rights and obligations necessary for the implementation of its tasks and functions), enshrined in the regulatory legal acts regulating its activities. Based on the generally accepted thesis about the economic (monetary) nature of financial legal relations, it can be argued that most financial legal relations involving a public company are related to its property.The conducted research allowed us to consider a public law company as a subject of financial law that implements the corresponding financial and legal statuses in financial legal relations: a non-participant in the budget process, a taxpayer, a tax agent, and others.

Lyulyukin Valentin Valentinovich, No. 11 2020

Approaches to understanding the social effect of legal institutions

Annotation. The purpose of the study is to assess the social effect in the conditions of the formation and effectiveness of legal institutions: legal mentality, legal mentality, legal awareness, legal culture in law-making and law enforcement practice. The theoretical and legal approach allowed us to reveal the legal nature of the category "legal mentality-legal mentality-legal consciousness – legal culture" in the relationship expressed by dialectics and logic of manifestation, where the main criterion is the continuity and consistency of legal institutions. The dependence of the social effect on the effectiveness of legal institutions as a result of the citizenship of society and the state is established, the factors of the onset of legal implementation and/or legal expansion are identified. The historical-legal approach reveals the variables of the continuity of legal institutions through the prism of the correlation of legal determinism and valuentarism, leading to legal implementation or legal expansion. Based on the comparative analogy of the signs of harmonization ("consistency") and unification of norms ("universality") in the field of administrative legal relations, their direct relationship of organizational and legal activity is established. The analysis of historical and legal prerequisites allows us to identify legal risks such as formalism, falsification, latency-inherent in the transition periods of the legal system, as well as the lack of historical and legal continuity and the incompleteness of the formation of legal institutions. Therefore, eliminating the risks of social impact makes it possible to strengthen the imperative of establishing legal institutions through the use of educational, cultural and educational technologies as a tool for preserving the historical and legal continuity of legal consciousness and legal culture in achieving the social effect of civil society.

Artyom Robertovich Nobel Prize, No. 11 2020

The system of procedural principles of proceedings in cases of administrative offenses

Annotation. Studies on legal principles present different perspectives on the concept, system, and content of the principles. The article defines the principles and the system of principles of proceedings in cases of administrative offenses. On the basis of the norms of the Constitution of the Russian Federation, the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the European Convention on Human Rights or the Convention), the Code of Administrative Offences of the Russian Federation (hereinafter - the Administrative Code of the Russian Federation) and the practice of their application, the position is justified that the principles of proceedings in cases of administrative offences are to varying degrees enshrined in the normative legal acts that make up the legislation on administrative offences, both directly and indirectly. The system of procedural principles of proceedings in cases of

administrative offenses is revealed. In this system, the author includes the following principles: open consideration; state language; direct examination of evidence; freedom to evaluate evidence; mandatory consideration of petitions; freedom to appeal procedural decisions; adversarial and equal rights of the parties; fair consideration of the case; ensuring the right to a defense. The content of these principles of proceedings in cases of administrative offenses that have a pronounced procedural nature is formed through a systematic interpretation of the provisions of the Constitution of the Russian Federation, the European Convention on Human Rights, the Administrative Code of the Russian Federation, the case law of the Constitutional Court of the Russian Federation and the European Court of Human Rights. In conclusion, it is concluded that, despite the existence of various ways to consolidate the procedural principles of proceedings in cases of administrative offenses, the greatest effectiveness of their perception and application will be achieved only if the principles are reflected in a special chapter of the Administrative Code of the Russian Federation.

Igor V. Irkhin, No. 11, 2020

The principle of subsidiarity: in search of a balance between centralization and decentralization (state-legal aspect)

Annotation. this article defines the concept of the principle of subsidiarity, and indicates that this principle can be used as a tool to find and maintain an optimal balance between the volumes of centralization and decentralization in the regulation and implementation of intra-state relations, as well as relations between supranational associations and their constituent States. At the same time, it is emphasized that the organizational and functional-target variables of the principle of subsidiarity focus on strengthening the decentralization of the system of public administration (public power) by fixing the presumption of priority right (along with guarantees) of lower-level units to exercise powers in specific subjects of competence. In addition, when applying the principle of subsidiarity, the strengthening of decentralization is due to the need to ensure the implementation of the resources of participatory democracy, as well as the focus on the pluralization of the entire system of public administration. The differentiation of territorial and extraterritorial forms of decentralization is justified, the similarities and differences between the principle of subsidiarity and devolution, deconcentration and delegation of powers are revealed. The correlation between the principle of subsidiarity and the characteristics of the state-territorial structure is analyzed. The thesis is formulated that the principle of subsidiarity can be implemented in any multi-level system of organization of public power, functioning on the basis of the synthesis of the principles of solidarity, adaptability, pluralism, autonomy, and democracy. It is concluded that in its synthetic unity, the achievement of

efficiency, the establishment of pluralism and participatory democracy is a paradigm of the principle of subsidiarity.

Simonova Snezhana Vladimirovna, No. 11 2020

Ensuring the reliability of information on the Internet: modern legal foundations and legal practice

Annotation. The paper presents an analysis of Russian legal practice on the issue of dissemination of unreliable socially significant information on the Internet. Based on the study of normative, law enforcement and linguistic sources, the author gives a legal assessment of the property of information reliability, distinguishes this property from related phenomena, and also formulates the conditions for the realization of a legitimate interest in obtaining reliable information. Special attention is paid to the analysis of the materials of the practice of bringing citizens to administrative responsibility for the dissemination of deliberately unreliable socially significant information on the Internet. The author comes to the conclusion that the presumption of unreliability of digital messages and their threat to public order and security is widespread in judicial practice. It is noted that unreliable socially significant information is interpreted in practice through the prism of information that does not correspond to reality, and the burden of proving the truth of messages published on the Internet is usually placed on their distributors.

Chirkov Alexey Vladimirovich, No. 11 2020

Regulation of consumer risks during the conclusion and execution of a smart contract

Annotation. The article analyzes the legal status of the consumer when concluding and executing a smart contract. The author proves the existence of special risks for citizens associated with the conclusion and execution of a smart contract. In particular, the risk of the consumer not understanding the terms of the smart contract, the risk of the smart contract terms being different from the terms of the contract set out in natural language, the risk of the smart contract including terms that infringe on the consumer's rights (unfair contractual terms), as well as special manifestations of regulatory and operational risks in relation to the smart contract are considered.At present, the Russian Federation, as in most foreign jurisdictions, does not have special legal mechanisms aimed at protecting consumers ' rights from these risks. The existing "general" consumer protection mechanisms in the Russian jurisdiction are insufficient.With this in mind, the author suggests mechanisms for each risk aimed at minimizing its implementation and negative

impact on the citizen. The following risk-based approach to the regulation of relations when concluding a smart contract with the participation of a consumer is proposed: a citizen can conclude transactions using a smart contract, provided that the potential losses on the transaction are legally limited (the transaction price is limited) and the legal regulation proposed in the article is introduced, aimed at minimizing the risks considered in the article.

Irina A. Khronova, No. 11, 2020

Problems of applying professional standards in the Russian Federation

Annotation. Within the framework of this study, the author presents the main theoretical and practical problems of applying professional standards in the Russian Federation. In modern economic conditions, the introduction of professional standards is a reasonable and necessary measure, since it allows companies to achieve greater labor productivity, improve the quality of production and products, reduce recruitment costs and strengthen competitiveness. Professional standards contain a detailed description of the knowledge and work skills required by a specialist, while qualification reference books are no longer able to meet modern business requirements. Despite the established legal framework for professional standards, there are a number of problems that need to be resolved in the practice of implementing the provisions of regulatory legal acts in this area. In particular, the issues of regulation of the procedure for the development and implementation of professional standards remained out of sight of the legislator, in addition, the problem of the conceptual and categorical apparatus is obvious. As part of the study, the author developed recommendations for improving the labor legislation of the Russian Federation

Obidin Kirill Vyacheslavovich, No. 11 2020

Electronic evidence: a necessary stage in the development of criminal proceedings

Annotation. Abstract: Digitalization of criminal procedure activity is a complex process that inevitably affects the procedure of proof. One of the most controversial topics in this direction is the possibility of introducing a new type (source) of evidence – electronic evidence. The article discusses various scientific approaches that challenge the necessity of its existence. A point of view is expressed about the possible reasons for this trend. The position of scientists who

advocate the further development and implementation of electronic evidence is supported. The features of the existence of information in electronic form are described. The influence of the derived nature of the virtual space on the information obtained as a result of cognitive activity is analyzed. The problems of distinguishing the information carrier and its content are stated. The article examines the specifics of using information in electronic form in the context of initial and derived evidence. Attention is drawn to the need to develop criteria for electronic proof in the direction of data authentication, as well as the mandatory involvement of persons with special knowledge at certain stages. The foreign experience of using various electronic devices in the process of proving is presented. The widespread introduction of digital audio and video recording technologies is emphasized. The concept of "digital proof" is analyzed.

Artem Chekotkov, No. 11, 2020

Formal and material approaches to the regulation of the procedural status of participants in criminal proceedings: the need to establish a balance

Annotation. The most important task of criminal proceedings is to ensure proper respect for the rights and freedoms of all persons involved in the investigation and judicial review of a criminal case. On the way to its resolution, the desire to formalize in detail an exhaustive list of rights and obligations for each subject of procedural activity is very clearly traced. However, it is also obvious that at the regulatory level it is impossible to provide for all the variety of cases that a particular participant may face in reality. In this regard, when assessing the procedural status of a particular person, it is necessary to take into account not only the provisions of the law dedicated to him, but also his essential (material) position that he occupies in the course of criminal proceedings. Thus, if there are two methods of regulation, it is necessary to ensure their optimal ratio. It is this option that can most fully take into account both the positive and negative aspects of these areas and properly guarantee the rights and freedoms of those involved in the process.

Kucherov Grigory Nikolaevich, No. 11 2020

Discretionary model of legal regulation of termination of criminal proceedings and criminal prosecution: Pro et contra

Annotation. The article deals with the issues of choosing the most effective model of termination of criminal proceedings, analyzes the model proposed in the scientific literature of refusing the discretion of the law enforcement officer when making the appropriate procedural decision. The author, based on the practice of

the European Court of Human Rights, the Constitutional Court of the Russian Federation and the Decisions of the Plenum of the Supreme Court of the Russian Federation, studies the relationship between the principle of justice and the legality of procedural decisions on the termination of a criminal case and criminal prosecution. Based on the results of the study, the author concludes that the discretionary model of legal regulation of the termination of a criminal case and criminal prosecution is an effective means of achieving the purpose of criminal proceedings, allowing the law enforcement officer to make a fair decision taking into account the nature, degree of public danger of the crime, the circumstances of its commission, information about the identity of the person who committed the crime. Refusal of discretion of the law enforcement officer in the matter of termination of the criminal case, not only will not contribute to the humanization of legislation, but will mark the victory of formalism over justice in criminal proceedings.

Zaynutdinov Dinar Rafailovich

Gataullin Anas Gazizovich, No. 12 2020

"The Constitution of Karel Kramarzh": the project of the presidential republic for Russia

Annotation. The article considers the possibility of establishing a presidential republic in Russia after 1917. The article examines the legal position of the conservative-liberal and liberal-democratic camps regarding the applicability of the American constitutional model for the organization of the supreme executive power. The main part of the work is devoted to the analysis of the draft "Constitution of the Russian State", compiled by the Czech statesman Karel Kramarz. The norms of the "Constitution of the Russian State" devoted to the legal status and powers of the head of state are being analyzed. The research methodology includes general scientific methods, such as analysis, comparison, logic techniques, and others. Private law methods allowed us to reveal and explain the meaning of the "Constitution of the Russian State" (the method of legal hermeneutics), as well as to compare the legal categories and institutions that were used by Karel Kramarz to form the presidential republic in Russia (the comparative legal method). The authors conclude that the draft "Constitution of the Russian State" has become one of the specific reflections of "white" constitutionalism.