

FEATURES OF THE DEVELOPMENT OF INDIVIDUAL TAX LEGAL RELATIONS IN THE CONTEXT OF DIGITALIZATION

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Abstract – *The development of digital technologies directly affects changes in the structure of tax legal relations. The significant transformative impact of digitalization is already showing the scientific community and specialists in tax legal relations the prospects for the evolution of tax legal relations themselves. At the same time, tax legal relations have a significant number of varieties and arise in connection with the payment and collection of taxes, the implementation of tax control, pre-trial settlement of tax disputes and in other cases. The central place is occupied by legal relations arising in connection with the payment of tax.*

Key words: *digital technologies, tax legal relations, payment, legal regulation, taxpayer, benefits.*

I. Introduction

An integral element of the legal relationship for the payment of tax is the calculation of the corresponding tax, which is a multidimensional legal category. As a general rule, the taxpayer independently calculates the amount of tax payable for the tax period based on the tax base, tax rate and tax benefits. In this case, there is an established possibility of assigning the corresponding responsibility to the tax authority or tax agent.

Accordingly, the relationship between tax calculation and the substantive side of the tax legal relationship is undeniable. In this case, the legal regulation of this element of taxation is carried out through an indication of the subject obligated to calculate the tax (taxpayer, tax authority or tax agent).

II. Literature review

The participation of a tax agent in tax legal relations involves partial shifting of the taxpayer's responsibilities for calculating and transferring taxes to the budget system to another person (for example, an employer, a counterparty). At the same time, regarding the participation of a tax agent in a tax legal relationship, there is also a very bold position, which involves classifying tax agents as participants, and not subjects of the corresponding legal relationship, due to the technical nature of the functions assigned to him in calculating and transferring taxes to the budget (the taxpayer remains the subject).

An interesting question is the correlation between the categories of calculation and payment of tax. According to the prevailing approach, the stage of tax calculation is replaced by the subsequent stage of tax payment. At the same time, there are 3 positions that do not distinguish between these categories.

So, Y.A. Krokhnina, for example, rightly notes that it is the obligation to calculate tax (and not to pay it) that follows from the fact of the acquisition of an object of taxation or the implementation of financial and economic activities by the taxpayer.

III. Analysis

A.A. Batarin defines the legal category of tax calculation as “a procedural element of the legal structure of a tax, consisting of a certain set of actions (including arithmetic calculations) of a person authorized by the legislation on taxes and fees (taxpayer, tax agent, tax authority), which is his obligation arising as a result of the acquisition object of taxation, and consists in calculating the

amount of tax payable (advance tax payments) for a certain tax period, based on the application of the selected tax rate to the calculated tax base, taking into account the corresponding tax benefits.

A.V. Krasnyukov considers the calculation of tax as an example of the implementation of a separate power of the right to collect tax within the framework of a single tax obligation: the calculation of tax by the taxpayer as the power of the tax authority to demand active behavior from the taxpayer or the power of the tax authority to take its own active actions (depending on who has the responsibility for calculation tax). Within the framework of this study, consideration of tax calculation as a special legal obligation of the subject of tax legal relations is of particular importance.

It should be noted that the responsibilities of taxpayers (and in some cases, tax authorities) are specified in the rules relating to each tax payment. This statement is largely applicable to the obligation to calculate tax.

A.A. Batarin classifies the obligation to calculate tax as a general obligation of a guaranteeing nature (implying positive actions), and also considers it the main responsibility of the taxpayer (tax agent) and the tax authority.

D.V. Vinnitsky classifies the responsibility of the taxpayer (tax agent) for the correct and timely calculation of taxes as organizational-property tax obligations (related to material benefits, as opposed to obligations with a predominance of the organizational element).

Thus, tax calculation is an important component of the content of the tax legal relationship, as well as a mandatory stage of the tax process.

At the same time, the scientific literature notes that the procedural nature of the legal relationship for tax calculation directly follows from the absence of such a sign as the transfer of funds by one entity to another (“the tax payment remains the property of the taxpayer”).

Noting the procedural nature of tax calculation, one cannot help but point out its special place within the tax process (in this aspect the procedural nature of this category is revealed).

IV. Discussion

The calculation of tax within the framework of a complex tax legal relationship actually corresponds to the method of determining the amount of the taxpayer’s obligation to pay the corresponding tax (the basis of the legal relationship for tax payment).

N.P. points out the connection between the calculation of tax and the determination of tax liability. Kucheryavenko (calculation of tax as a specification of the action to determine tax liability). Tax calculation is carried out in relation to the individual tax liability of the taxpayer for a specific tax for a specific tax period.

V.F. Yevtushenko also defines the calculation of taxes as actions to determine the amount of tax liability. At the same time, A.A. Batarin correlates the calculation of tax in a broad sense (considering the use of institutions of offset and refund of overpaid or overcharged tax) and “calculation of the entire tax liability.”

The methods for determining a taxpayer’s tax payment obligations include the following:

- 1) an independent method of determining the tax liability of the taxpayer (tax agent), which corresponds to the calculation of tax by the specified entities (declarative or non-declarative);
- 2) determination of tax liability by the authorized tax authority (corresponds to the calculation of tax by the tax authority).

The initial determination of the amount of the taxpayer's tax liability by the tax authority has significant advantages over the determination of tax obligations by the taxpayer (tax agent):

- a significant reduction in administrative pressure on taxpayers;
- simplification of tax payment procedures for taxpayers (no obligation to prepare and submit a declaration);
- increasing the efficiency of tax authorities by automating the tax calculation process;

no need for subsequent desk control of tax returns (calculation) due to the absence of the latter in the tax calculation process;

Reducing the risks of incorrectly filling out tax returns (calculations) and, accordingly, the risks of receiving additional fiscal burden in the form of fines or penalties. However, the fact that the determination of the taxpayer's tax liability by the tax authority is carried out only in relation to property taxes of individuals, as well as tax on professional income, is not arbitrary.

Thus, the calculation of tax by the tax authority is ensured through the implementation and use in the activities of tax authorities of software systems that involve automation of the calculation of tax amounts by processing big data systems about the elements of taxation for a specific tax.

Using information from databases about taxable objects and taxpayers, software systems convert the relevant information into the final amount of tax liability.

In the scientific literature, the following stages of tax calculation are distinguished:

1) determination of the tax object (a number of authors do not agree with the identification of this stage, since the tax object is primarily a legal fact necessary for the emergence of a tax obligation, which precedes the calculation of the tax);

2) determination of the tax base;

3) choice of tax rate;

4) application of tax benefits;

5) calculation of the tax amount.

At the same time, the expression of the will of the taxpayer is a necessary condition for the formation of a legal structure that affects the calculation of tax.

A necessary condition for automating the determination of the amount of a taxpayer's tax liability by the tax authority is the presence of the following mandatory elements:

clear definition and delimitation of taxable objects (its constituent transactions) related to the taxpayer,

accurate and complete determination of the tax base inherent in a specific taxation object,

precise determination of the size of the tax period (necessary if the taxable object has an incomplete tax period (for example, a car was purchased by an individual in the middle of the calendar year)),

precise determination and application of tax benefits, tax deductions, and other legal categories that are permanent or variable in nature and affect the final amount of tax liability.

Other elements of taxation corresponding to individual stages of tax calculation, including the tax period (in cases where the object of taxation exists for the entire tax period), the tax rate, the procedure for calculating tax, the procedure and timing of tax payment, do not require special specific fixation in this context due to the fact that these elements, within the framework of automation of tax calculation, have constant values in mathematical formulas for calculating specific taxes.

For a long time, the above elements (primarily fixing the object of taxation, the tax base and the tax period) could only be implemented through permitting state institutions (state registration of real estate and vehicles) and interdepartmental interaction of tax authorities and authorized bodies involved in the registration of vehicles and rights on real estate (objects of taxation of property taxes of individuals).

Modern digitalization processes, the latest technological solutions in addition to existing permitting state institutions already make it possible to quite clearly establish such objects of taxation as income, income minus expenses (with the exception of certain non-fixed transactions), as well as determine their valuation (tax base).

This process is facilitated by the development of online payment systems, the introduction of modern systems of administration and control over payments: online cash registers, specialized

applications (for example, the creation of the “Yandex” application as part of an experiment to introduce a tax on professional income) and software systems.

Accordingly, the development of digital technologies makes it possible to improve the determination of the amount of tax liability of taxpayers by authorized tax authorities within the framework of legal relations for the calculation and payment of taxes related to the determination of income and expenses.

The tax base is the monetary value of income, which is considered on an accrual basis from the beginning of the tax period (calendar month). An interesting fact is that the legislator, for the sake of convenience in calculating, paying tax and subsequent control, chose a minor tax period. Tax rates are set at 4% of income received from individuals and 6% of income received from individual entrepreneurs for use in business activities and from legal entities.

Tax returns under the specified tax regime are not submitted, tax calculation is carried out by the tax authority independently (tax is determined as the percentage of the tax base corresponding to the tax rate) considering a special tax deduction (up to 10,000 rubles in the amount of 1 (2) percent(s) of the tax base).

When making settlements with clients, the taxpayer transmits information about the settlement to the tax authority, generates a check and transfers it to the buyer (customer) at the time of settlement.

In the case of using the services of an intermediary who does not use cash register equipment at the time of settlements, it is allowed to submit to the tax authority information on each calculation made by the intermediary (or summary information) no later than the ninth day of the month following the tax period. During the same period, it is allowed to generate a check when using non-cash payments (without the use of electronic means of payment).

An important provision is that it is permissible for the taxpayer to manually adjust information about the amount of settlements, leading to an overestimation of tax amounts in two cases: firstly, the return of funds received as payment (advance payment), and secondly, incorrect entry of the relevant information. When adjusting information, the taxpayer also provides an explanation of the adjustment made.

V. Conclusion

Thus, the features of calculating tax on professional income (determining the amount of tax liability under the corresponding special tax regime) are the following circumstances:

independent automated calculation of tax by the tax authority based on data received from the taxpayer on the calculations made (using a special application, a settlement receipt is generated and transmitted);

independent determination by the tax authority of the amount of tax deduction (fixed amount) and, accordingly, reduction of the amount of tax payable;

the permissibility of manual adjustment by the taxpayer of information on calculations, entailing a reduction in the amount of tax liability without negative consequences (primarily tax sanctions);

lack of significance in the formation of the tax base for the taxpayer’s expense transactions;

the inability to reduce the amount of tax payable by other non-fixed amounts paid by the taxpayer (for example, other tax, insurance premium, and so on).

References:

1. Guseva T.A. Tax planning in business: legal regulation. - M., 2007. - 432 p.
2. Davydova M.V., Pantelev A.I. The concept and subject of tax procedural law // Financial law. - 2006. - No. 3. - P. 12 - 18.

3. Efremova T.A. Tax control as a form of tax legal relations // Current issues of economic sciences. - 2009. - P.82–85.
4. Javoronkova N.G., Shpakovsky Yu.G. Digitalization in the field of environmental safety: administrative and legal aspects // Lawyer. - 2019. - No. 4. - P. 14 - 19.
5. Zemskova A.I. On the question of the essence of the human rights function of the state // Society and Law. - 2009. - No. 3. P. 21-27.
6. Izotov A.V. Digitalization of tax legal relations: theoretical and legal aspect / A.A. Izotov // Financial law. - 2021. - No. 1.- pp. 28-31.
7. Ilyushikhin I.M. Concept and signs of tax legal relations // Jurisprudence. - 2000. - No. 2. - P. 127-145.
8. Nikitin E., Marius M.C. Unified Digital Law Enforcement Environment - Necessity and Prospects for Creation in the «BRICS Countries» // BRICS Law Journal. - 2020. - 7(2). - P. 66-93.
9. Nikitin S., Patsatsiya M. Summary Procedures and Optimization of Commercial Court Proceedings in Russia // BRICS Law Journal. - 2019. - 6(2). - P. 108-131.
10. Ranchordas Sofia. The Digitalization of Government and Digital Exclusion: Setting the Scene (April 29, 2020) // University of Groningen Faculty of Law Research Paper, forthcoming in Ferreira Mendes, G. & Blanco de Morais, C. (eds.). *Direito Publico e Internet: Democracia, Redes Sociais e Regulagao do Ciberespago* FGV Publicacoes/IDP/ Univ. Lisboa, (Public Governance 4.0, 2020). - 31 p.