

Organization and Implementation of Public Tax Control in Russia: Modern Problems and Ways to Solve Them

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Abstract

Annotation. This scientific research addresses the issues of the functioning and development of public tax control, which is the most important component in the system of guarantees of both the system of constitutional principles (especially democracy and the participation of Russian citizens in the functioning of the public administration system), and the system of rights, freedoms, legitimate interests of individuals and legal entities in Russia. The necessity of incorporating the institution of public tax control into the Russian legal system is substantiated. The article examines various approaches to defining the concept of public tax control and substantiates its author's definition. The work analyzes modern problems that hinder the development of public tax control in Russia, including: the lack of enshrinement of this institution of civil society in the Constitution; not developing specific forms, methods and types of public tax control measures in the Russian scientific legal doctrine; the lack of real powers among subjects of public control to exercise effective public tax control; lack of specialized subjects of public control in this area; poor use of modern information and communication technologies by these entities in their activities; insufficient funding for their activities from state and municipal budgets; weak use of foreign positive experience in organizing and functioning of control of civil society in this area; the absence of specific measures of responsibility for counteracting the legitimate activities of representatives of subjects of public control in criminal and administrative legislation. The article develops and substantiates a system of measures to resolve these problems by: incorporating public tax control into the Constitution of Russia; its details in Russian legislation; expanding the powers of subjects of public control; creation of special entities in the field of public tax control, independent of tax authorities; using in their activities positive foreign experience in exercising public control in the field of tax legal relations; developing a system of federal programs to develop the organizational, technical and financial base of subjects of public control, increasing their use of modern digital technologies; tightening measures of criminal and administrative liability for opposing the legitimate activities of subjects of public tax control.

Keywords: Public Control, Tax Control, Democracy, Russian Federation, Tax Authorities, Public Inspection, Public Expertise, Public Monitoring, Taxes, Fees.

INTRODUCTION

The problems of civil society control over the public administration system are studied in detail in the works of T. Abramova, [1, pp. 9-14] V. Anikienko, [2, pp. 32-37] N. Beleshev, [4, pp. 12-13] E. Berdnikova, [6, pp. 320-324] E. Burizoda, [9, pp. 104-110] A. N. Dombrovsky, [13, pp. 26-27] V. V. Grib, [29, pp. 154-160; 30, pp. 2-6] I. V. Ivanov, [34, pp. 10-12] I. S. Kalachikov, [35, pp. 434-439] E. Moros, [49, pp. 114-128] E. A. Ognevoy, [51, pp. 43-47] N. S. Rybolovleva, [55, pp. 238-241] J. Zalesny, [67, p. 1; 68, p. 1] as well as many other authors. Special attention to I. E. Belskikh, [5, pp. 28-43] L. A. Bepalaya, [7, pp. 180-189] N. Bondar, [8, pp. 70-77] D. I. Denisov, [11, pp. 102-113] S. Glushkova, [20, pp. 85-97] M. Gorny, [21, pp. 54-75] G. Vasilevich, [23, p. 1] S. Balashenko, [25, p. 1] T. Mikhaleva, [26, p. 1] V. V. Grib, [31, p. 2-5] N. Khrulev, [37, pp. 1252-1254] V. Kikavets, [39, pp. 3-11] A. Kiryanov, [40, pp. 3-6] S. A. Lubennikova, [43, p. 68-76] N. Lyakhov, [44, pp. 51-

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52] N. Maloletkina, [45, pp. 403-406] M. Melnikova, [46, pp. 9-12] D. Mikheev, [47, pp. 176-182] A. Prudnikov, [53, pp. 50-53] I. Pryadkina, [54, pp. 28-30] A. Sakhbieva, [56, p. 1] Yu. Shilov, [58, pp. 40-49] N. Skripnikov, [60, pp. 65-69] E. Svinin, [62, pp. 41-44] I. Teplyashin, [63, pp. 119-125] V. Volkova, [65, pp. 73-78] as well as a number of other scientists pay attention to the functioning of public councils under federal executive authorities. At the same time, a significant place among these public authorities in the country is occupied by tax authorities, the organization of public control in respect of which, in our opinion, a small number of scientific papers are devoted, for example, A. Baichurina, [3, pp. 39-41] V. Chichkanov, [10, pp. 80-91] D. Denisov, [12, pp. 64-68] E. Dyakova, [14, pp. 120-133; 15, pp. 96-117] A. Gavrilova, [18, pp. 133-137] A. Yemelyanov, [16, pp. 17-26] E. Glukhov, [19, pp. 5-13] E. Mikhailova, [23, pp. 23-26] V. Grib, [32, pp. 3-8] Y. Kalyuzhny, [36, pp. 1-12] H. Kiiko, [38, pp. 145-147] E. Konstantinova, [41, pp. 55-58] A. Lipuntsova, [42, pp. 45-47] A. Novikova, [50, pp. 135-138] N. Olkhovik, [52, pp. 8-10] V. Salamatov, [57, pp. 58-64] O. Skomorokh, [59, pp. 276-280] E. Sukhorukova, [61, pp. 26-33] V. Voitov, [64, pp. 104-116] D. Zaikov, [66, pp. 32-39]. The foregoing prompted us to carry out this scientific research, the purpose of which is not only to identify and analyze the problems that impede the functioning of public tax control, but also to determine ways to solve these problems. It is possible to achieve the research goal by solving a number of scientific research tasks, among which are: a) disclosure of the place and role of public control in the system of legal guarantees that ensure not only constitutional principles (first of all, democracy and participation of Russian citizens in the functioning of the public administration system), but also the entire system of constitutional rights, freedoms and legitimate interests of individuals and legal entities in Russia; b) analysis of the main approaches in the domestic scientific and educational legal literature to the definition of the concept of «public tax control»; c) development and justification of the author's definition of the above-mentioned concept, as well as its differences from the concepts of «public financial control» and «public budget control»; d) formalization and analysis of the main problems that hinder the development of public tax control in the Russian Federation; e) development and justification of a system of measures to resolve these problems.

METHODS AND METHODOLOGICAL BASIS OF THE RESEARCH

The methodological basis of the research is a number of scientific methods, in particular: formal-logical; historical-legal; comparative-legal; statistical; sociological; method of studying specific legal situations. The empirical basis of the research was: The Constitution of Russia; norms of international and national legislation; materials of judicial practice; sources of scientific legal doctrine devoted to the analysis of the current state and development of the institution of public control in terms of organizing and conducting its activities in relation to tax authorities.

MAIN TEXT

The existence of a modern democratic state, as we have already noted in previous researches, [27, pp. 78-90; 28, pp. 93-106] implies an increase in the role and importance of a person, his rights and freedoms in the country's legal system. The Russian Federation in the Constitution of 1993 (unlike the previously existing constitutions of the totalitarian USSR) fixed as the highest value of people, his rights and freedoms, which is the main ideological message of Russian statehood. [24, p. 1]. According to the Basic Law of the country, the people of Russia have a fundamental legal status as a source of power and sovereignty in the state, which allows the people to use a wide range of forms of exercising their powers both directly and indirectly, for example, through public administration bodies elected by the people.

However, the powers delegated by the people to public authorities need constant monitoring by civil society so that these powers are not usurped by any public authorities or their officials, as well as so that the exercise of power is carried out by the apparatus of public power as efficiently and effectively as possible in the interests of the majority of the population. At the same time, the activities of public authorities should be aimed, first of all, at the implementation, protection and defense of human and civil rights and freedoms.

Any constitutional principles, as well as the rights, freedoms and legitimate interests of individuals and legal entities may be violated. To prevent such violations, a complex system of guarantees is needed.

This system of guarantees in the Russian Federation is represented by: a system of constitutional norms that minimize the risks of seizure of power and illegal retention of power; a complex mechanism of checks and balances in the public administration system, when public authorities exercise mutual control over each other, not allowing the concentration of power in the hands of any public authority or its official; the system of bodies of constitutional control and supervision (in particular, the President of Russia, the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, prosecutors); system of civil society institutions.

A key element of Russian civil society at the present stage of its development is the possibility of participation of individuals and a number of categories of legal entities in the mechanism of control over the activities, decisions and acts of not only public administration bodies, but also any entities endowed by public administration bodies with the rights to exercise their individual powers.

The most important rights and freedoms of the citizens of our country are tax rights and freedoms. (tab. 1)

Table 1. Basic tax rights of citizens of the Russian federation.

Information tax rights	Tax rights to tax preferences	The right to protect their tax rights and freedoms
The right to receive free information on taxes and fees from the tax authorities	The right to tax benefits	The right to self-defense of their tax rights and freedoms The right to represent one's tax rights and freedoms to the tax authorities in person or through a representative
The right to receive written explanations from public authorities on tax legislation		The right to submit explanations to the tax authorities The right to attend an on-site tax audit
The right to receive copies of tax audit reports	The right to a deferral, installment payment of taxes, as well as an investment tax credit	The right to require the tax authorities to comply with tax legislation
The right to tax secrecy		The right to appeal tax acts to higher public authorities or to the court
The right to use the services of multifunctional centers providing state and municipal services to submit documents and information to the tax authorities	The right to refund overpaid amounts of taxes and fees	The right to compensation for losses from illegal activities of tax authorities The right to participate in the process of consideration by the tax authorities of tax audit materials
The right to use the Public Services website on the Internet to submit documents and information to the tax authorities	The right to a tax deduction	The right not to comply with illegal requirements of the tax authorities

In addition, the most important and ancient type of activity of the apparatus of public power (Since the time of the existence of slave-owning states) is the activity of collecting taxes, fines, excise taxes, penalties, etc., that is, the activity of implementing the fiscal function of the state.

In this regard, it seems that the most important type of public control is public tax control. (tab. 2)

Table 2. Types of public control.

1. Depending on the category of the object of public control		
Control over the activities, acts and decisions of public authorities	Control over the activities, acts and decisions of local governments	Control over the activities, acts and decisions of state and municipal organizations.
		Control over certain types of public relations (For example, those regulated by legislation on elections and referendums)
		Control over certain types of activities (For example, the provision of psychiatric care, financial public control, budgetary public control, tax public control)
2. Depending on the level (Territory of the subject of public control)		
Federal public control	Regional public control	Municipal public control

There are several approaches in the Russian and foreign educational and scientific literature regarding the definition of the concept and content of public tax control, the basis and limits of its implementation.

Firstly, a number of authors classify it as a kind of public financial control. [3, pp. 39-41] This point of view is based on the fact that a significant part of scientists classify state tax control as a type of state financial control. However, a detailed analysis, for example, of paragraphs «б» and «г» of Article 71 of the Constitution of the Russian Federation shows that the spheres of financial and tax legislation are legally delimited as subjects of

competence. However, a detailed analysis, for example, of paragraphs «h» and «g» of Article 71 of the Constitution of the Russian Federation shows that the spheres of financial and tax legislation are legally differentiated as subjects of jurisdiction.

Secondly, a number of scientists attribute public tax control to an element of the development of a high level of tax culture in the country, its compliance with global trends in the universalization and unification of tax legislation. [69, pp. 51-61] In part, this point of view seems fair, since the presence of a developed institution of public tax control indicates a high level of legal culture and legal consciousness of the population, which, both in the person of ordinary citizens and numerous public associations and other non-governmental non-profit organizations, takes part in the organization and implementation of relevant public control measures. However, the purpose of public tax control is still, first of all, to protect the tax rights and freedoms of both citizens of the country and numerous public associations.

Thirdly, according to some scientists, public tax control acts in the form of preliminary state tax control, [48, pp. 23-26] due to the fact that the tax authorities are not so numerous as to ensure tax control everywhere in relation to all objects of tax control in a mode close to real time. And the subjects of public tax control, identifying violations of tax legislation, apply to the tax authorities, which will be able to carry out more extensive and professional measures of state tax control, identify existing violations, take measures to eliminate them, as well as bring the perpetrators to the established legal responsibility.

In our opinion, public tax control, acting as a type of public control in the Russian Federation, is the activity of subjects of public control, carried out with the direct participation of citizens of the Russian Federation, public associations and other non-governmental non-profit organizations, to control in the field of ensuring the economic security of the country and compliance state and municipal fiscal interests. At the same time, public tax control should be distinguished from public financial control, the essence of which is the control of the company over the financial component of the activities of both public authorities and other entities authorized to exercise certain public powers. Public budget control, in turn, focuses on budgetary legal relations in a broad sense, that is, on everything related to the formation, expenditure, as well as expenditure reports, funds from public budgets, as well as budgets of extra-budgetary funds.

Public tax control is devoted, first of all, to the control of civil society over the activities, acts and decisions of all entities authorized by budget legislation related to the formation, expenditure, as well as reports on expenditure, funds from public budgets, as well as the budgets of extra-budgetary funds. (Tables 3-5).

Table 3. Functions of public tax control.

Main Functions	Optional Functions
- Precautionary	- On the development of the system of tax relations in the country
- Preventive	- Diagnostic
- Security	- Predictive
- Anti-corruption	- Information
	- Educating

Table 4. Objectives of public tax control.

Main objectives	Optional objectives
- Ensuring the implementation and protection of tax rights, freedoms and legitimate interests of individuals and legal entities in Russia	- Ensuring that the opinions, suggestions and recommendations of individual citizens are taken into account in the formation, consolidation in current legislation and implementation of public tax policy
- Public assessment of the activities, acts and decisions of the tax authorities	- Ensuring that the opinions of non-governmental non-profit organizations are taken into account in the formation, consolidation in current legislation and implementation of public tax policy
	- Ensuring that the opinions of various civil society institutions are taken into account in the formation, consolidation in current legislation and implementation of public tax policy

Table 5. Tasks of public tax control.

Main tasks of public tax control	Optional tasks of public tax control
- Prevention and prevention of tax offenses and crimes	- Fight against corruption in the field of tax relations
- Organization of interaction and cooperation of subjects of public control, citizens, as well as civil society in general, with tax authorities in the Russian Federation	- Formation and development of tax culture and legal awareness of citizens

<ul style="list-style-type: none">- Implementation of civil initiatives aimed at the realization, protection and protection of tax rights, freedoms and legitimate interests of individuals and legal entities in Russia- Ensuring transparency and openness of activities, acts and decisions of tax authorities in the Russian Federation- Ensuring an increase in the efficiency of the work of tax authorities in Russia	
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However, organizing and conducting public tax control activities is associated with numerous problems, including the following:

Firstly, the country's Constitution does not know the concept of "public control". And although numerous changes and additions were made to its text in 2020, allegedly aimed at democratizing the Russian legal system, none of these changes and additions even indirectly secured the possibility of civil society monitoring the apparatus of public power in the country. This circumstance is particularly frightening, since more than 15 years have passed since the adoption of the first laws on public control in Russia (at the time of the adoption of the above-mentioned amendments to the Constitution of the Russian Federation). Over 15 years, this institution of civil society has shown its particular effectiveness as a key guarantee ensuring the implementation of the entire set of not only constitutional principles (primarily democracy and the participation of Russian citizens in the functioning of the public administration system), but also the rights, freedoms and legitimate interests of individuals and legal entities. persons in the country. This problem must be solved by incorporating public control into the entire text of the Constitution of the Russian Federation, focusing, among other things, on its most important component - public tax control.

Secondly, an important problem in the organization and implementation of public tax control is the fact that the concept of «public tax control» is not formalized either in the legislation on public control or in tax legislation, in particular, in the Tax Code of the Russian Federation. There are several ways to solve this problem. On the one hand, it is possible to adopt a separate Federal law on public tax control, removing public tax control from the subject matter of Federal Law dated of 21.06.2014 № 212-FL «On the Basics of Public Control in the Russian Federation». On the other hand, it is possible to detail the provisions on public tax control in the above-mentioned Federal Law, while simultaneously introducing a system of changes and additions to the tax legislation (primarily to the Tax Code of the Russian Federation).

Thirdly, a significant problem is the fact that subjects of public control in general, as well as subjects of public tax control (in particular, the public council under the Federal Tax Service), in fact, are not endowed with any real powers in the exercise of public control (including public tax control). The resolution of this problem will require the country's Public Chamber to analyze modern approaches to the organization and implementation of public tax control (with the development of a system of real powers). These real powers should be included in the legislation on public control. At the same time, even the bodies of people's control in the totalitarian USSR, despite their dependence on party communist organizations, had a set of real powers in relation to violators of Soviet legislation (they could remove officials of enterprises, institutions and organizations from work, impose administrative penalties on them and etc.).

Fourthly, an important problem in the organization and implementation of public tax control is the fact that in the process of organizing and conducting public tax control activities, positive foreign experience in this area is poorly used (especially the experience of countries with strict tax controls and strict measures of legal responsibility for violation of tax laws, in particular, the USA). [22, p. 1] In a number of foreign countries, various information and communication platforms are actively used [17, pp. 331-336; 33, pp. 183-185] where subjects of civil society control over tax legislation and tax authorities interact in real time, when a few hours pass from detecting a violation of tax legislation to taking measures to eliminate it. In addition, it is possible to use the experience of foreign countries in terms of creating specialized subjects of public tax control. Numerous non-governmental organizations and journalistic communities are involved in this activity. Alternatively, in Russia it is possible to create specialized subjects of public tax control, independent of the Federal Tax Service of the Russian Federation and its territorial divisions, for example, public tax inspections (by connecting the Public Chamber of Russia, regional public chambers and regional parliaments, as well as representative bodies of local self-government to the mechanism of their formation).

Fifth, a significant problem is the fact that the system of subjects of public control in Russia has a rather meager property, financial, organizational and technical base of organization and activity. Solving this problem requires not only an increase in financing in this area, but also linking the growth in financing of these costs with an increase in the efficiency and effectiveness of the work of the subjects of public control themselves. This issue requires, in particular, the development and adoption of a whole system of relevant federal programs (by the Government of the Russian Federation). In addition, the process of using modern information and communication technologies by subjects of public control also requires stimulation from the state. This circumstance is especially relevant in connection with the development of various fields of activity (provision of services, performance of works, delivery of goods) using these technologies.

Sixthly, an important problem in the organization and implementation of public tax control is the fact that in the domestic scientific legal doctrine there is no unified approach to defining the concept, content, limits of public tax control, the list of specific forms, methods and types of its activities (even - when comparing it with public financial control, which leads, as we noted earlier, to the fact that a number of authors classify public tax control as a type of financial control, without going into detail of the above issues). The solution to this problem is seen in the fact that the federal authorities, together with the Public Chamber of the country, have developed a system of measures to stimulate scientific and practical research in this area.

Seventh, a significant problem is the fact that criminal and administrative legislation practically does not contain special legal structures that consolidate increased measures of responsibility for countering the legitimate activities of both subjects of public control in general and subjects of public tax control in particular, which requires appropriate amendments and additions to both the Criminal Code of the Russian Federation and The Administrative Code of the Russian Federation, in which, for example, severe criminal liability measures (up to life imprisonment) can be applied to persons guilty of committing crimes against representatives of subjects of public tax control.

CONCLUSION

As a result of the scientific research we carried out, we made a number of conclusions, the most important of which are the following:

Public control in the Russian Federation can be considered a key system-forming guarantee that ensures the reality of the functioning of not only the system of constitutional principles, but also the system of constitutional rights, freedoms and legitimate interests of individuals and legal entities in the country.

In the domestic scientific and educational legal literature, there are several approaches to defining the concept of public tax control, including as: a) a type of public financial control; b) an element of developing a high level of tax culture in the country; c) the form of preliminary state tax control. In our opinion, public tax control should be understood as a type of public control carried out by subjects of public control with the direct participation of citizens of the Russian Federation, public associations and other non-governmental non-profit organizations, for control in the field of ensuring the economic security of the country and compliance with state and municipal fiscal interests.

The functioning of the institution of public tax control in Russia is burdened by a number of problems, the key of which are: ignoring it by the Constitution of the country; the lack of scientific legal developments in Russia that would detail the mechanism for organizing and implementing public tax control; the weak powers of subjects of public control; the absence of special varieties of these entities in the field of control over tax legal relations; poor use of modern information and communication technologies by these entities in their activities; insufficient funding for their activities from state and municipal budgets; the weak use of foreign positive experience in organizing and functioning of control of civil society in this area; the absence of specific measures of responsibility for counteracting the legitimate activities of representatives of subjects of public control in criminal and administrative legislation.

Resolving the above problems will require the development and implementation of a system of measures, the most important of which are: the incorporation of public tax control into the Constitution of Russia; its detailing in Russian tax legislation and legislation on public control; expansion of the system of real powers of subjects

of public control (for example, granting them the rights to bring to administrative responsibility persons guilty of violating tax laws); creation of special entities in the field of public tax control, independent of tax authorities; use in their activities of positive foreign experience in exercising public control in the field of tax legal relations; development of a system of federal programs to develop the organizational, technical and financial base of subjects of public control, increasing their use of modern digital technologies; tightening measures of criminal and administrative liability for opposing the legitimate activities of subjects of public tax control.

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