

## TOPICAL ISSUES OF TEACHING THE “FINANCIAL LAW” DISCIPLINE AT HIGHER SCHOOLS

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Financial Law is one of the most dynamically developing branches of Law in the Russian Federation; it is conditioned by the general tendency of evolutionary processes in various spheres of the State vital functions, including permanently transforming and rearranging socio-economic relations influenced by changing economic conditions. Transition to a completely different economic system became the initial cause of the formation and consolidation of private ownership, which in its turn determines the significance of the financial law rules as a tool to regulate a privities set, establishing responsibilities and guaranteeing rights of the State and of an owner-entrepreneur. Knowledge of the financial law fundamental principles as well as specific provisions of the legislation in the indicated sphere of activities are a necessary part of the professional legal training and determines the importance of the relevant training course.

Financial law as a science and academic discipline emerged in the second half of XIX century. The appearance of this branch of law is the result of development, classification of the accumulated knowledge in the areas of political economy, public finances, administrative law, which resulted in an interdisciplinary course. Thus, K. S. Velsky, describing the general line of the formation of the financial law science, indicates that two basic theories were dominant in West European literature of the period between the second half of XIX century and the beginning of XX century. The first theory rejects the independence of financial law, showing the lack of boundaries between financial law and financial science; the second one, being normative, reduces the problem of financial law science only to the positive legislation study<sup>1</sup>.

The first theory is actually aimed at teaching financial law as a science of finance. Such scholars as L. Stein, G. Jellinek, A. Wagner and such Russian researchers as M. N. Kapustin, I. X. Ozerov, G. I. Tiktin represented this direction. In those cases when the financial law science was considered separately from the financial science, it was usually completely based on the conceptual-categorical system, developed in the framework of the financial science<sup>2</sup>.

<sup>1</sup> Velsky, K. S. *Financial law: science, history, bibliography*. Moscow: Jurist, 1995.

<sup>2</sup> Belikh, V. S., Vinnitsky, D. V. *Tax Law of Russia. Short course*. Moscow: Norma, 2004, p. 319.

Moreover, there is no consensus on the financial law place in the Russian law system. In particular, domestic authors in their scientific developments express some radically different points of view. In accordance with the first point of view the financial law is not an independent branch of law but a part of administrative or constitutional law. Supporters of the second point of view, which is now more popular, acknowledge the financial law as an independent branch of law, but also believe that it separated out from administrative and constitutional law and this separation was due to the specific object of legal regulation and its social significance. The third point of view implies the substantiation of financial rules complexity, regulations of which are legally heterogeneous, and at the same time their content is more aimed at regulating a number of sub-sectors and institutions of legal science.

Proceeding from the above it follows that two inextricably linked parts should be taught to increase the efficiency of students' professional training while studying a single course "Financial Law". The first part is economic, i.e. public finances, and the second is legal, i.e. branches of the law, regulating relations in the sphere of public finance. This practice of integrated financial law teaching exists in many foreign universities.

Introduction of the characteristic features of the financial system functioning parts within the common part of the training course; the basic directions of the state financial policy, forms and methods of its implementation; contents and principles of the state and businesses financial activities is aimed at preparing highly skilled specialists capable of participating in the development of new and adjustment of existing documents, which regulate some individual aspects of financial relations, taking into account certain requirements such as: ensuring the needs of an expanded social production, promoting the rational use of nature, labor, material and other resources, coordination of economic processes.

The main feature of the financial law study is that it presupposes a clarification of the economic substance of financial and economic mechanisms and a number of formal aspects of the legal regulation of their functioning<sup>3</sup>.

The relationship and interdependence of finance and financial law suggest the need to clarify the boundaries of each science subject. The aim of the science of finance is the development of category-conceptual system that defines the basic terms of financial performance, identification of the economic substance of finance; in its turn, financial law regulates the correlation of financial and economic relations, their interactions with the social environment, methods of public finance organization, i.e. a system of rules and procedures, legally preparing the necessary regulations.

Special attention at the discipline study should be paid to a number of peculiarities:

- subject of financial law is complex of relations, which forms the financial system of the state, elements of which are not uniform in their content and, consequently, subject to specific to legal regulation;
- financial law has no common codified source, which results in the lack of a clear hierarchy of financial law norms in general; on the contrary, the major sub-sectors of the financial law have the status of complex normative entities and its sources have appropriate codes;

<sup>3</sup> Kozyrin, A. N. Taxation of foreign countries. Theory and practice. M.: Manuscript, 1993.

- vertical structure of financial and legal relationships in all levels of public administration and management expands, itemizes and complicates the subject of financial and legal regulation;
- high mobility of financial legislation, due to the constant changing of living conditions of economic entities, the use of financial and legal mechanisms for reforming the diversity of public relations, periodic and changing nature of some financial processes<sup>4</sup>.

The logic of the financial law teaching is as follows: introduction of financial science basis, analysis of the financial law doctrines and its basic principles, analysis of the structure and content of national model of the financial legislation.

The purpose of any course teaching is to adopt the state educational standard of discipline in full. Generalized theoretical material on the most important topics of the course is presented in lectures, focused primarily on the detailed basic aspects of financial relations and summarized representation of the content of legal acts regulating them. Thus, a student, with a teacher's help, must learn to work with the law sources at theoretical lessons, and then study them independently by getting ready for seminars and workshops.

It should be noted that the discipline curriculum is far from perfect. It lacks in practical sessions, which must have been focused on development of self-education abilities; understanding and critical analysis of literature on occupational activity, the use of knowledge to manage financial relations conflicts. The introduction of practical sessions on the legal expertise of legislative acts in the sphere of financial activity, will contribute to developing the skills of comparative analysis and comparison of different normative documents.

Besides, seminars help to consolidate knowledge gained from the study of such courses as constitutional law, administrative law, civil law, a number of economic disciplines, provisions of which formed the foundation for developing certain aspects of the science and discipline "Financial Law". To get ready for seminars and workshops students are encouraged to undertake independent research of financial and legal categories, legal acts regulating the financial relationship. So at students preparation for practical sessions the major attention is paid not to the consolidation of norms of current legislation, but teaching students the methods of legal science that allows them to develop skills to work with normative legal acts applicable to financial activities, to learn to address reasonably disputes arising when economic subjects come into financial and legal relations.

Thus, well-planned lecture material, alternation of practical sessions and seminars held in the form of debate, discussions on the structure and content of laws and regulations, business games, students individual work under the teachers guidance contribute to the most effective mastering of the course.

However, at current conditions, when the financial legislation is being continuously reformed, it is impossible to give learners the knowledge, which would reflect the future state. Therefore, law students must develop the ability to work systematically on repetition, generalization and update of the material under study, and in particular, legislative base, used in future careers.

<sup>4</sup> Kolesnikov, Yu. On peculiarities of financial law teaching. Law and Life, 2006, No. 92 (2).

In addition to the stated above, knowledge of other countries financial legislation, namely, tax and currency, acquire particular significance in the teaching of this particular area of law. This factor is conditioned by the fact that modern economy is characterized by a high degree of business internationalization, the intensification of integration processes both at the level of public authorities and individual businesses. These are the most important issues that arise at studying the “Financial Law” discipline; therefore the correction of educational process taking into account these features will improve its efficiency.

#### Summary

This article focuses on financial law and its importance as one of disciplines taught at universities in Russia. The author briefly describes theoretical and historical approaches to financial law and its place in the system of legal disciplines, as well as different approaches to teaching of this subject. Afterwards main peculiarities of the financial law, which demand special attention, are pointed out. At the end of the article the author talks about methodology of teaching of financial law and also presents some critical remarks on this sphere.

*Key words:* financial law, financial science, legal, regulation, legislation, constitutional law, independence, study, rule, seminars, teaching