

Features of the Development of Tax Legal Relations in the Context of Digitalization

Guseva T.A., Smetanina E.E., Izotov A.V.*

Oryol State University, Oryol 302026, Russia

**Corresponding author. Email: izotov_av@icloud.com*

ABSTRACT

The article presents the problems of the development of tax legal relations in the context of digitalization. Digitalization has a comprehensive impact on legal phenomena, including tax legal relations, the rights and obligations of participants in tax legal relations, within the national legal systems of developed and developing countries. Of particular importance in the study of tax legal relations in the context of digital transformation is the determination of the features of their development. The digital transformation of tax legal relations has a multidirectional nature, covering all stages of the tax process. The article analyzes the main trends in the development of tax legal relations in relation to all stages of the tax process. The article formulates the foundations for the transformation of tax legal relations, as well as the prospects for the digital development of tax legal relations. The study found that the digital development of tax legal relations is impossible without the creation of effective mechanisms to ensure the rights of taxpayers, implemented, on the one hand, on the basis of digital technologies, and on the other hand, suggesting the inadmissibility of infringement of the taxpayer's rights by defects in the use of information systems.

Keywords: *tax administration, tax legal relations, taxation, digitalization, taxpayer rights*

1. INTRODUCTION

Digital technologies are increasingly penetrating all spheres of public relations. Cloud technologies, blockchain, augmented reality technologies, the Internet of Things, machine learning and artificial intelligence technologies are actively developing; digitalization of business processes, social interaction and political activity is taking place. Law, being the most important social regulator, is also subject to a corresponding global trend [1].

The important development of digital interaction between society and the state is recognized at the highest level of government. So, by the decree of the President of the Russian Federation dated May 9, 2017 No. 203, the Strategy for the Development of the Information Society in the Russian Federation for 2017 - 2030 was approved, within which the formation of the national digital economy is indicated among the most important national interests. At the same time, the Strategy notes the humanistic aspect of the digital economy, which should not infringe on the rights and legitimate interests of citizens.

Digital technologies are of particular importance within the framework of the regulation of tax legal relations, as well as the implementation of tax administration, which is explained by the importance of big data systems and the search for new solutions for processing large amounts of data in order to ensure appropriate legal relations [2].

Digital technologies and information systems are used in a significant number of tax legal relations, ranging from legal relations for the calculation and payment of tax and

ending with legal relations arising in the process of pre-trial regulation of tax disputes.

Projects successfully implemented by the Federal Tax Service of Russia for the development of information technologies in the field of taxation (development of automated VAT control systems using ASK VAT-2; creation of conditions for the administration of a fully digitalized special tax regime - tax on professional income; successful transition of domestic business to online cash and others), as well as subsequent regulatory changes introduced into the legislation on taxes and fees, made it possible to create conditions for the subsequent transformation of tax legal relations [3].

The impact of digitalization on tax legal relations has a multidirectional nature, covering each of the components of the content of the tax legal relationship. The development of digital technologies leads to the emergence of new tax legal relations, new subjective rights and legal obligations of participants in tax legal relations, the transformation of existing rights and obligations, as well as the elimination of certain rights and obligations.

The most important feature of tax legal relations in the context of digitalization is the differentiation of models of tax legal relations within the framework of certain stages of the tax process.

Digital technologies, due to the automation of individual tax procedures, significantly change, simplify the composition of the rights and obligations of subjects of legal relations for the calculation and payment of tax; legal relations arising in the process of tax control or bringing to responsibility for committing a tax offense. At the same

time, the classic models of tax legal relations are also preserved.

So, within the framework of individual legal relations for the calculation and payment of tax, the taxpayer eliminates various obligations. For example, the obligation to submit to the tax authority a tax declaration or calculation (there is no corresponding obligation for taxpayers of tax on professional income; single tax under the simplified taxation system with the object of taxation in the form of income (USN-online); transport tax; land tax [4]; from payers of insurance premiums - individual entrepreneurs).

As part of the legal relationship for the payment of tax, the taxpayer has an exclusive (valid only within the framework of taxation of tax on professional income) the right to provide the tax authority with the right to send instructions to the bank to write off and transfer funds from the taxpayer's bank account in order to pay tax and receive the necessary to exercise the specified powers of information. The corresponding taxpayer's right corresponds to the duty of the tax authority to timely and correctly implement the above actions [5].

A taxpayer - an individual has the right to pay property taxes and personal income tax through the implementation of a single tax payment of an individual. This right corresponds to the obligations of the tax authority for the timely offset of the amount of the single tax payment of an individual against the existing obligations to pay taxes and promptly notify the taxpayer of the decision on offset. The introduction of the legal institution of a single tax payment of an individual can be considered as a stage of a gradual transition to a "proactive" role [6] of the state in the framework of taxation.

At the same time, the classical model of the legal relationship for the payment of tax, which presupposes the commission of active actions to transfer funds to a specific account of the Federal Treasury, is also preserved within the framework of each of the existing taxes.

At present, the transformation of desk audit due to the differentiation of the grounds for its implementation, which qualitatively changes the content of the tax legal relationship arising in the process of tax control: conducting an office audit takes on the character of not only duties, but also the rights of a tax authority. Within the framework of taxation of tax on professional income, the duties of the tax authority in the framework of law enforcement are generally related to the identification of the circumstances of non-compliance of an individual with the requirements for taxpayers and their business operations under this special tax regime.

The transformation of tax legal relations is determined by a change in the model of tax legal relations at an earlier stage of the tax process.

So, a change in the method of calculating tax with the abolition of the obligation to draw up and submit a tax return to the tax authority invariably entails a change in the model of the legal relationship arising in the process of tax control, due, for example, to the impossibility of conducting a desk tax control. And a change in the legal relationship within the framework of tax control entails a

change in the subsequent procedural legal relationship for bringing to tax liability.

The tax authority as a subject of tax legal relations, due to the corresponding transformation, is obliged to focus not on checking the correctness of the data of the tax declaration (calculation), but on checking the completeness and correctness of data on business transactions (other objects of taxation) accounted for in tax accounting, primarily through the use of control - cash register equipment.

The study of digitalization of tax legal relations shows the simplification of individual tax legal relations within the framework of a multi-stage tax process, up to the exclusion of certain legal relations from it.

Within the framework of legal relations on the payment of insurance premiums by individual entrepreneurs who do not have employees, following the legal relationship on the payment of insurance premiums, there are virtually no legal relations arising from the implementation of tax control. This circumstance is connected with the fact that the payer of insurance premiums pays insurance premiums to the budget without submitting a declaration (calculation), in case of discrepancies, the tax authority does not initiate tax control measures or procedural legal relations to bring a person to tax liability, but measures are taken to collect unpaid amounts insurance premiums (a claim is made to the taxpayer to pay insurance premiums, thereby creating a legal relationship associated with the process of collecting insurance premiums arrears).

Also, within the framework of legal relations for the payment of transport tax and land tax by organizations, a simplified model of legal relations related to the implementation of tax control arises, which does not imply the emergence of legal relations for bringing to tax liability. Within the framework of taxation of transport tax, land tax, a message is sent to organizations about the amounts of tax calculated by the tax authorities (a novelty of legislation on taxes and fees) [7].

The development of a non-declarative way of determining the amount of tax liability significantly affects tax legal relations arising in the process of bringing to responsibility for committing a tax offense, or tax tort legal relations [8].

The proof of this statement is the fact that within the framework of legal relations arising from the procedures for bringing to tax liability for the correct calculation and payment of tax, the amount of which was determined in a non-declarative way, the tax authority has no obligation to draw up and send to the taxpayer a tax audit act, as well as follow-up responsibilities in the process of bringing to tax liability.

So, the development of digital communication technologies affects the change in the content of tax legal relations by changing the method of transferring information within the framework of the exercise of rights, the performance of duties by private entities, or enforcement by public entities: paper workflow in the field of taxation is gradually being replaced by turnover over a long period of time with information (documents) in electronic form.

An analysis of the current legislation on taxes and fees shows that within the framework of tax legal relations there are obligations with corresponding rights related to taxpayers and tax authorities and arising exclusively within the framework of ensuring the functioning of digital communication technologies. The relevant duties include: the duty of the taxpayer to provide conditions for receiving documents from the tax authorities in electronic form via telecommunication channels through the operator of electronic document circulation upon reaching the normatively defined conditions by virtue of para. 1 clause 5.1 of Art. 23 of the Tax Code of the Russian Federation (number of employees, classification as one of the largest taxpayers); the obligation of the tax authority to transmit to the taxpayer in electronic form the receipt of the receipt upon receipt of documents submitted to the tax authority through the taxpayer's personal account by virtue of Subclauses 4.1 of cl. 1 of Art. 32 of the Tax Code of the Russian Federation.

The obligation to submit receipts to receive documents (information) in electronic form within the framework of tax legal relations is directly related to the right of the subject of a tax legal relationship to submit the corresponding document in electronic form. In view of this, the normative consolidation of the corresponding obligation, on the one hand, is aimed at ensuring the legality of procedures within the framework of the tax process, and on the other hand, is intended to exclude possible cases of abuse by participants in tax legal relations, consisting in a deliberate unwillingness to accept any documents related to taxation.

The processes of digitalization of tax legal relations also apply to tax liability relations. Tax liability is considered as a legal relationship, the participants of which are the state represented by the tax authorities and the person who committed a tax offense, who is charged with the obligation to endure negative consequences in the form of tax sanctions, which are a monetary penalty (fine).

In this case, the impact of digitalization on regulatory tax legal relations inevitably entails the emergence of relevant law enforcement relations, which is not surprising, given the need to resolve social conflicts arising from the introduction of digital technologies in the field of taxation.

2. METHODS

The study used a wide range of analytical methods for studying tax legal relations - monographic, statistical, structural and others. Particular attention was paid to the study of the transformation of the structure of the tax legal relationship. The analysis used the legislation of the Russian Federation on taxes and fees, regulations of the Ministry of Finance, the Federal Tax Service and others. Materials of research works of branch scientific institutes were actively used.

3. RESULTS

Currently, tax public legal relations within the framework of digital transformation are characterized by the following features:

- a) differentiation of models of tax legal relations within the framework of individual stages of the tax process (differentiation of models of tax calculation, tax payment, tax control);
- b) the determinism of changes in tax legal relations from the earlier stages of the tax process to the subsequent stages of the tax process;
- c) simplification of individual tax legal relations within the framework of a multistage tax process, up to the exclusion of individual legal relations from it (exclusion of duties for calculating tax, submitting a tax return; simplified tax control on insurance premiums, transport, land taxes);
- d) changing the content of tax legal relations by introducing a digital (electronic) method of transferring information within the framework of exercising rights, fulfilling the obligations of participants in tax legal relations;
- e) filling tax legal relations with new rights and obligations of subjects of tax legal relations arising exclusively within the framework of ensuring the functioning of digital communication technologies;
- f) development of legal relations of tax liability associated with the improper use of digital technologies by subjects of tax legal relations.

4. DISCUSSION

In our opinion, the transformation of tax legal relations, including their content, is possible in the direction of a gradual transfer of the obligation to calculate tax from the taxpayer to the authorized tax authority.

The process of transformation of the legal obligation to pay tax (we are talking specifically about the transfer of tax), begun in the framework of the administration of the tax on professional income, is subject to extension to other taxes, which are calculated by the tax authority (property taxes of individuals and others).

Extending the relevant legal mechanism for paying tax to other tax regimes will be a significant step towards "proactive" tax administration. Such an innovation would significantly simplify the activities of many taxpayers.

The creation of such a legal mechanism is not something impossible, taking into account the current level of development of digital systems of tax authorities: already now, automated information systems allow determining the size of taxpayers' tax obligations and payment deadlines, generating the necessary documents to banks, and determining the amount of taxpayer funds in specific bank accounts. At the same time, it is very important to ensure the automation of this process with the possibility of constant monitoring by an official of the tax authority in order to prevent the occurrence of conflict situations.

It should be noted that as part of the study of the issue of digital taxation, Professor Edgar L. Feige has developed the concept of a tax on automated payment transactions, which replaces all existing taxes with a single tax at a low rate, which is imposed on all transactions (payment transactions) and which is calculated as a percentage of the settlement transaction (including income and expense transactions) [9]. The corresponding taxation model is very radical, but at the same time, it does not seem too fantastic given the current level of digitalization of tax administration in the Russian Federation.

It seems necessary to extend the extrajudicial procedure for the collection of tax debts from individuals in the following legal structure: a differentiated procedure for the collection of tax debts: the extension of an extrajudicial procedure to the procedure for collecting tax from the property of a taxpayer - an individual, if the total amount of tax, due, insurance premiums, penalties, fines subject to collection does not exceed 10,000 rubles; a ban on the application by the tax authority against individuals who are not individual entrepreneurs of such an interim measure as the suspension of transactions with bank accounts, as well as electronic money transfers.

Effective processes of digitalization of tax legal relations for the collection of tax arrears will not look complete without solving the problem of out-of-court compulsory collection of tax arrears from individuals without the status of an individual entrepreneur, the introduction of which is long overdue, taking into account modern realities, does not contradict the previously expressed positions of the Constitutional Court of the Russian Federation and is expedient from the position of ensuring a balance of private and public interests.

An important basis for the development of digitalization of tax legal relations is the integration of operational control into the tax control system, which continues the trend towards digitalization of tax administration and involves the construction of a contactless automated tax control system. At the same time, the existing legal mechanisms of the institution of tax control, procedures for bringing to tax liability and the principles of establishing tax liability are able to ensure the efficiency and promptness of the corresponding integration without significant regulatory changes.

At the same time, it should be noted that within the digital development of tax legal relations, effective mechanisms are needed to ensure the rights of taxpayers. Thus, technical failures (imperfections) in the functioning of individual components of digital systems of tax administration used in law enforcement cannot be covered by the concept of entrepreneurial risk, which is why there is currently a need for normative consolidation of additional guarantees for ensuring the rights of taxpayers, implying, firstly, the absence of negative consequences for taxpayers from violations in the functioning of information systems of tax authorities, and secondly, the obligation of tax authorities to independently eliminate the violated rights of a taxpayer in situations of such failures.

As part of ensuring the rights of taxpayers, the introduction of online technologies for participation in the

tax process is an additional guarantee of ensuring the rights of the taxpayer to protect their own legitimate interests, as well as an important element of ensuring public interest through the openness of interaction between tax officials and taxpayers. In this case, the legal structure of delegated rule-making (from the legislator in relation to the authorized state body, that is, the tax authority) makes it possible to ensure better compliance of the regulatory framework for the use of online technologies in the tax process with the rapidly changing conditions of socio-economic and technological development (the emergence of new videoconferencing technologies, domestic software in the field of conferencing, etc.). The corresponding regulatory changes are important in the light of already implemented projects on the possibility of remote participation using digital technologies in the implementation of legal proceedings [10].

5. CONCLUSION

Implemented and planned projects for the digitalization of tax legal relations can significantly increase the efficiency of taxation, as well as significantly simplify the relationship between the state and the taxpayer. The transition to a "proactive" model of tax administration is becoming evident; batch regulatory changes reinforce the trend over and over again. At the same time, the digital development of tax legal relations should be carried out together with the creation of legal mechanisms that ensure the interests of private entities in the field of taxation.

REFERENCES

- [1] V.A. Laptsev, V.V. Fedin, Legal awareness in a digital society, *Russian Law Journal*, 8(1) (2020) 138-157.
- [2] E. Nikitin, M.C. Marius, Unified digital law enforcement environment - necessity and prospects for creation in the «BRICS countries», *BRICS Law Journal*, 7(2) (2020) 66-93.
- [3] E. Makeeva, I. Mikhaleva, Taxation regulation of the BRICS' innovative companies, *BRICS Law J.*, T. 6(1) (2019) 41-62.
- [4] Federal Law of 27.11.2018 N 422-FZ (ed. from 08.06.2020) «On conducting the experiment to establish a special tax regime «Tax on professional income»
- [5] Tax Code of the Russian Federation (part two) of 05.08.2000 № 117-FZ (ed. from 13.07.2020)
- [6] I.A. Tsindeliani, The role of the tax system in the functioning of public finances of the state in the context of the development of digital economy, *The tax system of the Russian Federation in the development of the*

digital economy: legal and economic aspects: Materials of the International Scientific and Practical Conference. Moscow, November 30 - December 1, 2018, Ed. I.A. Tsindeliani, M. 2019, p. 85.

[7] A.A. Tedeev, Russian tax law, Moscow: Yurayt Publishing House, 2020, p. 105

[8] Main directions of budgetary, tax and customs tariff policy for 2020 and for the planning period of 2021 and 2022 (approved by the Ministry of Finance of Russia)

[9] L. Feige. Edgar, Taxation in the Age of Digital Globalization, The Transpartisan Review #2, pp. 48-51 (Date Written: June 1, 2017)

[10] D. Valeev, E. Bazilevskikh, E-Justice and information technologies in civil procedure, BRICS Law J. 5(4) (2018) 175-179.