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THE STAGES OF THE PUBLIC ADMINISTRATION THEORY DEVELOPMENT

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Introduction: *the article is devoted to complex scientific and practical study of the stages of the public administration theory development. The author draws attention to the fact that the study of both theoretical-legal and applied issues of state administration in the field of taxes and fees as well as the elaboration of proposals on improving the system of legal regulation in this sphere based on the study conducted appears to be a theoretically and practically important challenge. **Purpose:** to carry out a comprehensive study of the scientific category “state administration” with regard to the methodology of taxation, legal terminology and application of research results. **Methods:** empirical methods of comparison, description, interpretation, theoretical methods of formal and dialectical logic, specific scientific methods (juridical-dogmatic method and interpretation of legal norms) are used. **Results:** under administrative governance, it is proposed to understand the implementation of the state policy through the system of administrative agencies in which the responsibility for the implementation of the government decisions descends from the top to the bottom. According to the author, public administration is work of the state administration of all branches and levels of power (professional civil servants) aimed at the implementation of public policy. **Conclusions:** it appears that administrative law should perform a secondary function with respect to science of public administration, however this function is not passive. The task of administrative law is to express the basic provisions of science of public administration in the specific legal language in the form of binding norms. Thus, the legal form chosen can have a specifying value for the definition and organization of these provisions. In a sense, the ratio of these disciplines can be seen as a question of form and content.*

Keywords: tax administration; public administration; taxation; tax law; administrative law

Information in Russian ЭТАПЫ СТАНОВЛЕНИЯ ТЕОРИИ ГОСУДАРСТВЕННОГО АДМИНИСТРИРОВАНИЯ

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Введение: статья посвящена комплексному научно-практическому исследованию этапов становления теории государственного администрирования. Автор обращает внимание на то, что изучение как теоретико-правовых, так и прикладных вопросов государственного администрирования в области налогов и сборов и разработка на основе проведенного исследования предложений о совершенствовании системы правового регулирования в данной сфере представляются весьма актуальной, теоретически и практически значимой задачей. **Цель:** всестороннее изучение научной категории «государственное администрирование» с учетом методологии налогообложения, законодательной терминологии, а также результатов научных изысканий. **Методы:** эмпирические методы сравнения, описания, интерпретации; теоретические методы формальной и диалектической логики; частнонаучные методы: юридико-догматический и метод толкования правовых норм. **Результаты:** под административно-государственным управлением предлагается понимать осуществление (реализацию) государственной политики через систему административных учреждений, при этом вертикаль ответственности за выполнение государственных решений предусмотрена по принципу сверху вниз. Государственное администрирование, по мнению автора, – это деятельность государственной администрации всех ветвей и уровней власти (профессиональных государственных служащих) по реализации общественной политики. **Выводы:** административное право должно выполнять по отношению к науке государственного администрирования вторичную функцию, однако функция эта не пассивна. Задача административного права состоит в том, чтобы основные положения науки государственного администрирования выразить специфическим юридическим языком в виде обязывающих норм. Поэтому соответственно подобранные правовые формы могут иметь уточняющее значение для определения и организации этих положений. В определенном смысле соотношение этих дисциплин можно рассматривать как вопрос формы и содержания.

Ключевые слова: налоговое администрирование; государственное администрирование; налогообложение; налоговое законодательство; административное право

The science of administration will search for the new ways of improving the government activities, will make its work less laborious and will put the administration organization in order.

W. Wilson

Introduction

In recent times (at the beginning of the XXI century), the juridical science and other sciences have firmly adopted the term of the “state administrating” in the practice of the Russian Federation state administrations. Sometimes it substitutes for governance and is used in the context of the administrations’ control or supervision activities, or in the context of improving the organization of the state administrating. The analysis of the normative and other acts regulating the legal basis of the state administration activities, allows to report with full

confidence that the term of “administrating” is quite widely used by both the legislator and the law executor. This term, having not been legislatively recorded, is being used practically in all the spheres of the state governing. For this, the legal content of the state administrating gets a new sense and a special meaning and needs further study [1, p. 69].

General Content

The taxation theory and practice started to use the “tax administration” term with transition to the market system of economy. The meaning of this term is not exact while the tasks of the tax administration are quite clearly defined. The reforms introduced recently in the Russian society provided for the necessity to improve the tax legislation and to guarantee its efficient realization.

A need for improving the tax administration mechanism and the forms of the state tax policy realization appears, because being a part of the state finance policy, the tax policy is a complex of the governing, normative, economical and political measures of the state in the tax sphere.

The “tax administration” is a new notion in the taxation methodology, widely used in legislative acts, scientific works and in practice. As of today, there is no single definition for this term, the scientists’ points of view are different on this subject. No single legislative act settles this notion, although it’s worth noting that quite well-known Federal law dd July 27, 2006 №137-FZ¹ that introduced significant changes into Part I of the Russian Federation Tax Code, was accepted, as it appears from its name, in connection with performing the tax administration improvement measures.

To develop it, Federal Law dd July 27, 2010 №229-FZ² was also accepted aimed at regulating the tax, duty, fees and fine arrears and some of the other issues of the tax administration; and Federal Law was accepted dd July 23, 2013 № 248-FZ “About Introducing Changes into Part I and II of the Russian Federation Tax Code and Some Other Legislative Acts of the Russian Federation, and about Declaring Definite Regulations of the Russian Federation Legislative Acts as Repealed”³.

¹ *About Introducing Changes into Part I and Part II of the Russian Federation Tax Code and into Separate Legislative Acts of the Russian Federation in Connection with Implementing Measures on Improving the Tax Administration: Federal Law dd July 27, 2006 №137-FZ // Collection of the Russian Federation Legislative Acts. 2006. №31, Part 1, Article 3436*

² *About Introducing Changes into Part I and Part II of the Russian Federation Tax Code and Some Other Legislative Acts of the Russian Federation, and about Declaring Definite Legislative Acts (Regulations of the Legislative Acts) of the Russian Federation as Repealed, in Connection with the Settlement of the Tax, Duties, Fee, Fine Arrears and Some of the Other Tax Administration Issues: Federal Law of the Russian Federation dd July 27, 2010 №229-FZ // Collection of the Russian Federation Legislative Acts. 2010. №31, Article 4198.*

³ *About Introducing Changes into Part I and Part II of the Russian Federation Tax Code and Some Other Legislative Acts of the Russian Federation, and about Declaring Definite Legislative Acts of the Russian Federation as Repealed: Federal Law of the Russian Federation dd July*

The mentioned laws are aimed at the improvement of the state administrating in the sphere of exercising the tax control, at regulating the tax projects and the paperwork in the taxation sphere, at making better conditions for the tax-payers for paying taxes and fees by them.

In the wide sense, the state administrating in the tax and fee sphere (hereinafter referred to as the tax administration) suggests managing the tax legal relations through conducting a definite state financial and economic policy. The mechanism of the tax administration consists of a number of the legislative, bylaw and instructive rules of behaviour in the defined sphere, imposed on every participant of these legal relations. The purpose of the state administrating in the tax and fee sphere is achieving the maximum possible effect for the budgeting system in regard to the tax revenues, with the minimum possible expenses and in the conditions of the optimal balance of the tax regulation and tax control methods. For this, the study of both the theoretical legal and applied issues of the state administrating in the tax and fee sphere, and, based on that, the development of the proposals on improving the legal regulation system in this sphere, is deemed to be essential, theoretically and practically important problematics.

It is pertinent to note that the study of different sources including legislative acts, scientific publications and developments, monographs, dissertation researches devoted to the issues of the state administrating in different spheres of life, allows to summarize that the problematics is viewed first of all by economists, representatives of the financial, tax, budgetary, customs and other branches.

With this, it was discovered that the issues of the administrative legal regulation of the state administrating were not the subject of the system monograph researches of the scientists dealing with the administration problems.

The analysis of the theoretical and practical aspects of the state administration activities on performing the tax administrating allows to say that the administrative legal regulation in the sphere of the taxes and the fees

23, 2013 №248-FZ // Collection of the Russian Federation Legislative Acts. 2013. №30, Part 1, Article 4081.

is a multiple-aspect problem, and in particular:

– firstly, revealing the legal nature of the legal relations in the sphere in question;

– secondly, the issues of the legal regulation of the material, competence and procedural norms representing a mechanism of the legal regulation in the tax and fee sphere;

– thirdly, the reforms having been implemented in the Russian society in recent years, resulted in the necessity to improve the existing legislation in the sphere researched, and in the necessity to provide for its efficient realization, to improve the administrative-legal mechanism of the tax administering, as well as the forms of the state tax policy realization. With this background, the legal contents of the tax administering gains a new sense, is filled with a special meaning and requires further study;

– in the forth place, we think that in modern conditions of the Russian statehood development, researching the problems of bringing to liability for the offences in the tax and fee sphere is vitally important for both the theory and for the practice that forms it;

– fifthly, the imperfection of the tax legislation: the absence of the necessary legal norms in some cases and, simultaneously, the regulation of similar public relations by different legislation acts– leads to significant difficulties in the law enforcement and to the existence of different official points of view described in legal acts of the supreme courts of the Russian Federation, of the Russian Federation Tax Service and etc.

It is a pity the modern degree of the scientific development of the problem of the administrative legal regulation of the state administering, in particular in the sphere of tax and fees, does not comply with the requirements of the system approach, because the issues of the legal grounds of the activities of all the levels of the state authority of the Russian Federation on the realization of their powers of authority became the subject matter of the scientific study only at the beginning of the 1990s.

The analysis of different sources devoted to the different issues of the legal regulation of the state administering in different spheres of life starting with the person and society and finishing with the state as a whole allows to summarize that the issues of administering are mostly covered by the works of the representatives of the finance, tax, budgetary, customs and other law branches, including economists and politicians, however the administrative

legal aspect of this problematics was left behind the scientific researches.

Addressing the historical background of the problem, we should observe that the fundamental basis of the research is the works of the foreign scientists in the sphere of the administrative state control, including the representatives of the American School, with Woodrow Wilson standing at the origin of it. In 1887 Professor Wilson initiated the theoretical study of the state administration issues in his work “The Study of Administration”. He pointed out that “the science of administration will search for the new ways of improving the government activities, will make its work less laborious and will put the administration organization in order” [6, p. 197]. The ideas of W. Wilson were in many respects shared by American political scientist Frank J. Goodnow.

The representatives of the French school of administration are – J. Burdo, G. Vedel, A. Hauriou, H. Fayol; of the German school - Max Weber. The ideas of M. Weber, W. Wilson and F. Goodnow had a great impact on the development of the theory of the administrative state control in Western countries [3, p. 90].

Most of the modern researchers think that the works of W. Wilson, F. Goodnow, M. Weber meant the beginning of the first phase in the development of the theory of the administrative state control as an independent scientific research area. The chronological framework of the phase can be figuratively defined since the 80s of the past century till 1920.

The second phase in the development of the administrative state control theory continued from 1920 till 1950. During this period, the most popular trends in the theory of the administrative state control were the “classical school” and the “human relations school”. The prominent representatives of the “classicists” are H. Fayol, L. White, L. Urwick, J. Mooney, T. Woolsey. The purpose of the classical school was to develop the principles of the state administrative management. With this, almost all of them judged from the idea that the observation of these principles will result in the success of the state administering in different countries. The most prominent scientists of the “human relations school” were M. Follett, A. Maslow, E. Mayo, W. Murphy.

The third phase in the development of the of the theory of the administrative state control started in the 50s and continues till now. The most powerful trends

of the modern period are behavioural, system and situational. The most prominent representatives of that period were H. Simon, D. Smitsberg, W. Thomson, D. Easton. They started to develop a new approach to the state administrating - the behavioural one.

Since the beginning of the 60s, the system approach started to become very popular in the state administrating, and the works by D. Easton, G. Almond and T. Parsons added much to it. Today, the system approach is one of the most important trends both in the theory of the administrative state management and in the scientific management as a whole, with this, in the author's opinion, the role of this trend will be strengthened.

It is a pity the science of the state administrating was officially acknowledged in Russia not so long ago. In the period of supremacy of the Marxism-Leninism ideology, the state administrating was viewed from the point of the "managing and guiding role of the Party". Such important elements as the target setting, taking the decisions, creating and evaluating the social development plans and programs, were excluded from the state administration competence. The tasks of the state administrating were essentially limited to providing the realization of the Party's decisions accepted with no participation of the government institutions. The state administrating included only executive and regulatory activities, and its meaning was limited to formula "order – execution". The critical comments, alternative searches and other creative moments were not allowed in the activities of the state administration.

This is why the science of the state administrative management was not needed during the years of the Party nomenclature supremacy. It was viewed as the "bourgeois" and knowingly false. The principles and methods of the state administrating in the Western countries were interpreted mostly negatively and with criticism, this is explained by general ideological directives of the previous years. The achievements of the world social thinking in the sphere of the state administrating are still little-known in Russia, because the works of the leading Western scientists are not yet translated into Russian.

That is why it is so important today to research and summarise the experience of the world science development in the sphere of the state administrating and based on this, – to build up the

domestic school of the state administration. We think that the background for its establishment could be found in the works of the famous local law theory scientists: V.B. Isakov, S.S. Alekseev, A.M. Vitchenko, L.S. Yavich, P.S. Elkind, V.M. Gorshenev; the issues of the regime organisation of the state control are researches by D.N. Bahrah, V.A. Gorlenko, A.V. Malko, N.I. Matuzov, S.S. Mailyan, V.B. Rushaylo, E.F. Shansunova, O.S. Rodionov and others; the problem of the administrative legal provision of the state management of the public authority bodies is researched in the works by Y.E. Avrutin, A.B. Agapov, Y.S. Adushkin, A.P. Alekhin, G.V. Atamanchuk, I.N. Bartsits, D.N. Bahrah, I.L. Bachilo, K.S. Belsky, I.A. Vasilenko, N.V. Vitruk, B.N. Gabrichidze, A.A. Grishkovets, A.A. Demin, A.S. Dugenets, A.B. Zelentsov, V.P. Ivanov, V.Y. Kikot, Y. M. Kozlov, A.N. Kozyrin, A.P. Korenev, V.A. Kozbanenko, A.V. Kudashkin, S.S. Mailyan, A.A. Mamedov, V.M. Manokhin, M.Y. Maslennikov, Y.I. Migachev, V.I. Novosyolov, A.F. Nozdrachev, A.V. Obolonsky, E.V. Ohotsky, I.V. Panova, L.L. Popov, B.V. Rossinsky, I.S. Rozanov, N.G. Selishcheva, V.D. Sorokin, Y.N. Starilov, A.A. Starovoytov, V.G. Tataryan, Y.A. Tihomirov, T.Y. Habrieva, N. Y. Hamaneva, A.P. Shirgin, V.A. Yusupov, A.Y. Yakimov, C.A. Yampolskaya and a number of other scientists.

However, the mentioned works view the issues of the administrative legal regulation of the state administration in the most general manner, and as a rule – within the framework of the of the administrative legal organization of management in the administrative political sphere.

For any science, defining its methodological basis is deemed to be very important. The object and the subject are the first to be defined.

The object of the administrative state control (state administrating) is the administrative state activities the sense of which, in our opinion, is in its managerial character and is expressed in the state imperious regulations of all the branches of government. It is pertinent to note that the United Nations Meeting of Experts defined the administrative state activities as "the process of reaching the national aims and targets through the state organizations" [2, p. 43]. With this it was emphasized that the notion of the administrative state activities can

be extended to the administrators of the executive, legislative and court service bodies.

In view of this definition, the subject of the state administrating theory is the scientific justification of the process of attaining the optimal state control through the improvement of such activity organization. American scientist Marshall Dimock in his work "Philosophy of Administration" comes to the conclusion that the modern theory of the state administration is "a new scientific synthesis having a necessary relation to all the fields of knowledge and to all the issues associated with enforcing the official policy and programs" [5, p. 21].

With such an approach, we propose the following definitions.

The administrative state control is performing (realization) of the state policy through the system of the administrative bodies, with this the chain of liability for implementing the state decisions is based on the "top to down" principle. The state administrating is the activities of the state administration of all the branches and power levels (of the professional state officials) on the realization of the public policy.

It must be emphasized that the theory of the administrative state control is a multi-disciplinary science. As our retrospective journey shows, this scientific branch started in the borderline between the theory of politics and management (with the leading role of the politology); subsequently, the achievements were broadly used of other sciences – psychology, philosophy, sociology, jurisprudence. The science of administrative law is most close to the science of the administrative control, because they both study the same activity area – the state administrating. However, the subject of the theory of the administrative state control is the study of the really existing regularities in the administrative activity area, to develop recommendations on this basis, whilst the subject of the administrative law science is, to a large extent, the transformation of these recommendations into legal standards in force.

Conclusions

It appears that the administrative law should perform a secondary function with regard to the

science of the state administrating, although this function is not passive. The task of the administrative law is to formulate the principal regulations of the state administrating science in the juridical language in the form of binding norms. Correspondingly, that is why the chosen legal forms can have a specifying meaning for these regulations developing and establishing. To some extent, the correlation of these disciplines can be viewed around the form and the content.

Let us name some of the principal directions of the state administrating theory concern.

Firstly, the organization of the state management at different levels: national, regional and local. This means the development of the general theory of the state organizations, of the functions of the state management machinery at different levels, the issues of the coordination of the state administration as an integral system.

Secondly, the management training: the issues of the optimal structure of the staff composition of the state machinery officials are researched together with the issues of the human resources management; the requirements are developed for the mentality and the style of work of the professional state officials, the problematics of the leadership, of fighting against bureaucracy.

Thirdly, the development of the state administrating technique: the development of the theory of taking the state decisions, of the methodology of the political forecasting, of administrative state management in crisis and conflict situations, of the technology of relations between the state administration and the mass media.

Further, each of these trends of the state administrating acts as the subject for the scientific study and research: the state administration in the conditions of the market-driven economy, the state administrating of the social processes, finance, taxes, etc.

Based on the mentioned above, the study of issues of the administrative legal regulation of the state administrating in the sphere of the tax and fees is deemed to be a challenging issue having both theoretical and applied importance.

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