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OGÓLNA CHARAKTERYSTYKA FUNKCJI FISKALNEJ PAŃSTWA

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Adnotacja. W artykule, na podstawie wniosków doktrynalnych i przepisów dotyczących istoty, klasyfikacji i rodzajów funkcji państwa, podano charakterystykę jednej z tych ostatnich, a mianowicie funkcji fiskalnej państwa. W rezultacie autor sformułował następujące główne charakterystyczne cechy funkcji fiskalnej państwa: wchodzi ona w skład podsystemu funkcji finansowej, który z kolei jest składnikiem jednej z głównych funkcji państwa – gospodarczej; jego istota sprowadza się do gromadzenia środków w budżetach państwowych i lokalnych oraz ich późniejszego przydziału, czyli dysponowania zasobami finansowymi państwa; odbywa się w celu finansowego zapewnienia funkcjonowania ważnych społecznie obszarów państwa, zapewnienia przez niego wysokiej jakości usług publicznych, a w konsekwencji zapewnienia i zagwarantowania szerokiego zakresu praw i wolności obywateli; oprócz funkcji ekonomicznych i finansowych funkcja ta jest ściśle związana z funkcjami opodatkowania i kontroli finansowej, ponieważ są one w rzeczywistości integralną częścią procesu realizacji funkcji fiskalnej państwa; jest częścią działalności administracyjnej państwa w aspekcie zarządzania zasobami; zawarta na podstawie merytorycznych ram regulacyjnych i prawnych, których podstawą jest przede wszystkim Konstytucja Ukrainy, Kodeks Podatkowy Ukrainy, ustawa Ukrainy „O budżecie państwa Ukrainy” na bieżący rok itp.; realizowana jest za pomocą specjalnych narzędzi – metod i środków, w tym natury prawnej; ma własne formy wyrażenia, które można przedstawić jako procedury przewidziane przez obowiązujące prawo dotyczące gromadzenia środków budżetowych i dalszego dysponowania nimi.

Słowa kluczowe: funkcja państwa, funkcja gospodarcza państwa, funkcja finansowa państwa, funkcja fiskalna państwa, klasyfikacja funkcji państwa, funkcje zewnętrzne państwa, funkcje wewnętrzne państwa, cechy.

GENERAL CHARACTERISTICS OF THE FISCAL FUNCTION OF THE STATE

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Abstract. In the article, on the basis of doctrinal conclusions and provisions on the essence, classification and types of functions of the state, a description is given of one of the latter, namely, the fiscal function of the state. As a result, the author formulated the following main characteristic features of the fiscal function of the state: it is included in the subsystem of the financial function, which in turn is a component of one of the main functions of the state – economic; its essence is reduced to the accumulation of funds in the State and local budgets and their further appropriation, that is, the disposal of the financial resources of the state; carried out for the purpose of financially supporting the functioning of socially important areas of the state, providing them with high-quality public services, and as a result, ensuring and guaranteeing a wide range of rights and freedoms of citizens; in addition to economic and financial functions, this function is closely related to the functions of taxation and financial control, because they are actually an integral part of the process of implementing the fiscal function of the state; is part of the administrative activities of the state, in the aspect of public resource management; is embodied on the basis of a meaningful regulatory framework, which is primarily based on the Constitution of Ukraine, the Tax Code of Ukraine, the Law of Ukraine "On the State Budget of Ukraine" for the current year, and so on; implemented with the help of special tools – methods and means, including those of a legal nature; has its own forms of expression, which can be represented as procedures for the accumulation of budgetary funds and their further disposal, provided for by the current legislation.

Key words: functions of the state, economic function of the state, financial function of the state, fiscal function of the state, classification of state functions, external functions of the state, internal functions of the state, features.

ЗАГАЛЬНА ХАРАКТЕРИСТИКА ФІСКАЛЬНОЇ ФУНКЦІЇ ДЕРЖАВИ

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Анотація. У статті, на підставі доктринальних висновків та положень про сутність, класифікацію та види функцій держави, дано характеристику однієї з останніх, а саме фіскальної функції держави. У результаті автором були сформульовані такі основні характерні ознаки фіскальної функції держави: вона входить у підсистему фінансової функції, яка в свою чергу є складовою однієї з основних функцій держави – економічної; її сутність зводиться до акумулювання коштів до Державного та місцевих бюджетів та їх подальшого асигнування, тобто розпорядження фінансовими ресурсами держави; здійснюється з метою фінансового забезпечення функціонування соціально важливих сфер держави, надання їм якісних громадських послуг і, як наслідок, забезпечення та гарантування широкого спектру прав і свобод громадян; крім економічної та фінансової функцій, ця функція тісно пов'язана з функціями оподаткування та фінансового контролю, адже вони фактично є складовою процесу реалізації фіскальної функції держави; є частиною адміністративної діяльності держави в аспекті управління державними ресурсами; втілюється на підставі змістовної нормативно-правової бази, основу якої насамперед складають Конституція України, Податковий кодекс України, Закон України «Про державний бюджет України» на поточний рік тощо; реалізується за допомогою спеціальних інструментів – методів та засобів, у тому числі правового характеру; має власні форми висловлювання, які можна подати як передбачені чинним законодавством процедури щодо акумулювання бюджетних коштів та подальшого розпорядження ними.

Ключові слова: функція держави, економічна функція держави, фінансова функція держави, фіскальна функція держави, класифікація функцій держави, зовнішні функції держави, внутрішні функції держави, ознаки.

Relevance of the article. Control is a classic element of administrative (management) activity, that is, without control, the management process cannot be recognized as either quality or complete. Control allows you to solve a number of tasks related to determining and evaluating the level of efficiency of the object of management, as well as identifying and stopping possible offenses, in particular violations of labor and service disciplines. Until now, control remains the only, and in a certain sense unique, means of ensuring the high-quality fulfillment of the tasks set and effective monitoring of compliance with and implementation of the requirements of regulatory legal acts. This explains the popularity of the use of control by various actors in both the private and public spheres.

It is fair to say that the state is the main subject of control, this thesis can be explained by its special status and a number of socially important tasks assigned to it. The fact is that having taken on a number of responsibilities to ensure the functioning and development of society, in fact, it must ensure the effective functioning of socially important areas such as economic or health care, without which it is impossible to ensure the constitutional rights and freedoms of citizens. As S. Alekseev rightly noted, the main social purpose of the state is “ensuring the normal, safe functioning of society, creating solid and stable conditions under which the integrity of society and its proper (natural) functioning are achieved mainly due to economic and spiritual factors» (Алексеєв, 2010).

On the basis of the results obtained as a result of the implementation of control activities, the state can be confident in the conscientious exercise by persons of their own rights, freedoms and the fulfillment of their duties, because in order to prevent and counteract offenses, it is not enough only the existence of a mechanism of legal responsibility, it is also necessary to systematically monitor compliance with and fulfillment of legal prescriptions. It follows from the above that control is actively used by many subjects, primarily the state, for the qualitative fulfillment of the declared tasks. Control is a mandatory stage of management, without which it is impossible to obtain positive management results. For its part, research and characterization of fiscal control as a tool for the implementation of this function is impossible without a thorough clarification of their content of the latter.

The purpose of the article is due to the need to determine the content of the fiscal function of the state, by highlighting its characteristic features, for which it is necessary: to determine the functions of the state, to determine the role, significance and essence of the fiscal function in their general system.

Presenting main material. From an etymological point of view, a function is most often considered as an activity or phenomenon, or rather as «an activity, work, an external manifestation of the properties of an object in a system, as well as a role performed by a social institution or process in relation to the whole» (Локшина, 1985) or «a phenomenon that depends on another phenomenon, is a form of its discovery and changes in accordance with its changes, duty, range of activity of something, purpose, role of something» (Бусел, 2003).

In the legal doctrine, the meaning of a function is not associated with a certain permanent object or phenomenon, but is used to denote “the main direction (type) of activity of a certain object (system), which was objectively formed in the process of interaction of an object with the external environment, characterizes the essence of this object and its purpose in context of the preservation and development of the system of which it is an element. A. Marushchak characterizes the functions of the state as a basic category of general legal science – the theory of state and law, which has come a long way of becoming, and was formed under the influence of philosophical

and political opinions¹. The fact is that in jurisprudence, subjects of law obviously prevail over objects, since the state and dynamics of the latter depend on the former, therefore, it is not surprising that such an important category as functions correlates precisely with subjects that implement certain activities reflected in their functions.

A fairly specific subject of the legal system is the state, it is both a subject and a potential participant in legal relations, as well as its own specific functions, reflecting the diversity of its activities. The state systematically carries out its activities in radically different directions – from economical to ecological, because ensuring the functioning of society requires the creation of an opportunity for citizens to satisfy at least the basic needs for the sustainable development of each person and personality. To do this, the state ensures law and order on its territory, creates conditions for effective work, recreation and the full development of each individual. We should agree with the authors of the textbook on the General Theory of State and Law (M. S. Kelman, A. G. Murashin, N. M. Khoma) about the fact that it is the functions of the state that “reflect the real life process of the existence of the state, following from the category “essence of the state”.

One way or another, all its activities are reflected in the functions of the state, therefore it is not surprising that the concept of “functions of the state” was studied by many scientists in the field of the theory of state and law, and all definitions of this concept were based on its definition as areas of activity of the state. So, S. L. Lysenkova and V. V. Kopeychikova consider the functions of the state as “The main directions of the state’s activity, in which its essence, tasks and goals are expressed”. A. V. Zaichuk and N. M. Onishchenko clarify that such directions are determined by nothing more than the social purpose of the state.

A laconic definition of the functions of the state, but with a radically opposite content, is provided by A. I. Denisov: “This is his activity, which differs in subject-political content.” It is interesting that all the above definitions are reflected in the theses of A. V. Malko, who characterizes the functions of the state as “the main directions of its activity, which express the essence and social purpose, goals and objectives of the state in managing society in its inherent forms and methods”.

A. N. Loshchikhina provides a rather capacious definition of the concept under study: the functions of the state are “cardinal, permanent directions and activities of the state, due to the objective needs of social development, its internal and external tasks, in which the essence and social purpose of the state are found and concretized”. A. D. Mashkov is convinced that the functions of the state are “necessary, homogeneous, permanent, expedient areas of state activity, due to the objective needs of social development, taking into account its internal and external tasks” (Машков, 2014).

The fundamental point of view of S. Babaev deserves attention, who provides a definition not of functions, but of the functions of the state as «one of the main activities of the state, as well as the goals, methods, forms and ways of carrying out this activity. The content of any state function in this case consists of the following interacting elements: the subject of the function; function goals; methods, forms and ways of performing the function» (Бабаев, 2001).

R. Shagiev and A. Fedorchenko, providing definitions to the functions of the state, indicate that such activities «are carried out within certain areas of determination of which are due to relevant and socially useful goals, it must be legally regulated and have appropriate organizational support» (Шагиев, 2011). The above definitions make it possible to take a broad look at the content of the functions of the state and determine its relationship with other, no less important categories, such as the task or activity of the state.

With regard to the tasks of the state, it should be noted, that it is they that determine the emergence of certain functions in it (Цвік, Петришин, Авраменко, 2009), the relationship of these two categories is quite well described by G. Shai: «a task is something that requires a solution, and a function is a type of activity aimed at such a solution. In other words, tasks and functions are interrelated, but not identical concepts. In certain historical periods, various tasks and goals of the state become priority, and given this, its various functions. The fulfillment of any task leads to the emergence of others» (Шай, 2014). At the same time, it cannot be considered that the functions of the state are something fleeting, because in the vast majority they are stable, as well as the tasks of the state regarding the comprehensive functioning of society and the creation of conditions for its progressive development remain unchanged. Moreover, although its activities are reflected in the functions of the state, these concepts cannot be identified, despite the fact that a function that is designed to perform large-scale tasks cannot reflect any one or two types of activity, since their implementation will not be enough. Therefore, we support the point of view of O. Kolomoets that «the spheres of state activity and the functions of the state should be distinguished as a whole and a part, since several functions are implemented within each sphere. For example, the economic sphere of the state is characterized by the performance of such functions as the function of issuing money, the function of anti-dumping, the function of ensuring economic security, the tax function, the customs function, etc.» (Коломоєць, 2013).

The above definitions make it possible to form an objective idea of the functions of the state, in particular, to characterize them as such that:

- is a part of the management activities of the state, its response to existing current challenges, tasks facing the state, and the needs of society;
- embody the main directions of the state's activity, and it is necessary to understand that such directions should be global and significant, because it is impossible to identify functions with the activities of the state;
- reveal the essence and purpose of the state, reflect its retrospective and prospective directions of development;
- have social, economic and political significance, regardless of the type of functions, since the state itself in the course of its activities cannot be apolitical; it is literally controlled by certain political forces), asocial (because

¹ Марущак О. А. Формування та становлення наукової категорії «функції держави». *Форум Права*. 2019. № 55 (2). С. 59-69.

all activities are aimed at ensuring an appropriate level the functioning of the population on its territory, as well as not taking into account economic conditions, since it is with the help of the economic sphere that the state has the resources to implement its own functions;

- all functions of the state must have a thorough legislative regulation, and the foundations for their implementation are enshrined in the Basic Law of the state, state, regional and local development programs;

- are stable, as they are closely related to the tasks of the state, most of which, for example, ensuring the rights and freedoms of citizens, are unchanged;

- have their own structure, consisting of the purpose of the function, its subject, methods and means by which it is implemented and forms, that is, their external expression.

The above characteristics not only fully reveal the essence and purpose of the functions of the state, but also allow us to speak of them as management activities carried out by the state. The above is confirmed in a monographic study by O. Bespalova: «during the characterization of any function of the state, not any activity of the state, namely management, comes to the fore. But at the same time, it should be borne in mind that the concept of «function of the state» and «activity of the state» are not identical. This point of view is due to the fact that the direction of activity (function) cannot be understood as the activity itself; this is a certain sphere within which activities can be carried out, thanks to which the essence and purpose of the state is revealed. During the activity of the state in the implementation of a specific function, due to the implementation of certain actions in this direction (that is, in fact, activity), there is a corresponding influence on social relations that function in this area» (Безпалова, 2014).

From an etymological point of view, the adjective fiscal means relating to the interests of the treasury, and the essence of the fiscal function is reduced to «providing financing and providing quality public services as an important component of the population's well-being» (Зимовець, 2010). The above allows us to talk about the fiscal function of the state as a set of actions of various types and types that are carried out in the economic sphere and are of a financial nature, which allows us to connect the fiscal function of the state with economic, financial functions, as well as the functions of taxation and financial control. Our conclusion is confirmed by a number of studies devoted to the legal regulation of the economic and financial sphere.

So, for example, N. Kulchitskaya and V. Tropina consider the fiscal function of the state in the context of the economic function of the state, in terms of the accumulation and allocation of finance (Кульчицька, 2004; Тропіна, 2008). Close to this conclusion is the opinion of D. Nosikov, about the fact that «in the system of the main activities of the modern state; it has been proved that in the systemic and structural terms, the fiscal function of the component of the financial function of the state (along with monetary, monetary, etc.) and, accordingly, the economic function of the state, and its main elements are the tax, customs and budget-penalty subfunctions» (Носіков, 2016). A. Semchik, on the contrary, adheres to the point of view that it makes no sense to distinguish between the fiscal and financial functions of the state (Семчик, 2010). A. Loshchikhina, in her monographic study, refers financial and fiscal functions to the constituent elements of the generalizing economic function (Лощихіна, 2010).

Without going into a deep discussion about the place of the fiscal function in the system of other functions of the state, we note that it is advisable to consider it as a component of the financial function, which in turn is part of the economic function of the state. The fiscal function of the state «consists in the accumulation of state revenues by establishing and collecting mandatory payments (taxes, fees, duties, fines)» (Носіков, 2016), with the help of which funds are accumulated at the level of state and local budgets (Третяк, Бліщук, 2011).

Conclusions. Summing up everything indicated about the essence of the fiscal function of the state, and taking into account the allocation by us of the general features of the functions of the state, we can single out the characteristic properties of the category of the fiscal function of the state:

- is included in the subsystem of the financial function, which in turn is an integral part of one of the main functions of the state – economic;

- its essence is reduced to the accumulation of funds in the State and local budgets and their further appropriation, that is, the disposal of the financial resources of the state;

- is carried out for the purpose of financially supporting the functioning of socially important spheres of the state, providing them with high-quality public ones, and as a result, ensuring a wide range of rights and freedoms of citizens;

- in addition to economic and financial functions, this function is closely related to the functions of taxation and financial control, because they are actually an integral part of the process of implementing the fiscal function of the state;

- is part of the administrative activities of the state, in terms of managing public funds;

- is embodied on the basis of a solid regulatory framework, which is primarily based on the Constitution of Ukraine, the Tax Code of Ukraine, the Law of Ukraine «On the State Budget of Ukraine» for the current year, and so on;

- is implemented with the help of special tools – methods and means, including those of a legal nature;

- has its own forms of expression, which can be represented as procedures for the accumulation of budgetary funds and their further disposal provided for by the current legislation.

During the fiscal function, the practical purpose of taxes that citizens pay is realized, with the help of the accumulation and distribution of which it becomes possible to fulfill the tasks assigned to the state through the implementation of approved state programs at various levels. Moreover, one should pay attention to the fact that the fiscal activity of the state has always been quite vulnerable, as a result of the commission of offenses related to the dishonest payment of taxes by individuals and legal entities. This leads to non-receipt of certain amounts of funds to the country's budgets, the emergence of a budget deficit. Such crimes, as a rule, are characterized by a high level of latency and the presence of a «silent victim» state, but at the same time it is necessary to understand that by harming the state, such damage is automatically inflicted on all its people. Therefore, in the context of this

study, further scientific searches for means of preventing and suppressing offenses in the fiscal sphere are becoming relevant, the main of which is the use of a specific tool – control over the taxation process.

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