

Actual Problems of Institute of Legal Liability for Violation of Financial Legislation in the Republic of Kazakhstan

¹Asel S. Kazhenova, ²Saule S. Kapsalyamova and ¹Baurzhan O. Beremkulov
¹Academy of Law-Enforcement Authorities, General's Office, Astana, Kazakhstan
²L.N. Gumilyov Eurasian National University, Astana, Kazakhstan

Abstract: The problem of liability in the financial law was originated in 50-60 of 20th century. During this period there was discussed the question of emergence and formation of the financial law as independent branch of the right in the Soviet jurisprudence. There was popular a judgment about belonging of the financial law to the state and administrative law. Today the established opinion about emergence of the financial law as separate branch, without separation of it from other branches (such as state or civil) is undisputed, owing to features of a subject of legal regulation, namely the financial relations. The actual question for today is independence and the maintenance of institute of liability in the financial law.

Key words: Finance, violation, liability, institute, financial law, legislation

INTRODUCTION

The offense and liability are interconnected concepts representing cause and effect which are traditionally identified with categories of a crime and punishment. Even taking into account experience of pre-october legal science as the under-branch-wise phenomena, they began to be considered only at 50-60 of 20th century. These problems were interested in jurisprudence only incidentally despite inclusion of legal liability in 1967 as independent subjects in educational programs of law higher education institutions, up to the middle of the 70th year of the last century. Yu.A. Denisov noted that the first and only theoretical work, devoted to an offense is I.S. Samoshchenko's monograph. Similar researches of legal liability began to appear closer by 80 of 20th century (I.S. Samoshchenko, M.Kh. Farukshin "Liability on Soviet legislation" S.I. Bratuss "Legal liability and legality (theory sketch, etc.). Complex researches were appeared approximately, at the same time and also the works devoted to consideration of a problem in broad, philosophical aspect (E.I. Rudkovskiy "Freedom and liability of the personality" 1979, I.A. Minkina "Education by liability", 1990).

At the beginning of evolution of legal liability, there are criminal and civil liabilities. At the following historical stage there are following types: administrative, material and disciplinary (Shershenevich, 1995). Today the listed types are recognized traditional in the general theory of legal liability. However with development of the public relations the specific branches of the right were appeared and institutional components of such branches are started to develop.

The problem of liability in the financial law was originated in 50-60, 20th century. During this period, there was discussed the question of emergence and formation of the financial law as independent branch of the right in the Soviet jurisprudence. There was popular a judgment about belonging of the financial law to the state and administrative law (Arslanbekova, 2011). Today the established opinion about emergence of the financial law as separate branch without separation of it from other branches (such as state or civil) is undisputed, owing to features of a subject of legal regulation, namely the financial relations.

The actual question for today is independence and the maintenance of institute of liability in the financial law. Legal liability is concept the under-branch-wise, i.e., inherent in each branch of the right including financial. According to S.A. Avakyan "existence of measures of liability-it is the same sign of branch as "own" public relations and "own" norms which regulate these relations" (Avakyan, 2000).

For fuller understanding of a role of liability in the financial law it is necessary to give definition. Complexity of studying of this phenomenon consists in ambiguous contents of the term because liability it is not only legal category but also the complex social phenomenon.

Liability, according to Ojegov's explanatory dictionary is necessity, obligation to give somebody the report about actions, acts.

The philosophical and encyclopedic dictionary is defined liability as the philosophical and sociological concept, reflecting objective, historically concrete nature of relationship between the personality, collective, society

from the point of view of conscious implementation of placed to them mutual demands. Also liability can be moral, legal, etc.

From the theory of state and law, it is known that legal liability is a type of social liability. However, the content of legal liability is insufficiently understood and according to it, it is necessary to mark two main directions in understanding of legal liability: supporters of narrow sense of legal liability and supporters of broad sense of legal liability.

The first supporters are connected legal liability only with existence of social and harmful act, i.e., negative and retrospective liability. The brightest representatives are O.S. Iyoffe, M.D. Shargorodskiy and L.S. Yavich, etc.

According to Alekseev, legal liability is also a type of negative liability and he gives the following definition "legal liability is an application to the offender of the measures of the state coercion, provided by the sanction of legal norm which are expressed in the form of deprivations of personal, organizational or property character".

N.I. Matuzov, R.I. Kosolapov, B.S. Markov, P.E. Nedbaylo, N.A. Slobodchikov, etc. are the second group. Here, legal liability is the phenomenon wide, including not only the negative but also positive sides. Prospective liability is presented in the form of lawful behavior of the person, characterized by the positive relation to made acts, i.e., such behavior which excludes violation of legal instructions.

Nedbaylo (1971) marks out the prospective liability as independent, the meaning of which is obligatory to make the actions, conforming to "objective requirements of given situation and objectively caused time ideals".

In this regard, Krashennnikova (1990) gives own definition to legal liability: "legal liability is a law-enforcement obligation of the offender which possesses ability to be executed as a result of the state coercion and attracts for him deprivations of a personal, property or organizational order".

However, today ideas of positive liability are exposed to sharp criticism. We will notice that supporters of retrospective liability don't exclude the stimulating function of the right, however they exclude positive liability as means of the realization of this function, considering it not legal concept but rather ideological. In work "Liability on the Soviet legislation" of I.S. Samoshchenko, M. Kh. Farukshina there is said: "legal liability was always liability for the last accomplished illegal act. Otherwise, it is possible to come to a conclusion that the person doesn't commit the crimes already has legal liability. Scientific considerations

especially interests of practice don't give the grounds for revision of a view of legal liability as an offense consequence".

Supporters of "two-aspect" liability in the financial law are A.V. Andreyev, A.Z. Arslanbekova, A.A. Musatkina, etc. According to Musatkina, research of legal liability is impossible without research of its positive side. Thus, research of prospective liability is necessary to begin the first, only then to pass to research retrospective, so long as "positive legal liability is primary in relation to the negative. It is arisen from the moment of its fixing in the normative legal act".

The supporters of the retrospective direction in the financial law are Yu.N. Beloshapko, M.V. Karasyova, A.I. Khudyakov, V. Yu. Shatov, E.V. Porokhov, etc., act.

Beloshapko (2001) marks out an active in other words-positive liability, however legal liability he considers only as negative. According to his opinion, legal liability comes into effect for the last behavior contradicting social norms. "Its originality is consisted in the inclusion it in the mechanism of regulation of the public relations in connection with the facts of violation of the established rules of conduct or (if there is considered its precautionary role) with possibility of such violation".

Khudyakov considers that the indications defining liability are existence of a negative assessment of act, behavior of the subject and also adverse consequences for him. Thus, legal liability pursues three aims: observance of the financial legislation, protection of financial interests of the state, imposing of the corresponding punishment on the offender. And punishment bears educational and preventive character.

Suleymenov speaking about legal liability, omits widespread concept of so-called positive liability in the theory of the right. He considers that it is not legal liability and it is concerned, most likely to the sphere of moral liability.

The opinion of R.O. Halfina is closest to understanding of the concept of liability who considers that the term "liability" needs to be distinguished from a common homonym where the problem is in philological understanding of the word. Thus, liability in the law gets a retrospective orientation and depends only on existence of an offense. And negative consequences are one of its main characteristics.

The special attention should be paid to permission of the question by I.I. Lukashuk who marks out the problem of sense of justice in the concept of positive liability, so long as its realization requires more perfect level of legal culture. For today the pain of punishment is one of the constraining forces from contempt of norms, otherwise

“the person or the state, compelled to observe legal instructions, inevitably accumulate energy of negative reaction as the right is perceived as something, imposed by external force”.

Thus, it is necessary to recognize negative aspect as basic at studying legal liability in the sphere of violations of the financial legislation and also to differentiate legal terms from the philosophical. Legal liability is a type of retrospective responsibility where the reason for emergence is existence of an offense.

DISCUSSION

The problem of misapplication at use of the state financial resources is very actual for Kazakhstan as from level of efficiency of republican budget performance use of budgetary funds for realization of various directions of a state policy there is depended the level of stability of its financial and budgetary system and as a result, social and economic development of the country. According to strategy “Kazakhstan-2050” “economic policy of a new course is a comprehensive economic pragmatism on the principles of profitability, return from investments and competitiveness” which cannot be realized without effective control after target use of the state funds.

It is necessary to notice that in the Budgetary code of the Republic of Kazakhstan 2004 which became invalid with adoption of the Budgetary code of RK 2008 in item 3 of the Article 132 there was contained the following definition of misapplication at use: “use of republican and local budget funds as a result of which there are not achieved the aims and indicators, provided by the passport of the budgetary program and use of the connected grants guaranteed by the state of loans, state guarantees, assets of the state, money from realization of goods (works, services) of state institutions for the purposes which aren’t provided by regulations of the Republic of Kazakhstan”. However similar definition doesn’t contain in the Budgetary code 2008 and the concept of “misapplication at use of budgetary funds” is mentioned in three articles: Article 190 “use of the budgetary credit” Article 225 “control and liability for use of funds of the loan guaranteed by the state” Article 236 “control and liability for use of funds of the loan, involved under the guarantee of the state”. There should be analyzed the modern budgetary legislation of the Republic of Kazakhstan.

The budgetary code of the Republic of Kazakhstan in the budgetary process is the most important document which sets before itself the purpose of regulation of the budgetary, inter-budget relations, arrangement of basic provisions, the principles and mechanisms of functioning

of the budgetary system, formation and use of budgetary funds and also formations and uses of national fund of the Republic of Kazakhstan.

The structure of the budgetary code of RK consists of the general and special parts, 13 sections, 49 chapters and 245 articles. In the Section No. 1 “Budgetary system”, it is considered the basics of the budgetary system there are given the characteristic of types and levels of the budgetary system it is presented the structure of the budget and also information on reserves of the Government of Kazakhstan. This section is described in detail formation and management of national fund.

In the first section of the budgetary code, it is given the definition and bases of Single budgetary classification. Resolution of the government of RK is considered it in detail.

In the section No. 2, “apportionment of incomes and expenditures between budget levels” are disclosed sources of incomes in the budget, it is given their list and their apportionment between republican and local budgets. It is disclosed budget expenses on the same questions.

The special part of the budgetary code considers an order of planning of the budget of the republic (section 3) and also mechanisms of implementation of budgets (section 4).

Sections 5 and 6 are belonged to rules of the accounting and budgetary accounting. Section 7 is devoted to the mechanism of the state financial control of use of budgetary funds. Sections from 8-12th are considered the characteristic of accounts payable and accounts receivable within use of budgetary funds or their involving. Section 13 is intended for compliance of the budgetary code to the current budgetary legislation.

Regarding regulation of balance of budgets, minus of the budgetary code is that the limit of size of deficiency of local budgets (in % of volume of expenditures of the local budget) isn’t established without financial aid from the republican budget. Also sources of a covering of deficiency of budgets aren’t defined and there isn’t established the limit of size of the borrowed funds, directed for financing of deficiency of budgets. Plus is that in chapter 20 of the 4th section of the Budgetary code of RK, it is provided the mechanism of sequester of expenses. “The sequester of the budgetary programs on the sum <10% from their annual approved volume can be implemented according to the decision of the Government of the Republic of Kazakhstan or local executive body, n the sum over 10% on the basis of the law or the solution of a maslikhat”.

Strength of the budgetary code of RK is existence of reserves. Reserves of the Government of the Republic of

Kazakhstan and local executive bodies are formed in the structure of republican and local budgets for financing of the expenses which aren't planned at developing republican and local budgets owing to their unexpectedness and demanding urgent financing during current financial year.

One of the main unresolved problems is lack of an effective policy of an assessment of efficiency of use by government bodies of financial resources. Use of instruments of the budgeting focused on results is still formal and not coordinated with the budgetary process.

From year to year at consideration of the republican budget implementation it should be noted almost same mistakes and violations, administrators of the budgetary programs don't provide effective use of budgetary funds. As a result, it is not the right time an investment projects are implemented, respectively objects of social and industrial purposes aren't put into operation in fixed periods, state services are low-quality, etc.

The budgetary policy is created on the basis of the following principles: Stability of the income and decrease in dependence of the budget on the world prices for raw materials. Financing of expenses are carried out generally at the expense of not oil income. The oil income will be used in volume of the guaranteed transfer with saving of other part in National fund.

Stability of public finances and prevention of significant increase in debt load of the government. The apportionment of budgetary funds providing the solution of the set social and economic tasks.

According to Karagusova, it is required to improve an order of formation of the budgetary programs and compilation of budgetary application. This offer is caused by that the budgetary programs are so shattered and it is financing of separate measures and in fact they are identical on specifics of economic classification of expenses. Such classification of the budgetary programs doesn't provide flexibility of budget implementation.

Besides, the budget of development and operating costs are financed according to separate budgetary programs in consequence of which neither administrator of the budgetary programs, nor authorized body on budget planning are not predicted in parallel with the budget of development the future operating expenses and maintenance costs of the object after putting it into operation.

At the detailed budgetary classification of expenses, it is very difficult to carry out monitoring of implementation of strategic plan indicators, budgetary programs in course of budget implementation and it is more difficult to estimate influence of the budgetary program results on achievement of the strategic directions at the end of fiscal year.

In this connection, Karagusova offers to form the budgetary programs by group of the measures, directed on the solution of one strategic goal and task for carrying out further the full analysis on expenses.

An author considers expedient that for effectiveness of the budgetary program have to bear liability not only the top management but also and heads of structural divisions of government body.

Therefore, it is necessary to provide transfer of budgetary funds according to the development budgetary programs, realized at the forestalling speed for ensuring flexibility in controlling of budgetary funds during planning period, within the budget on planning period by correction of the budget on planning period according to the results of budget implementation of the current fiscal year for the first half of the year with establishment of the size of a limit of transfer of budgetary funds within one functional group and one administrator of the budgetary programs. Thus, balancing of the budget is offered to be carried out at the expense of the not disbursed sums on the budgetary investment projects, arisen by the objective reasons which aren't depended on the administrator of the budgetary programs.

The share of the profitable enterprises and organizations practically remains invariable despite growth of indicators of economic branches, continuous growth of the income of the budget. As a result corporate income tax was paid 26% of the taxpayers.

The mentioned above facts testify that despite growth of number of taxpayers, existence of considerable tax privileges and preferences, increase in number of the realized investment projects in the regions financed from the budget, there isn't gained the adequate maximal effect regarding increase in tax base from not raw materials sector.

The inspections of calculating committee on control for implementation of the republican budget which are carried out together with auditing commissions of areas, of Astana and Almaty cities are shown that in regions there are huge reserves on local taxes in particular on individual income tax, the property taxes on a transport tax, etc.

The main reason for such picture in the author's opinion is disinterest of local executive bodies in increase in own profitable base of local budgets as today in the republic >60% of the income of local budgets make the transfers allocated from the republican budget. On some regions the share of transfers in the income of local budgets makes >80%. Therefore, fixing of taxes and other kinds of payments on types of budgets remains the one of the main problems in the field of the tax and budgetary policy.

In our opinion, questions of regulation of the interbudgetary relations have to be considered as system consisting of two elements: relations of the republican budget with regional budgets and budgets of Astana and Almaty cities; relations of the regional budget with budgets of the cities of regional submission and regional budgets. Such system approach will allow to do reasonable apportionment of taxes and other payments on types of budgets. Thus, the mechanism of apportionment of taxes on types of budgets shouldn't contradict of the procedures of receipt, tax refund from the budget.

Therefore, all procedures of ensuring of completeness and timeliness of receipt of taxes, fees and other obligatory payments and also procedures of tax administration considered in the Tax code, completely must be coordinated with the principles of the budgetary system and mechanisms of its functioning, in particular the mechanisms of planning, monitoring, execution of the income and expenses of the budget, specified in the Budgetary code of the Republic of Kazakhstan. Such approach will provide coordination of a tax policy with budgetary. It is important in the conditions of significant growth in expenses of the budget for various directions.

The analysis of execution of the law "about the republican budget for 2011-2013" shows that in the law there are generally considered the questions of apportionment of transfers on regions for 2011. Today, it is unreal to estimate execution of the law for three years as the budget is formed in the sliding order. Therefore, all parameters of the republican budget for 2012 and 2013 are changed in the budget for 2012-2014. Law changes were made two times in 2011 and 25 times were made to the resolution of the government. Thus, the specified and corrected budget parameters for 2011 are considerably differing from initial parameters for 2011 to 2012. At such approach it is really difficult to estimate complex budget implementation for fiscal year.

Due to the transition to a new method of planning all government bodies began to make strategic plans with the indication of indicators, criteria and indicators of achievement of the final results for activities.

Thus in the republic, it is necessary to study and estimate fully interaction of the tax and budgetary policy with coordination of the monetary policy. In this regard in our opinion, it is necessary to cancel practice of specification of the budget in financial year and to carry out transition to an assessment of the 3 years budget. It is expedient for this purpose to reconsider the policy of formation of the 3 years budget with improvement of the mechanism of drawing up strategic plans of government bodies.

It is also necessary to improve control and supervising activity, namely to organize active control for the effective use of budgetary funds.

Increase of liability of s is essentially important. According to the Budgetary code of RK, activities of government bodies for the state financial control belong to the budgetary process, however liability of employees of bodies of the state financial control isn't provided in the classifier of violations.

Now the inspector himself defines what to show in Acts of control and he bears liability only for the facts of violations stated in the act. Whereas the inspector has to bear liability for deliberate concealment of the violations and abuses found during audit or to their understating, excess of the powers and also bias of statement of the results of audit, incorrectness and groundlessness of conclusions on audit results and incomplete establishment of material damage.

If after carrying out of audit there are revealed the facts of inefficient use of budgetary funds plunders, etc., on which violations aren't established, the inspectors who were carrying out an inspection and didn't show these facts in the acts together with the head of object of control have to be made responsible.

Improvement of tax system is the most difficult sphere of activity of governmental and power bodies of RK. Therefore, it is necessary the weighed sequence of the taken steps on improvement of tax system which could lead to the planned purposes without considerable losses of the saved-up experience and level of development of economy.

The main tax problems are consisted as follows: the modern tax system is too difficult for understanding of taxpayers and effective management from tax authorities. It inevitably conducts to excessive administrative expenses and generates sophisticated ways of evasion from taxes.

Personal income taxation is characterized by unfair apportionment of tax burden: quite often identical level of the income is followed by the unequal level of taxation. It causes protests from taxpayers and undermines basis of "tax" morals.

High marginal rates of taxes are negatively influenced on the process of adoption of economic decisions. The taxpayers, getting to this group of taxation, lose incentives to work, show interest in "underground" economy and meet with difficulties in accumulation of savings.

The taxation forces the companies to invest means and to reconstruct balance not on economic and for the tax reasons. It has an adverse effect on quality of capital investments and apportionment of limited resources.

Big distinctions in rates of personal income taxation and taxation of corporations compel the companies to make decisions on incorporation on the tax reasons. Discrimination of dividends conducts to that it is more preferable to finance new investments by borrowed funds.

The terms “mistake” and “wrong actions” have been already actively used in the tax code of RK. So, for example in item 5 of Article 69 of tax code of RK, it is used the term “mistakenly presented reporting”. In item 6 of Article 71 it is used the term “technical mistake in the software of bodies of tax administration”. In item 6 of Article 77 of tax code of RK, it is used the phrase “identification of mistakes by results of cameral control”. In item 3 of Article 276-22, it is defined the term “mistakenly submitted application for import of goods and payment of indirect taxes”. In item 4 of Article 601 of tax code of RK, it is defined the term “mistakenly paid tax sum” and there are specified the types of mistakes at payment of taxes to the budget. In item 2 of Article 650 of tax code of RK, it is used the term “mistakenly entered sum”.

However, the legislator doesn't give any definitions to other types of the mistakes made by taxpayers at execution of the tax obligations by them, excepting the concepts “mistakenly paid tax sum and “mistakenly submitted application for import of goods and payment of indirect taxes”. It should be noted that in general in the tax code of RK there is no definition of the concept “tax mistake” and there isn't established any special legal regime of its commission, identification and correction, except for separate cases for the taxpayer or the tax agent. Such exceptional case is for example, extension of term of submission of the tax reporting for period no >3 months in case of detection of technical mistakes in the software of bodies of tax administration which are influenced on timeliness of submission of the tax reporting in electronic form (item 6 of Article 71 of tax code of RK).

Also the legislator doesn't define any special, other than an offense, legal and tax consequences for the taxpayer, commission by him of tax mistakes, their independent detection and (or) correction. At the absence of it all wrong actions of taxpayers at execution of the tax obligations by them are as a rule, qualified by tax authorities and courts as offenses in the sphere of the taxation. As a result, the taxpayer is involved to legal liability as for commission of a full-fledged offense and assign to him the corresponding sanctions for the mistakes made by him.

Thus, the law still doesn't do essential distinctions between wrong non-execution (or inadequate execution) of the tax obligation and guilty for the commission of a tax offense. Estimating last years it is necessary to remember

that the tax system of Kazakhstan was arisen and has been developed in the conditions of an economic crisis from the 1st day of its existence. Constraining an increase of budget deficit in the hardest situation, it provides the functioning of all economic and state machinery of the country allows, though and not trouble-free to finance urgent state requirements, generally executes the current problems of transition to market economy. Experience of development of foreign countries was widely involved to creation of tax system of RK.

Such assessment, given in general, allows more objectively to judge about reality but doesn't cross out a problem of improvement of tax system, its continuous reduction in compliance with the current problems of economic policy.

That is why there are actual problems of improvement and increase of efficiency of tax system. Reflecting dialectics of the market, specifics of local conditions and modern requirements, today they become more difficult and more sharply and they are faced more and more with the solution of essentially new tasks that is connected with increase in use of various functions both taxes and functional features of the mechanism of management of them.

The necessity of continuous overcoming of these natural contradictions, directed on liberalization of methods of state regulation of economy, decrease in the menacing growth of inflation and budget deficit is evident manifestation of action of the law of unity and conflict of oppositions inside of the tax system. Therefore, it is very important the deep analysis of the tax relations which are the most important component of all budgetary financial system.

Harmonization of the tax relations is the maximum rapprochement as a rule not coincident and even opposite interests and the points of view on tax reform of all parties, participating in the course of the taxation (the state, on behalf of public administration and first of all tax on the one hand and taxpayers on behalf of producers of goods and services and their consumers on the other hand). Harmonization of the tax relations is one of the main conditions of successful implementation of any tax reform. As world experience testifies, it is doomed to a failure if the population doesn't consider, it in all respects necessary and fair and at all stages and steps will not resolutely support it.

Harmonization of the tax relations in many respects depends on correctness of a choice of strategy and tactics of tax reform, ability to expect everything, even most remote social and economic and political consequences and risk factors which can cause any

deviations from the fixed parameters, ability accurately to react to these deviations and quickly to correct them by entering into preliminary calculations of necessary amendments.

Thus proceeding their of that tax administration, actually is a tax policy, management of tax reform consists in its legal, organizational and technical and administrative providing as complex taxonomic process from the point of view of timely and economically effective implementation of the program and target tasks provided by its project, minimizing of all possible losses (deviations) on fees and apportionment of taxes; daily control over unambiguous interpretation in all territory of the country and strict observance of requirements of the tax law including on protection of the rights of taxpayers; the operational solution of the questions which were arisen.

The condition of unstable dynamic balance called as harmonization of the tax relations and which is expressed in established under the regulating influence of the market in the optimum that is objectively necessary and sufficient level of tax burden is reached in collision and reduction to a common denominator generally not of coinciding and even opposite interests of the parties participating in the taxation. All this causes objective necessity of close attention to tax system and the deep analysis of the tax relations.

CONCLUSION

Thereby, problems of legal liability can be observed directly in each of its form. And the issue is most acute in the conditions of the modern realities. The specified recommendations and offers could be changed the condition of the economy of the state and will be able to provide wellbeing of the citizens.

In modern conditions the problems of legal liability are actual and they are traditionally remained in number of debatable problems of the theory of state and right.

The financial legislation of the Republic of Kazakhstan is far from perfection. Norms of financial liability are contained in instructions, letters and directions of various ministries, departments which sometimes contradict the principles of justice, legality an individualization and offence. A task of legal sciences is their identification and development of recommendations about improvement of the current legislation and practice of its application.

The importance of the research is confirmed with practice according to which there is ripened necessity of development of new legal system and institute of financial and legal liability. There are particularly acute

the questions of the demarcation of financial and legal liability from other types of legal liability and further strengthening of its independence in system of other measures of the state coercion. The main problems, connected with application of measures of financial coercion are caused by imperfection of their legal regulation. Properly legal mechanism of calling to account for financial offenses isn't developed well the system of responsibility in the sphere of the budgetary, currency, banking legislation and also for violations of cash transactions isn't regulated.

The research objective is consisted in the complex theoretical analysis of legal liability for violations of the financial legislation which would allow defining financial liability in system of legal liability to open its concept, social appointment and means of ensuring. Achievement of a goal is realized through the solution of the following specific objectives: what indications financial liability possesses what criteria allow to allocate financial liability in an independent type of legal liability how financial liability interacts with other types of legal liability; wherein the target and functional mission of financial liability are consisted.

Research is directed on studying and development of a complex problem of the financial liability which is realized in the sphere of tax, budgetary public legal relationship generalization of conclusions of branch jurisprudence on studying of the current legislation regulating institute of legal liability in general and financial in particular and also on development of recommendations about its improvement and application. A subject of the given research is the institute of financial liability and its place in system of legal liability, the current legislation, legal relationship of financial liability.

Application of a structurally functional method is allowed to explain the studied phenomenon by means of disclosure of its functions, having shown that objective role which is carried out financial liability in regulation of the public relations.

Private scientific methods of research were used by authors-comparative and legal, formal and logical, historical, structural and legal and others.

In the course of work there was studied the current legislation of RK, the practice of its application and also the practice of the Supreme Court of RK.

Theoretical basis of the research was made by scientific works in the field of the theory of right, financial, administrative and other branches of law in particular, works of such scientists as Arslanbekova A.Z., Avakyan S.A., Kapsalyamova S.S., Musatkina A.A., Nedbaylo P.E., Porokhov E.V., Halfina R.O., Khudyakov A.I., Shatov V.Yu., Shaukenov A.T., etc.

REFERENCES

- Arslanbekova, A.Z., 2011. About a place of financial and legal liability in system of legal liability. Bull. Dagestan State Univ., 2: 147-154.
- Avakyan, S.A., 2000. Problems of constitutional and legal liability. Bull. MSU. Ser. 11 Law, 3: 83-89.
- Beloshapko, Y.N., 2001. Offence and liability in the financial and tax law of the Russian Federation. Jurisprudence, 5: 54-63.
- Krashennnikova, L.E., 1990. To Definition of Legal Liability. Publishing house of Far Eastern State University, Vladivostok, Russia, Pages: 132.
- Nedbaylo, P.E., 1971. System of legal guarantees of application of the Soviet precepts of law. Jurisprudence, 3: 44-53.
- Shershenevich, G.F., 1995. The General Theory of Law: Manual. Law College of Moscow State University, Moscow, Russia, Pages: 814.