

# Forms of Systematization of Tax Legislation<sup>1</sup>

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## **Abstract**

The article presents the forms of systematization of tax legislation. It explains the substance and object-matter, juridical and economical goals, tasks and challenges of the systematization of tax legislation. As contemporary challenge of the systematization of tax legislation, the article emphasizes the role of the economic unions, in particular Eurasian Economic Union and its related objectives of harmonization and unification of tax legislation among member-states. It defines the notions of harmonization and unification, provides examples and explains the differences between harmonization and unification. The article informs who is in charge of coordination of harmonization and unification of tax regulation among post-Soviet countries. As another challenge of systematization of tax legislation, the study identifies those areas in tax regulation, which remain unresolved at the legislative level despite the constant attention given to them by law enforcement institutions. As an example of such issue, the article discusses the presumption of good faith of the taxpayer in tax relations. The research examines the forms of systematization of tax legislation, in particular, it discusses incorporation, consolidation and codification as forms of systematization of tax legislation. Besides, the article considers different views of researchers regarding including inventory and preparation of a body of law as a separate and distinct forms of systematization. The article defines incorporation, gives its examples, explains the difference between formal and informal incorporation. Furthermore, the study introduces consolidation and gives definition, explains how it differs from other forms of systematization of tax legislation and provides examples of consolidation. As a last form of systemization of tax legislation, the article examines codification. First, the study defines codification, indicates the distinction of codification from other forms of systemization of tax legislation. Afterwards, the study discusses goals and legal definition of codification in different legal acts. As a last part of the research, the article analyzes in detail codification as a form of systematization of tax legislation in the Russian Federation.

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## **Keywords**

tax, taxation, legislation, Tax Code, EAEU member-states, systematization of tax legislation, forms of systematization.

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Bringing a substantial number of laws and other legal acts regulating a range of similar relations into an integrated and ordered system is the essence of systematization of legislation. In other words, systematization puts in order a body of regulatory acts within a specific branch of legislation.

A.S. Pigolkin, a well-known Russian legal theorist, has defined systematization of legislation as “efforts to put in order and improve legal regulations and to bring them to a specific, internally consistent system”<sup>2</sup>.

The significance of systematization in general and systematization of tax legislation in particular lies in the contribution it makes to improving legislation, which may then be readily updated by removing obsolete acts and conflicting standards. This is what researchers refer to as a “clearing” of the normative array<sup>3</sup>.

From the standpoint of a “user” of tax legislation, systematization is valuable because it inevitably simplifies the use of the regulatory array and creates favorable conditions for swift and accurate orientation among a substantial number of acts of tax legislation, thereby facilitating access to tax law.

Finally, systematization of legislation improves the general level of legal education and the culture of law and taxation in a society.

The above objectives represent the juridical goals of systematization of tax legislation. All of them are derived from the economic purpose of systematization: enhanced effectiveness in the legal regulation of taxable relations to ensure the implementation of the fiscal objectives and tasks of the state to the fullest extent possible. Thus, systematization is not an end in itself;<sup>4</sup> it aims at improving the form and content of legislation to implement the tasks set.

A number of practical and technical assignments must be completed in order to reach the legal and economic objectives of systematization of tax legislation as it progresses from “spontaneous systematization” to a planned and meaningful process of improving the form and the content of the legislation.

Improvement of the mechanism for implementing tax legislation has become one of the main tasks of systematization in Russia and is also linked to its other practical goals, such as eliminating conflicts and gaps in legal regulation, refraining from drafting laws and other legal acts concerning only “small” or narrow matters, improving the overall conceptual framework, eliminating “internal conflicts” arising from differences in understanding of the basic terms of tax law, and ensuring compliance with the international legal commitments undertaken by the Russian Federation.

These practical goals for systematization are common to legislative systematization in general, i.e. for improving and bringing order to legislature in any area, including tax legislation.

However, issues of tax policy and regulation in Russia at present necessarily bear on tax legislation and require that the scope of practical objectives for systematization be broadened and revised.

Broadening the systematization of legislation is necessary, first, to take into account the Russian Federation’s membership in the Eurasian Economic Union (EAEU) and the related objectives of harmonizing and unifying tax legislation among the EAEU members.

Harmonization and unification of tax regulation, which are both processes of approximating national tax regulation systems by decreasing or even eliminating differences among them, are important features of any economic union.

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<sup>2</sup> Yuridicheskij Enciklopedicheskij Slovar. Moscow, 1987. P. 422.

<sup>3</sup> *Pigolkin A. S. et al. Sistematizaciya zakonodatel'stva v Rossijskoy Federacii. [Systematization of Legislation in Russia]*, Saint Petersburg, 2003. P. 30–31.

<sup>4</sup> *Ignatieva I.A. Teoriya i praktika sistematizacii ekologicheskogo zakonodatel'stva Rossii. [Theory and Practice of Systematization of the Russian Environmental Legislation]*. Moscow, 2007. P. 11.

Harmonization of tax law and its unification are interrelated but not identical. Harmonization of tax legislation is the broader concept. Approximation of national legislation on taxes and fees (harmonization, in other words) can be carried out through unification of tax law, but harmonization may also go beyond unification. In turn, harmonization of national models of tax legislation presupposes their unification when the states participating in the process undertake certain international obligations.

Unification of legal norms is one of the main activities of international organizations. They help ensure that international agreements provide uniform and “similar” standards that are subsequently to be introduced into the national legislation of the countries that are parties to those agreements. Unification is a norm-setting activity occurring first in international law and then passing into national (domestic) legislation through the implementation of international treaties.

While unification always presupposes the existence of some form of international treaty, approximation (harmonization) of legislation may be achieved not only by means of unification but also in other ways.

Because of fast-developing international economic relations and institutions for regional economic integration, the number of multilateral international treaties and other international legal instruments aimed at unification of tax regulation grows year by year.

International organizations and supra-national structures among post-Soviet countries, including bodies created for the CIS and the EAEU, have been actively involved in these processes. For instance, the “Agreement on the establishment and implementation of the procedure for settlement and distribution of import customs duties (other duties, taxes and fees, having equivalent effect) in the Customs Union” was adopted in Saint Petersburg on May 20, 2010<sup>5</sup>; the “Protocol on the procedure for indirect tax collection and payment control mechanism upon exporting and importing of goods in the Customs Union” was signed in Saint Petersburg on December 11, 2009<sup>6</sup>; other regulations along these lines have also been issued.

The adoption of so-called “model laws” demonstrates another form of unification of tax legislation in post-Soviet countries. In order to unify tax regulation within the CIS, model tax laws have been steadily adopted in recent years. The “Model Tax Code for CIS Member States: General Part (new edition)” was adopted at the 39th Plenary Session of the Inter-Parliamentary Assembly of the CIS in Saint Petersburg on November 29, 2013 (Resolution 39-10).<sup>7</sup> A special part of the model tax code is being adopted in separate chapters devoted to certain taxes and fees, as well as special tax regimes. Between 2001 and 2015, the Inter-Parliamentary Assembly of the CIS has approved a succession of eleven such chapters<sup>8</sup>.

The process of harmonization and unification of tax regulation in post-Soviet countries is coordinated at the level of the Consultative Committee for Tax Policy and Administration established under the Board of the Eurasian Economic Commission.

A further revision to the systematization of tax legislation is required to identify those areas in tax regulation which remain unresolved at the legislative level despite the constant attention given them by law enforcement (courts and tax administration in tax disputes).

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<sup>5</sup> Available at: SPS Consultant Plus (accessed: 15.05.2017)

<sup>6</sup> Available at: SPS Consultant Plus (accessed: 15.05.2017)

<sup>7</sup> Available at: SPS Consultant Plus (accessed: 15.05.2017)

<sup>8</sup> As examples: Model Tax Code. Special Part. Chapter 1. Value-added Tax, November 24, 2002; Model Tax Code for the CIS Member-States. Special Part. Chapter 11. National and Local (Regional and Municipal) License Fees. Available at: SPS Consultant Plus (accessed: 15.05.2017)

Although it may be hard to believe, in the Russian tax law even the principle of the presumption of good faith on the part of the taxpayer, which is one of the principles most frequently invoked in resolving tax disputes, has yet to be established by legislative acts. It has not even received mention in either the Tax Code or any other legislation pertaining to taxes and fees.

The presumption of good faith on the part of the taxpayer has become one of the most important legal means for taxpayers to safeguard their legitimate interests without allowing abuse of taxpayer rights that would infringe the rights and legitimate interests of others.<sup>9</sup>

The presumption of the taxpayer's good faith assumes that any taxpayer is considered to act in good faith and should be protected by all the tools provided for in the tax legislation unless some tax authority can prove malfeasance. Thus, the burden of proof for a taxpayer's malfeasance is imposed on tax authorities.

However, the presumption of a taxpayer's good faith has been applied legally without its being acknowledged in the legislation on taxes and fees. Presumption of a taxpayer's good faith was formulated by the Constitutional Court of the Russian Federation (Decision of the Constitutional Court of the Russian Federation of October 12, 1998<sup>10</sup>; the Ruling of the Constitutional Court of the Russian Federation of July 1, 1999<sup>11</sup>, and others). Since then, this principle of tax law has been further elaborated by jurisprudence (Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation of October 12, 2006, No. 53 "On assessment by arbitration courts of the validity of a tax benefit received by a taxpayer"<sup>12</sup>).

Incorporating the principle of the taxpayer's good faith into Russian legislation on taxes and fees is one of the most urgent tasks at the current stage of systematization of tax legislation.

Choosing the *forms* of systematization of tax legislation is also a critical task.

Because systematization is often seen as a continuous process for improving and streamlining tax legislation, it can be argued that almost all of its forms will eventually be implemented in practice. The challenge in planning systematization is to determine how to employ different forms of systematization of tax legislation in the proper sequence.

When choosing a particular form of systematization, the process should move gradually from simple forms to those that are more complex. Implementing systematization gradually allows the time needed to react to each new form of systematization. Legal theory typically recognizes incorporation, consolidation and codification as forms of systematization.<sup>13</sup> Inventory and preparation of a body of law are also sometimes regarded as separate and distinct forms of systematization, although legal studies have not established any clear status for them.

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<sup>9</sup> The essence of the presumption is that a *defaulting taxpayer* may not use different kinds of benefits and ways of protection provided for in the tax legislation, because their use has directed *exclusively to receiving benefits* provided by tax legislation (*tax benefits*). A *fair taxpayer* receives tax benefits because of their actual social or other socially significant effect of their specific activity, legally recognized substantial for receiving such benefits and applying the protection tools.

<sup>10</sup> Resolution of the Constitutional Court of the Russian Federation of October 12, 1998 No. 24-P "On the case of the constitutionality of Article 11 of the Law of the Russian Federation dated December 27, 1991, "On the foundations of the tax system in the Russian Federation". Available at: SPS Consultant Plus (accessed: 12.06.2017)

<sup>11</sup> Ruling of the Constitutional Court of the Russian Federation of July 1, 1999 No. 97-O "Upon request from the Arbitrary Court of the Nizhny Novgorod region on the constitutionality of the second part of Article 9 of the Federal Law "On the Budget of the Pension Fund of the Russian Federation for 1997". Available at: SPS Consultant Plus (accessed: 12.06.2017)

<sup>12</sup> Available at: SPS Consultant Plus (accessed: 21.06.2017)

<sup>13</sup> They are sometimes referred to as types of systematization. Researchers who emphasize the continuity and sequential aspect of systematization processes may classify them as stages of systematization.

Some researchers do recognize inventory as an independent form of systematization (A. S. Pigolkin and others) and justify that conclusion by referring to the position of the Prosecutor General's Office of the of the Russian Federation on this issue. The Instruction on the Procedure for Systematization of Legislation in Public Prosecution Bodies approved by the Attorney General's Order of April 19, 2004, No. 9 lists among the activities that are part of systematization of legislation: inventory of legal regulations; maintenance of the regulatory framework and codes of the Russian Federation in a state of order; consultancy activities; and development of reference information, including by means of modern information and communication technologies,

A contrasting approach excludes inventory of regulatory acts from the process of systematization (A. V. Mitkevich). Adherents of this view hold that there is at least one fundamental difference between inventory and systematization: systematization presupposes changing and removing regulations, while an inventory does not entail any such actions.

Obviously, systematization should not be limited to inventory of legal regulations, registers and classifications because systematization is always associated with alterations (dynamics) of legislation in form and/or content. However, for incorporation, consolidation and codification to proceed, it is indeed necessary to have precise knowledge of the state of the legal framework at a particular time.

Therefore, an inventory could be characterized as a prerequisite condition or requirement and a preparatory stage for systematization. The value of taking an inventory of legislation is based on its role as a precondition for the successful implementation of any systematization project. Incorporation, consolidation or codification cannot be properly carried out if an inventory of legal acts has not been maintained.

Responsibility for inventorying the legislature concerning taxes and fees can be delegated to the federal executive body authorized to develop public policy and regulate relations pertaining to taxes and fees, which for the Russian Federation is its Finance Ministry. The electronic resources and the official website of the Ministry may be employed for these purposes. The usefulness of this function of the Russian Finance Ministry is in keeping with the very essence of administrative reforms in the Russian Federation, which stipulates that of all the federal executive authorities (ministries, agencies, and services) only the ministries are empowered to develop regulations. And the ministries are therefore the appropriate institution to charge with the task of maintaining the entire array of regulations in each area of public administration.

The Finance Ministry can also turn to the Federal Tax Service (FTS) and other government agencies (for instance, the Research Institute under the Ministry) for assistance in inventorying legislation on taxes and fees.

The objective of making an inventory of regulations on taxes and fees is not limited to collecting and "taking stock" of them, but also includes continual updating of those acts and maintaining them as "effective regulation" that takes into account all the changes and amendments that have been introduced. This function is now performed by privately operated information and legal reference databases (such as "Consultant Plus" and others) that enable filtering regulations on taxes and fees to find those currently in effect while excluding those rescinded or no longer valid.

Some researchers hold that preparation and publication of a body of law<sup>14</sup> is a distinct and independent form of systematization, and they cite certain legal regulations as support for their point of view, in particular the Presidential Decrees of February 6, 1995, No. 94 "On the

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<sup>14</sup> Polenina S., Koldaeva N. Svod zakonov RF kak forma sistematzacii normativnyh aktov // Rossijskaya yusticiya. 1996, no. 12, p. 13-14.

preparation for publication of the Body of Law of the Russian Federation”<sup>15</sup> and of February 14, 1998, No. 170 “On measures to improve efficiency of work on the formation of the Body of Law of the Russian Federation.”<sup>16</sup> However, singling out the Body of Law of the Russian Federation as an independent form of systematization of legislation would be, as noted by I. A. Ignatieva, justified only if the principal features of the Body of Law are legally fixed (for instance, through its validation as a law) in relation to other official collections of acts and statutes.<sup>17</sup>

Incorporation is the form of legal systematization which involves only external revision of the legal regulations; it does not presuppose insertion of any changes in the content of legislation and therefore is a form of “external systematization”.

External revision of legislation through incorporation starts with purging the normative content by removing non-regulatory provisions, various operational orders, and interim rules no longer valid at the time of systematization. The regulations systematized in this way are then grouped in various collections, either by chronological order (i.e. the date of issuance) or by the subject of legal regulation (for instance, acts may be grouped according to the type of taxes and fees, such as by federal, regional and municipal categories; or according to the kind of relations regulated, such as by taxation on real estate, personal taxes, taxation of enterprises, etc.).

Setting up collections of tax legislation was at one time a very common form of systematization, but it is now neglected. However, collections of legislation may contribute to improving the quality of consulting services provided to those involved in legal taxable relations and improve their overall awareness of the state of the regulatory framework for taxation.

Incorporation of legal regulations can be both *formal* and *informal*. When it is formal, the incorporated acts are grouped in collections which are to be approved by the issuing authorities. This form of systematization is rarely used in the Russian Federation.

When the incorporation is informal, the collections are devised and published by interested parties on their own initiative and without any authorization from the competent government bodies. Because of frequent tax reforms and changes in tax rules, informal incorporation of tax legislation has become less valuable (during the Soviet period, informal incorporation was very common and demanded by financial bodies, accounting departments of enterprises, and by individuals). Various legal reference databases that offer updated information on changes in the tax legislation have also played a role in diminishing the status of informal incorporation. However, it would be premature to say that informal incorporation is superfluous. There is still a demand in the practice of law enforcement for guidance from informal incorporation of tax regulations provided that the incorporation employs informed, professional selection of the criteria and principles of systematization. Collections of tax legislation prepared by “manual” selection of the documents rather than mechanically (or automatically) are still in demand.<sup>18</sup>

*Consolidation* is another form of systematization of legislation. It is implemented by merging regulations on one or several matters into a single more comprehensive act. Consolidation addresses a multiplicity of forms of legal regulation by establishing large homogeneous segments in the structure of legislation. What distinguishes this form of systematization is that the new more comprehensive act does not change the content of the legal regulation and does not amend the legislation to be systematized.

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<sup>15</sup> The Act has expired in 2005.

<sup>16</sup> Available at: SPS Consultant Plus (accessed: 24.06.2017)

<sup>17</sup> Ignatieva I.A. Op. cit. P. 17–18.

<sup>18</sup> Collections for international tax law remain popular and demanded in practice, for instance, such the collections of international tax law as the Collection of International Treaties of the Russian Federation to Avoid Double Taxation, published in Moscow in 1995.

There are few examples of this form of systematization in Russian tax law. However, merging the provisions of Federal Law of July 20, 1998, No. 116-FZ “On state control over the compliance of large consumption expenses of physical persons to their actual income”<sup>19</sup> with the first part of the Tax Code of the Russian Federation<sup>20</sup> represents a kind of remedial consolidation.

By merging Federal Law No. 116-FZ with the Tax Code of Russian Federation, an institution of public control has been transformed into a form of tax control, and the Tax Code was enriched with the following three articles:

- Article 86.1 “Tax control over the expenses of physical persons”;
- Article 86.2 “Responsibility of organizations or authorized persons related to the implementation of fiscal control over expenses of a physical person”;
- Article 86.3 “Implementation of fiscal control over expenses of a physical person.”<sup>21</sup>

*Codification* is a more complex form of systematization of legislation, which is associated with internal revision of regulatory content and the development of a new regulatory act. Codification is often called “the pinnacle of systematization”, because it is not limited to “external” codification only; it reflects the results of “internal” systematization, within which the legal regulations are transformed, including by developing new ones and abolishing outdated ones.

The codification process ensures the coherence, comprehensiveness and consistency of legal regulation and elimination of legal incompatibilities; it provides consistency in the conceptual apparatus (or terminology) and elimination of rules that are juridical anachronisms.

Codification, as already noted, deals not only with legal acts (as in the case of incorporation and consolidation), but also and above all with legal norms. During the codification process, norms are made internally consistent, an optimal structure for legislation is proposed, gaps in the current legislation are filled, various amendments concerned with changes in the texts of “corresponding” legal regulations are introduced, the terminology is unified, and technical and grammatical errors and omissions are corrected, etc.

It should be noted that a legal definition of codification exists for EAEU member states that adopted laws on regulatory acts. According to Article 1 of the Law of the Republic of Belarus of January 10, 2000 No. 361-Z “On regulatory legal acts”, codification is defined as a “type of systematization of legal regulations accompanied by revision of the content of legal regulation established by them through merging regulatory acts into a single piece of legislation that establishes standards and that contains systematized provisions aimed at regulating a certain area of social relations.” A codified act is defined in Article 2 of the Law as a “law, which provides overall systemic regulation of a certain area of social relations.”

A codification act is an extensive segment of legislation (legislative act), characterized by a complex structure and substantial volume. Different countries may use different terms to identify a codification act. In the Russian Federation, there is the Tax Code, but in Germany it would be called the Regulation on Taxes. At certain historical stages in the Russian Empire and Soviet Russia, codification acts were referred to as statutes.

Currently, four of five EAEU member states have effective tax codes: the Tax Code of Russian Federation of 1998, the Tax Code of the Republic of Belarus of 2002, the Code of the

<sup>19</sup> Available at: SPS Consultant Plus (accessed: 07.07.2017)

<sup>20</sup> Available at: SPS Consultant Plus (accessed: 07.07.2017)

<sup>21</sup> These articles of the Tax Code have since been abolished by the Federal Law of 7 July 2003 No. 104-FZ “On the abolition of the provisions of the legislative acts of the Russian Federation related to the tax control over expenses of physical persons” // Available at: SPS Consultant Plus (accessed: 07.07.2017)

Republic of Kazakhstan of 2008 “On taxes and other compulsory payments to the budget (the Tax Code)”, and the Tax Code of the Kyrgyz Republic of 2008. In the Republic of Armenia, a draft has to codify act is currently under discussion<sup>22</sup>.

In the Russian Federation, Part 1 of the Tax Code (hereinafter the RF TC)<sup>23</sup> was adopted in 1998, and Part 2<sup>24</sup> two years later, in 2000.

To “apply” Parts 1 and 2 of the RF TC, special operational laws were adopted: Federal Law of July 31, 1998, No. 147-FZ “On the Introduction of Part 1 of the Tax Code of the Russian Federation”<sup>25</sup> according to which Part 1 of the RF TC came into effect on January 1, 1999, and Federal Law of August 5, 2000, No. 118-FZ “On the Introduction of Part 2 of the Tax Code of the Russian Federation and on the Amendments to Certain Legislative Acts on Taxes of the Russian Federation”<sup>26</sup> with an effective date of January 1, 2001<sup>27</sup>.

A codified act, on the one hand, includes rules regulating the most important, fundamental issues that define the legislative framework for a certain branch of legislation; on the other hand, it regulates a wide scope of social (economic) relations. Consequently, the code has both significant regulative value and substantial volume that distinguish it from non-codified acts (the RF TC consists of 51 chapters).

The Tax Code includes both rules already tested in practice (codification is designed to create more sustainable rules with long-term effects) and also new rules inserted because of changes in economic conditions, the dynamics of social activity and urgent needs of development (a consolidated group of taxpayers, foreign-controlled companies, tax monitoring, etc.).

Specific tasks of the “internal systematization” of legal regulation that were carried out in the process of codification explain certain specific features of the Tax Code. First, the Tax Code clearly states the scope of relations regulated by the tax legislation, and this distinguishes the subject of the Tax Code from allied civil, customs and administrative legislation (Art. 2 of the RF TC). Second, the Tax Code contains a glossary of terms (Art. 11, 11.1 of the RF TC<sup>28</sup>), which helps participants in tax relations to understand the main terms and concepts of tax law. Third, the Tax Code establishes (Art. 3 of the RF TC) the principles of tax legislation to ensure uniform approaches to formulating and applying tax norms, as well as to filling in the gaps in the tax law.

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<sup>22</sup> In Armenia at the time of writing the article, non-systematized tax legislation regulated the area of taxation. It is framed with the Law of Armenia “On taxes” adopted in 1997. The Law “On taxes” plays the same role in Armenia as the Law of the Russian Federation “On the foundations of the tax system in the Russian Federation” played in Russian tax legislation. It defines the concept of tax and the types of taxes collected in Armenia, principles of tax law, the procedure for resolving tax disputes and responsibility for a breach of the tax legislation. For each of the taxes in Armenia specific laws were adopted, which, in accordance with the provisions of the Law “On taxes”, regulate collection of certain taxes (Law “On the profits tax”, Law “On the real estate tax”, etc.).

<sup>23</sup> Tax Code of the Russian Federation (Part 1) of July 31, 1998, No. 146-FZ // Available at: SPS Consultant Plus (accessed: 14.07.2017).

<sup>24</sup> Tax Code of the Russian Federation (Part 2) of August 5, 2000, No. 117-FZ // Available at: SPS Consultant Plus (accessed: 14.07.2017).

<sup>25</sup> Available at: SPS Consultant Plus (accessed: 14.07.2017)

<sup>26</sup> Available at: SPS Consultant Plus (accessed: 14.07.2017)

<sup>27</sup> It should be noted, that the operational laws, which brought into force Parts 1 and 2 of the Tax Code of the Russian Federation, provided for different effective dates for certain provisions of the Tax Code.

<sup>28</sup> Technically, the presence of two or more glossary articles in the Tax Code can hardly be considered the best solution. Art. 11 of the RF TC provides for the institutions, concepts and terms used in the RF TC, while the next article (Article 11.1) summarizes concepts and terms related to taxation of hydrocarbon extraction.

The subject matter of codification emerges as a result of the division of the legislative system into branches. In the Russian Federation, systematization of legislation on public finances has proceeded by means of codification at a sub-sectoral level (by enacting budget, tax and monetary legislation).

Codification aims *inter alia* at strengthening the systematic character of regulatory acts along with their unity and coherence. A code guides the category of legislation which emerges in the process of systematization. Defining the term “tax legislation” and establishing the relationship between the Tax Code and other acts of tax legislation, as well as other sources of tax law, therefore represent an important element of codification.

The RF TC (Art. 1) sets out the definition of tax legislation (“legislation on taxes and fees”), establishes the role of the Tax Code in forming the legislative category and stipulates the supremacy of the Code’s provisions over any other legislative rules regulating tax relations.

The federal state structure of the Russian Federation dictated the concept for and the structure of legislation regulating the procedure for collecting taxes and fees.

Article 1 of the RF TC defines the three-level structure of legislation on taxes and fees:

1) Federal level (“legislation of the Russian Federation on taxes and fees”) composed of the Tax Code of the Russian Federation and the laws adopted in accordance with the Code (Federal Laws introducing changes and amendments into the RF TC; operational laws, etc.);

2) Regional level (“legislation of the constituent units of the Russian Federation on taxes and fees”) formed with the laws of the subjects of the Russian Federation on taxes adopted in accordance with the RF TC;

3) Local level (“legal regulations of the municipal entities on municipal taxes and fees”) consisting of municipal legislation on taxes and fees adopted by representative bodies of municipalities in accordance with the RF TC.

It should be emphasized that a legislative act on taxes and fees in the Russian Federation is always a law, understood as an act of supreme legal force at a particular level designated for enacting public law and adopted by the appropriately empowered representative (legislative) body. In other words, acts of legislation on taxes and fees in the Russian Federation can be presented only in the form of federal laws on taxes and fees, laws of the constituent units of the Russian Federation on taxes and fees, or regulatory acts of municipal entities on local taxes and fees adopted by representative bodies of those municipalities. This approach to defining tax legislation distinguishes the RF TC from the tax codes of other EAEU member states, which take a more inclusive approach to tax legislation by placing various by-law regulations (presidential decrees, resolutions of the government and the ministry of finance, etc.) under the category of tax legislation in addition to laws as such.

A codified act usually contains a provision establishing a list of matters regulated by a tax code. In the RF TC, this provision is stated in Paragraph 2 Art. 1, according to which the RF TC establishes a system of taxes and fees, as well as general principles of taxation and fee collection in the Russian Federation, including:

- 1) types of taxes and fees collected in the Russian Federation;
- 2) grounds for originating them (or modifying and terminating them) and the procedure for executing obligations to pay taxes and fees;
- 3) principles of the establishment, introduction, and termination of previously imposed taxes of the constituent units of the Russian Federation and local taxes;
- 4) rights and obligations of taxpayers, tax authorities and other participants in relations regulated by the legislation on taxes and fees;
- 5) forms and methods of fiscal control;
- 6) liability for breaches of tax legislation;

7) the procedure for appealing acts of tax authorities and actions (or failures to act) on the part of their officials.

The juridical function of this norm is more to determine the list of issues to be regulated exclusively by the Tax Code (and not by any other act of tax legislation at a federal, regional or municipal level) than to indicate the content of the Tax Code.

The content of the general part of the codified tax act is consistent with those segments of social relations, which the legislation defines as a subject of tax regulation (Art. 2 of the RF TC):

- setting forth, introduction, and collection of taxes and fees;
- relations arising in the process of fiscal control;
- appeals of acts issued by tax authorities, as well as actions (or failures to act) on the part of their officials;
- prosecution for tax offences.

This legislation establishes the framework for the national tax system by defining such categories as “tax”, “fees” and “special tax regime” and thereby determines the content of the more specialized part of the codified tax act.

Similar to systematization of tax legislation in general, codification represents a continuous process of improvement in legal regulation of taxation.

At every new stage, codification accomplishes specific tasks that reflect the nature of ongoing tax policy. It appears that the current challenge for the development of tax legislation lies in unification and harmonization of the legislation on taxes and fees of the Russian Federation with the tax legislation of the other EAEU member-states.



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