

## Lesson No. 12

### Basic concepts of the legislation of the Russian Federation on taxes

#### Questions discussed on the topic of the lesson:

1. Taxes and fees: definition of concepts in accordance with the requirements of the tax code
2. Objects and elements of taxation
3. Taxpayer Rights
4. Obligations of taxpayers
5. Rights of tax authorities
6. Obligations of taxpayers
7. Duties of the tax authorities
8. Classification of taxes and fees

**Tax** - part of the property of the taxpayer, which in the form of a certain amount of money is subject to contribution to the treasury.

According to the tax code (part 1):

A **tax** is understood as a mandatory, individually gratuitous payment levied from organizations and individuals in the form of alienation of their property rights, economic management or operational management of funds in order to financially support the activities of the state and municipalities.

**The fee** is understood as a mandatory contribution levied from organizations and individuals, the payment of which is one of the conditions for the commission of legally significant actions in relation to them by state bodies or officials (including the granting of certain rights or the issuance of permits).

#### **The tax is established if taxpayers and elements of taxation are defined:**

1. Object of taxation
2. The tax base
3. Taxable period
4. tax rate
5. The procedure for calculating taxes
6. The procedure and terms for paying taxes

In some cases, there may be tax incentives and reasons for their use.

**The object of taxation** is the sale of goods (works, services), property, profit, income, expense or other circumstance that has a cost, quantitative or physical characteristic, with the presence of which the legislation on taxes and fees connects the taxpayer with the obligation to pay tax (Article 38) .

- Goods are any property sold or intended for sale.
- For tax purposes, work is recognized as an activity, the results of which have a material expression and can be implemented to meet the needs of an organization and (or) individuals.

- A service for taxation purposes is recognized as an activity, the results of which do not have a material expression, are realized and consumed in the course of this activity.

- The sale of goods, works or services shall be recognized, respectively, the transfer on a reimbursable basis of the right of ownership of goods, the results of work performed by one person to another person, the provision of services for a fee by one person to another person.

**The tax base** is the cost, physical or other characteristics of the object of taxation. (Article 53)

**A tax period is understood** to mean a calendar year or other period of time in relation to individual taxes, after which the tax base is determined and the amount of tax payable is calculated. (Article 55)

A tax period may consist of one or more reporting periods.

**The tax rate** is the amount of tax charges per unit of measurement of the tax base (Article 53).

**Tax calculation procedure** : the taxpayer independently calculates the amount of tax payable for the tax period, based on the tax base, tax rate and tax benefits (Article 52).

**Deadlines for the payment of** taxes and fees are established for each tax and fee (Article 57).

Taxpayers, payers of fees, payers of insurance premiums are organizations and individuals who, in accordance with this Code, are obliged to pay taxes, fees, insurance premiums, respectively.

### **Rights of taxpayers (payers of fees, payers of insurance premiums), Article 21 of the Tax Code.**

Taxpayers have the right:

1) [information](#) (including in writing) from the tax authorities at the place of its registration on applicable taxes and fees, legislation on taxes and fees and regulatory legal acts adopted in accordance with it, the procedure for calculating and paying taxes and fees, rights and obligations of taxpayers, the powers of tax authorities and their officials, as well as receive forms of tax declarations (calculations) and explanations on the procedure for filling them out;

2) receive from the Ministry of Finance of the Russian Federation written explanations on the application of the legislation of the Russian Federation on taxes and fees, from the financial authorities of the constituent entities of the Russian Federation, municipalities;

3) use tax benefits if there are grounds and in the manner prescribed by the legislation on taxes and fees;

4) receive a deferment, installment plan or investment tax credit in the manner and on the terms established by this Code;

5) timely offset or refund of amounts of overpaid or overcharged taxes, penalties, fines;

5.1) to carry out a joint reconciliation with the tax authorities of calculations on taxes, fees, penalties and fines, as well as to obtain an act of joint reconciliation of calculations on taxes, fees, penalties and fines;

6) represent their interests in relations regulated by the legislation on taxes and fees, personally or through their representative;

7) provide tax authorities and their officials with explanations on the calculation and payment of taxes, as well as on the acts of tax audits carried out;

8) be present during the on-site tax audit;

9) receive copies of the tax audit report and decisions of tax authorities, as well as tax notices and tax requests;

10) require officials of tax authorities and other authorized bodies to comply with the legislation on taxes and fees when they take actions in relation to taxpayers;

11) not comply with illegal acts and requirements of tax authorities, other authorized bodies and their officials that do not comply with this Code or other federal laws;

12) appeal in the prescribed manner against acts of tax authorities, other authorized bodies and actions (inaction) of their officials;

- 13) observance and preservation of tax secrecy;
- 14) full compensation for losses caused by illegal acts of tax authorities or illegal actions (inaction) of their officials;
- 15) to participate in the process of consideration of materials of a tax audit or other acts of tax authorities in the cases provided for by this Code.

**Obligations of taxpayers (payers of fees, payers of insurance premiums), (Article 23 of the Tax Code).**

Taxpayers are required to:

- 1) pay legally established taxes;
- 2) register with the tax authorities, if such an obligation is provided for by this Code;
- 3) keep records of their income (expenses) and objects of taxation in accordance with the established procedure, if such an obligation is provided for by the legislation on taxes and fees;
- 4) submit, in accordance with the established procedure, tax declarations (calculations) to the tax authority at the place of registration, if such an obligation is provided for by the legislation on taxes and fees;
- 5) submit to the tax authority at the place of residence of an individual entrepreneur, a notary engaged in private practice, a lawyer who has established a lawyer's office, at the request of the tax authority, a book of accounting for income and expenses and business operations;
  - 5.1) submit to the tax authority at the location of the organization, which does not have the obligation to submit annual accounting (financial) statements, constituting the state information resource of accounting (financial) statements in accordance with Federal Law No. 402-FZ of December 6, 2011 " On Accounting ", annual accounting (financial) statements no later than three months after the end of the reporting year, except for cases when the organization, in accordance with the specified Federal Law not required to keep records.
- 6) submit to the tax authorities and their officials, in the cases and in the manner provided for by this Code, the documents necessary for the calculation and payment of taxes;
- 7) comply with the legal requirements of the tax authority to eliminate the identified violations of the legislation on taxes and fees, as well as not interfere with the lawful activities of officials of tax authorities in the performance of their official duties;
- 8) for five years, ensure the safety of accounting and tax accounting data and other documents necessary for the calculation and payment of taxes, including documents confirming the receipt of income, expenses (for organizations and individual entrepreneurs), as well as the payment (withholding) of taxes , unless otherwise provided by this Code;
- 9) bear other obligations stipulated by the legislation on taxes and fees.

**Tax authorities** constitute a unified centralized system of control over compliance with the legislation on taxes and fees, over the correctness of the calculation, completeness and timeliness of payment (transfer) to the budget system of the Russian Federation of taxes, fees, insurance premiums, and in cases provided for by the legislation of the Russian Federation, over the correctness of the calculation, completeness and timeliness of payment (transfer) to the budget system of the Russian Federation of other obligatory payments. Tax authorities carry out their functions and interact with federal executive authorities, executive authorities of the constituent entities of the Russian Federation, local governments

### **Rights of tax authorities (Article 31)**

1) require, in accordance with the legislation on taxes and fees, from a taxpayer, payer of a fee or a tax agent documents in the forms and (or) formats in electronic form established by state bodies and local governments, which serve as the basis for calculation and payment (withholding and transfer) taxes, fees, as well as documents confirming the correctness of the calculation and timeliness of payment (withholding and transfer) of taxes, fees;

2) conduct tax audits in accordance with the procedure established by this Code;

3) seize documents from a taxpayer, payer of a levy or tax agent during tax audits in cases where there are reasonable grounds to believe that these documents will be destroyed, hidden, altered or replaced;

4) on the basis of a written notice to the tax authorities, summon taxpayers, payers of fees or tax agents to give explanations in connection with the payment (withholding and transfer) of taxes and fees by them or in connection with a tax audit, as well as in other cases related to the execution by them of legislation on taxes and fees;

5) suspend operations on bank accounts of the taxpayer, payer of the fee or tax agent and seize the property of the taxpayer, payer of the fee or tax agent in the manner prescribed by this Code;

6) in the manner prescribed by Article 92 of this Code, inspect any production, storage, trade and other premises and territories used by the taxpayer to generate income or related to the maintenance of objects of taxation, regardless of their location, conduct an inventory of property belonging to the taxpayer. The procedure for conducting an inventory of a taxpayer's property during a tax audit is approved by the Ministry of Finance of the Russian Federation;

7) determine the amounts of taxes payable by taxpayers to the budget system of the Russian Federation by calculation, based on the information they have about the taxpayer, as well as data on other similar taxpayers in cases where the taxpayer refuses to allow officials of the tax authority to inspect production, storage, trade and other premises and territories used by the taxpayer to generate income or related to the maintenance of objects of taxation, non-submission for more than two months to the tax authority of the documents necessary for calculating taxes, lack of accounting for income and expenses, accounting for objects of taxation, record keeping in violation of the established procedure, which led to impossibility to calculate taxes, or non-submission by a taxpayer - a foreign organization that does not operate in the territory of the Russian Federation through a permanent representative office, of a tax return on property tax of organizations;

8) demand from taxpayers, payers of fees, tax agents, their representatives to eliminate the identified violations of the legislation on taxes and fees and control the implementation of these requirements;

9) collect arrears, as well as penalties, interest and fines in the cases and in the manner established by this Code;

10) demand from banks documents confirming the debiting of taxes, fees, penalties and fines from the accounts of the taxpayer, the payer of the fee or the tax agent and from the correspondent accounts of banks and the transfer of these amounts to the budget system of the Russian Federation;

11) involve specialists, experts and translators for tax control;

12) call as witnesses persons who may be aware of any circumstances that are important for the conduct of tax control;

13) submit petitions for the annulment or suspension of licenses issued to legal entities and individuals for the right to carry out certain types of activities;

14) bring claims (applications) to courts of general jurisdiction, the Supreme Court of the Russian Federation or arbitration courts:

on the recovery of arrears, penalties and fines for tax offenses in the cases provided for by this Code;

on compensation for damage caused to the state, municipality as a result of illegal actions of the bank to write off funds (precious metals) from the taxpayer's account after receiving the decision of the tax authority to suspend operations, as a result of which it became impossible for the tax authority to collect arrears, debts on penalties, fines from the taxpayer in the manner prescribed by this Code;

15) to recover, in the case provided for in paragraph 1.1 of Article 59 of this Code, the amounts of arrears, debts on penalties and fines recognized as uncollectible.

#### **Duties of tax authorities (Article 32)**

1) comply with the legislation on taxes and fees;

2) exercise control over compliance with the legislation on taxes and fees, as well as regulatory legal acts adopted in accordance with it;

3) keep records of organizations and individuals in accordance with the established procedure;

4) inform free of charge (including in writing) taxpayers, payers of fees and tax agents about applicable taxes and fees, legislation on taxes and fees and regulations adopted in accordance with it, the procedure for calculating and paying taxes and fees, rights and obligations of taxpayers, payers of fees and tax agents, the powers of tax authorities and their officials, as well as submit forms of tax declarations (calculations) and explain the procedure for filling them out;

4.1) transfer to the taxpayers specified in paragraphs 2 and 3 of Article 11.2 of this Code, in electronic form, a receipt of acceptance upon receipt of documents submitted to the tax authority through the personal account of the taxpayer;

5) be guided by written explanations of the Ministry of Finance of the Russian Federation on the application of the legislation of the Russian Federation on taxes and fees;

6) inform taxpayers, payers of fees and tax agents, when they are registered with the tax authorities, information about the details of the relevant accounts of the Federal Treasury, as well as in the manner determined by the federal executive body authorized for control and supervision in the field of taxes and fees, bring to taxpayers, payers of fees and tax agents information on changes in the details of these accounts and other information necessary to fill in instructions for the transfer of taxes, fees, penalties and fines to the budget system of the Russian Federation;

7) make decisions on the return to the taxpayer, the payer of the fee or the tax agent of the amounts of overpaid or overcharged taxes, fees, penalties and fines, send instructions issued on the basis of these decisions to the relevant territorial bodies of the Federal Treasury for execution and offset the amounts of overpaid or overcharged taxes, fees, penalties and fines in the manner prescribed by this Code;

8) observe tax secrecy and ensure its preservation;

9) send to the taxpayer, payer of the fee or tax agent copies of the act of the tax audit and the decision of the tax authority, as well as in the cases provided for by this Code, a tax notice and (or) a demand for payment of tax and fee;

10) submit to the taxpayer, payer of the fee or tax agent, at his request, certificates on the status of the specified person's calculations for taxes, fees, penalties, fines, interest and certificates on the fulfillment of the obligation to pay taxes, fees, penalties, fines, interest based on the data of the tax authority.

A certificate on the status of payments for taxes, fees, penalties, fines, interest is transferred (sent) to the specified person (his representative) within five days, a certificate on the fulfillment of the obligation to pay taxes, fees, penalties, fines, interest - within ten days from the date of receipt of the relevant request by the tax authority;

10.1) submit to the responsible participant of the consolidated group of taxpayers,

upon his request, sent within the powers granted to him, certificates on the status of settlements of the consolidated group of taxpayers for corporate income tax;

11) carry out, at the request of a taxpayer, a responsible member of a consolidated group of taxpayers, a payer of a fee or a tax agent, a joint reconciliation of calculations for taxes, fees, penalties, fines, and interest. The results of a joint reconciliation of calculations for taxes, fees, penalties, fines, and interest are documented in an act.

12) at the request of a taxpayer, payer of a fee or tax agent, issue copies of decisions taken by the tax authority in respect of this taxpayer, payer of a fee or tax agent;

13) at the request of the responsible participant in the consolidated group of taxpayers, issue copies of the decisions taken by the tax authority in respect of the consolidated group of taxpayers;

14) provide users with extracts from the Unified State Register of Taxpayers;

15) submit in electronic form, in the manner determined by the agreement of the interacting parties, to the territorial bodies of the Pension Fund of the Russian Federation, the Social Insurance Fund of the Russian Federation, the Federal Compulsory Medical Insurance Fund, information on the provision of separate divisions (including branches, representative offices) of Russian organizations established in the territory of the Russian Federation, the powers (on deprivation of powers) to accrue payments and other remuneration in favor of individuals, on changing the location of separate subdivisions (with the exception of branches, representative offices), on the termination of the activities of these organizations through such separate subdivisions (on the closure of such separate subdivisions) , on registration (deregistration) with the tax authorities of foreign organizations operating in the territory of the Russian Federation, international organizations as payers of insurance premiums, individuals as lawyers, notaries engaged in private practice, arbitration managers, appraisers engaged in private practice , patent attorneys, mediators and other individuals - payers of insurance premiums no later than three days following the day of entering the specified information into the Unified State Register of Taxpayers;

16) at the request of the taxpayer, submit to the taxpayer (his representative) a document in electronic form or on paper confirming the status of a tax resident of the Russian Federation, in the manner , form and format approved by the federal executive body authorized for control and supervision in the field of taxes and fees;

17) submit in electronic form, in the manner determined by the agreement of the interacting parties, to the territorial bodies of the Pension Fund of the Russian Federation information on registration (deregistration) with tax authorities of individuals, including individual entrepreneurs, as taxpayers of tax on professional income recognized as such in accordance with Federal Law No. 422-FZ of November 27, 2018 "On conducting an experiment to establish a special tax regime "Tax on professional income", no later than three days following the day the specified information is entered in the Unified State Register of Taxpayers.

## **Classification of taxes and fees**

### ***1. Depending on the territorial level.***

**1.1. Federal taxes and fees** - are established by the Tax Code and are obligatory for payment throughout the territory of the Russian Federation, they go mainly to the Federal budget, although redistribution of income from them between budgets of various levels (profit tax) may be provided.

- 1) value added tax (VAT);
- 2) excises;
- 3) personal income tax (PIT);
- 4) insurance contributions to off-budget funds;
- 5) corporate income tax;

- 6) fees for the use of wildlife and water resources;
- 7) water tax;
- 8) state duty;
- 9) tax on the extraction of minerals;
- 10) inheritance or gift tax.

**1.2. Regional taxes and fees** (taxes and fees of the constituent entities of the Russian Federation) - are established by the Tax Code, put into effect by the laws of the constituent entities of the Russian Federation and are obligatory for payment only on their territory:

- 1) transport tax;
- 2) gambling business tax;
- 3) corporate property tax.

**1.3. Local taxes and fees** - are established by the Tax Code and put into effect by the regulatory legal acts of local governments and are obligatory for payment on the territory of the relevant municipalities:

- 1) land tax;
- 2) tax on the property of individuals.

Regional and local taxes and fees not provided for by the Tax Code **cannot be established.**

**2. Depending on the method of collection,** they distinguish;

**2.1. Direct taxes** - directly addressed to the taxpayer (his income, property, other objects of taxation). In this case, the legal and actual payer is the same. For example:

- corporate income tax;
- personal income tax;
- transport tax;
- property tax, etc.

**2.2. Indirect taxes** - are established in the form of a surcharge on the price (tariff) of goods (works, services) sold and **are actually paid by buyers who** purchase goods (services). **The legal payers of** such taxes to the budget are organizations and individual entrepreneurs that produce or sell goods (services) that pay tax at the **expense of the proceeds received.** Indirect taxes include:

- value added tax;
- excises.