

# Local Taxes in the Russian Federation in the Context of the Analysis of the Powers of Local Self-Government Bodies

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## Abstract

In this contribution the author presents the results of the analysis of legislation as well as monitoring the official web sites of the Ministry of Finance of the Russian Federation concerning local taxes. On the basis of methods of systematic, comparative legal analysis, monitoring and the study of normative regulation of local taxes in the Russian Federation, some conclusions are made about the ability of local governments to implement the functions assigned to them.

## Keywords

local taxes; local self-government bodies; financial law; municipal law

## 1 Introduction

Part 2 Art. 9 of the European Charter of Local Self-government of 15.10.1985 that regulates financial resources of local authorities prescribes that financial resources of local authorities shall be proportionate to the powers provided by the Constitution and by law.

Part 3 of the given article determines that “at least a part of the local authorities’ financial resources shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate” (Collected Acts of the Russian Federation, 7 September 1998, No. 36. Art. 4466).

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Thus, in Russia and in the majority of European countries local taxes are the object of legal regulation at the level of the Constitution and the law on taxes and charges.

The European Charter establishes certain requirements for the financial systems that local financial resources are based on: to be sufficiently diverse and flexible for the local authorities to be able – to the extent possible – to keep up with real costs fluctuations in the course of executing their powers.

As part of the given contribution, we will analyse the way local taxes are regulated in the Russian Federation and Eastern Europe and then see how proportionate the financial resources of the local authorities are to their powers and if they provide for the real expenditure of municipal units.

## **2 International Legal Approaches to the Regulation of Local Taxes in the Post-Soviet Countries**

As the Russian Federation is a member of the CIS, a number of model acts of the CIS have become the basis of financial relations regulation in the sphere of local government.

According to Part 2 Art. 9 of the sample law “On the General Principles of Local Self-Government (as amended)”<sup>2</sup> local authorities are assigned the following issues of local significance:

- formation, approval and execution of the local budget and control of its execution;
- introduction, changing and abolition of local taxes and charges.

Similar provisions are included in the list of issues of local significance of municipal units of different levels in Arts. 10–12.

The execution of the given power is an exclusive competence of the representative body of the local self-government (Part 6 Art. 15).

Art. 37 of the model law is devoted to local taxes and charges and duplicates the provision that local taxes and duties, as well as any tax incentives are established by the representative bodies of local authorities independently.

The list of local taxes and charges is determined in the national legislation. Representative bodies of local authorities are entitled to establish local taxes and charges not provided by law, in case the given payment is not assigned to a different level of taxation and not prohibited to be introduced at the municipal level.

Local taxes and charges rates are determined by the representative bodies of local authorities independently within the limits set by the national legislation.

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<sup>2</sup> Adopted in Saint Petersburg on 27.11.2015 with Ruling 43-11 at the 43<sup>rd</sup> Plenary Meeting of the Interparliamentary Assembly of Member States of the CIS. The paper was not published.

In the Commonwealth of Independent States there is also a model act “On the General Principles of Local Finances Organization”,<sup>3</sup> which regulates the budgetary process in municipal units and reproduces the norms of the previously mentioned law in terms of functions and powers of municipal bodies in the sphere of taxes and charges (Art. 8).

Art. 7 of the given Act assigns tax and non-tax revenues, established by the legislation of the member states of the CIS, to the local budgets’ own revenues.

Among the principles of inter-budgetary relations there are the following:

- distribution of taxes on a permanent (or long-term) basis (fully or as a fixed share) among the branches of the budgetary system, which provides the minimal necessary level of local budgets’ own revenues in case of sufficient tax potential;
- bringing up the per capita budget revenues to the minimal necessary level in the municipal units that do not possess sufficient tax potential by means of budget regulation (Art. 10).

An increase in the normative standards of contributions made from the regulating sources of income, as well as different kinds of financial aid is an important guarantee of the realisation of the European Charter provisions, in case the fixed taxes and revenues cannot provide the municipal units with the minimal local budget (Art. 12).

### **3 Constitutional Approaches to the Regulation of Local Taxes and Charges**

As it has already been mentioned, local taxes regulation is a subject of constitutional regulation. Let us consider which of the constitutional provisions refer to the given sphere.

Part 1 Art. 132 of the Constitution (Constitution of the Russian Federation) enshrines that “local self-government in the Russian Federation shall ensure the independent solution by the population of the issues of local importance, of possession, use and disposal of municipal property”.

As a development of the given constitutional provision, the Federal Law of 06.10.2003 No. 131-FZ (ed. on 03.08.2018) “On the General Principles of Local Self-Government Organization in the Russian Federation” (Collected Acts of the Russian Federation, 2003, No. 40, Art. 3822) regulates a whole complex of issues related to local taxes:

1. it assigns adoption, modification and abolition of local taxes and charges to the sphere of issues of local significance of different municipal units (Art. 14–16);

<sup>3</sup> Adopted in Saint Petersburg on 08.12.1998 with Ruling 12-10 at the 12<sup>th</sup> Plenary Sitting of the International Assembly of Member States of the CIS. Interparliamentary Assembly of Member States of the CIS Information Bulletin, 1999, No. 20.

2. it enshrines local authorities' exclusive competence to introduce, change and abolish local taxes and charges in accordance with the law of the Russian Federation on taxes and charges (Item 3 Part 10 Art. 35);
3. it enshrines the right of the head of the local administration to make proposals regarding the drafts of legal acts of the municipalities, stipulating the introduction, modification and abolition of local taxes and charges, spending the funds of the local budget and giving the opinion of the head of local administration on such projects.

## **4 Legal and Financial Regulation of Local Taxes in the Russian Federation**

The tax law of the Russian Federation provides more details on the regulation of local taxes. The given issue is highlighted in Part X "Local Taxes and Charges" of the Tax Code of Russia (Part 2) of 05.08.2000 №117-FZ (ed. on 03.08.2018) (Collected Acts of the Russian Federation, 2000, № 32, Art. 3340).

At present local taxes include the land tax (Chapter 31) and the individual property tax (Chapter 32).

The budget law of Russia also stipulates the norms of other taxes and contributions to the budgets of municipalities, differentiated by the type of municipal units.

For the land tax the rates (Art. 394 of the Tax Code of Russia, Part 2) shall be established by the normative legal acts of representative bodies of municipal formations (by the laws of the cities of federal importance: Moscow, Saint Petersburg and Sebastopol) and may not exceed:

1. 0.3% in respect of land plots:
  - referred to agricultural lands or to land forming a part of the zones of agricultural use in inhabited localities and used by the farming industry;
  - occupied by housing stock and by units of plumbing infrastructure of the housing and communal complex (except for a share in the ownership of a land plot falling to a unit that does not pertain to the housing stock or to units of plumbing infrastructure of the housing and communal complex) or acquired (allotted) for house building;
  - acquired (allotted) as personal subsidiary plots, for gardening, truck farming or cattle breeding, as well as of the country cottage economy;
2. 1.5% in respect of other land plots.

According to Art. 406 of the Tax Code of Russia, individual property tax rates are set by the legal acts of the representative bodies of municipal units (laws of the cities of federal importance: Moscow, Saint Petersburg and Sebastopol) depending on the accepted method for determining the tax base.

In case the tax base is determined based on the cadastral value of the taxed item, the tax rates are set in the amount no higher than the following:

1. 0.1% for:
  - residential houses, parts of residential houses, flats, parts of flats, rooms;
  - incomplete construction projects in case the intended purpose of the project is a residential house;
  - real estate compounds, part of which is at least one residential house;
  - garages and parking slots, including the ones that are located in the territory of the taxable items mentioned in p. 2;
  - maintenance buildings or constructions with the area not exceeding 50 square meters, which are located in the land plots provided for private plot activities, dachas, gardening or individual housing construction;
2. 2% for the taxable items that are included in the list determined by Item 7 Art. 378.2 of the Tax Code of Russia, as well as the taxable items the cost of which is over 300 million roubles;
3. 0.5% for other taxable items.

As it is difficult to estimate the amount by percentage, here is an example from the author's personal experience. The tax for a flat with an area of 60 square meters in Krasnodar region is about 350 roubles a year (about 5 Euro); the tax for a flat of 50 square meters in outer Moscow is 650 roubles (about 8 Euro); the non-residential property of 35 square meters in Rostov region is 220 roubles (about 2.5 Euro).

With this level of rates, local budget revenues cannot cover their needs, so the budget law stipulates tax contributions from other levels of public power.

Thus, revenues from the following federal taxes and charges shall be received by the budgets of urban settlements, including the taxes subject to special treatment:

- individual income tax at the norm of 10%;
- uniform agricultural tax at the norm of 50% (Art. 60 of the Budget Code of Russia).

The budgets of municipal districts shall receive:

- individual income tax collected in the territory of urban settlements at the norm of 5%;
- individual income tax collected in the territory of rural settlements at the norm of 13%;
- individual income tax collected in the inter-settlement territories at the norm of 15%;
- unified tax on imputed income for certain kinds of activities at the norm of 100%;
- unified agricultural tax collected in the territory of urban settlements at the norm of 50%;

- unified agricultural tax collected in the territory of rural settlements at the norm of 70%;
- unified agricultural tax collected in the inter-settlement territories at the norm of 100%. (Art. 61.1 of the Budget Code of Russia).

According to the data from the Ministry of Finance of the Russian Federation, the following trend in the local budget revenues dynamics can be identified (Table 1).

*Table 1.* Key parameters of the revenues of local budgets  
(based on the data from the Ministry of Finance of Russia)

	As of 1 January 2010*	As of 1 January 2018
Total amount of revenues received by local budgets	2388.0 bln RUR	3845.7 bln RUR
Own revenues of local budgets, including	1805.3 bln RUR (75.6%)	2504.8 bln RUR (65.1%)
Tax and non-tax revenues	963.3 bln RUR (53.4%)	1392.8 bln RUR (55.6%)
Tax revenues	39.9%	44.8%
Inter-budgetary transfers excluding subventions	842.0 bln RUR (46.6%)	1112.0 bln RUR (44.4%)
For reference:		
Allowances	21.2%	342.3 bln RUR (14.0%)
Subsidies	29.4%	594.7 bln RUR (24.2%)
Subventions	40.9%	1340.9 bln RUR (54.7%)
Other inter-budgetary transfers	8.5%	173.6 bln RUR (7.1%)

*Note:* \* In 2009, the Federal Law №131-FZ entered into full effect.

*Source:* [www.minfin.ru/ru/performance/regions/monitoring\\_results/Monitoring\\_local/results](http://www.minfin.ru/ru/performance/regions/monitoring_results/Monitoring_local/results)

The analysis of the data presented in the table shows that in absolute terms, local budget revenues are growing, while in percentage terms the share of own revenues has decreased (from 75.6 to 65.1%). The share of tax and non-tax revenues in the revenues of local budgets has not changed considerably. The proportion of different types of inter-budgetary transfers has undergone considerable changes: the number of allowances has decreased, and the number of subventions has increased, which means that delegated powers execution has become more active (as a rule it has to do with state powers, however, there might be other variants).

When characterising tax revenues, experts normally mention the following peculiarities (Levina, 2018: 15–21):

- local tax revenues are not substantial for local budgets, but depend directly on the activity of local self-government bodies, including the measures taken to register the objects fully subject to taxation;
- federal tax incentives on the regional and local taxes decrease local budget revenues significantly and do not give local authorities any opportunity to regulate the development with the help of these incentives; tax incentives

become an efficient instrument only in case they are provided at the level where the tax is administered and settled; at the All-Russia Congress of Municipalities, it was even suggested that more attention should be paid to the assessment of the efficiency of tax incentives on local taxes taking into account budgetary and social efficiency indicators;

- passing tax norms to local budgets is an effective mechanism of municipal development; according to the data from the Ministry of Finance of Russia, in 2017, in addition to individual income tax, uniform standard contributions were set for the following federal and regional taxes and charges on a permanent basis: property of an organization tax – 11 regions; corporate income tax – 4 regions; transport tax – 6 regions; tax on the extraction of commonly extracted minerals – 14 regions; gambling tax – 5 regions; use of simplified taxation system tax – 41 regions (an increase by 5 regions); other minerals extraction tax – 6 regions; particular excise taxes on excisable goods (excluding the oil products) – 4 regions.

## 5 Conclusions

The sources of revenue and expenditure of the local budgets are important not just as they are, but in proportion to the amount of powers that a local self-government body is granted. As it has already been mentioned, Part 2 Art. 9 of the European Charter of Local Self-Government points out that the financial resources of local authorities should be commensurate to the powers granted to them by the Constitution and by law.

Table 2 presents the data on the dynamics in the number of issues of local significance depending on the kind of the municipal formation.

*Table 2.* Information on the number of issues of local significance

	28.08.1995	06.10.2003	Before 27.05.2014	After 27.05.2014	01.08.2018
Municipal formation	30	–	–	–	–
Urban settlement	–	22	39	39	38
Rural settlement	–	22	39	13	13
municipal district	–	20	37	37	39
urban circuits	–	27	44	44	44
intra-city district	–	–	–	13	13

*Source:* For the purpose of monitoring, the following dates are used in the table: 28.08.1995 as the date of adoption of the Federal Law № 154-FZ in its first version; 06.10.2003 is the date of adoption of the Federal Law № 131-FZ in its first version; 27.05.2014 is the date of adoption of the Federal Law № 136-FZ in its first version; 01.08.2018 is the date of current monitoring.

The analysis of the quantity of issues of local significance shows it quite clearly that there is a tendency to grow. In practice the given situation gives rise to a lot of criticism both

from the experts, as well as the municipal communities. It seems reasonable to impose a moratorium on making changes and amends to the list of issues of local significance for at least several years, so that local authorities could develop a system of their realisation based on the financial resources they have at their disposal.

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