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**TAX AND NON-TAX REVENUE OF
THE BUDGET:
WHAT'S THE DIFFERENCE?**

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TAX AND NON-TAX REVENUE OF THE BUDGET: WHAT'S THE DIFFERENCE?²

The article discusses the nature of non-tax public revenue. The author first offers his own universal definition of public revenue. This results in the discovery of a variety of theoretical and practical problems, which include decentralized revenue, non-uniformity of non-tax revenue, and a contradiction involved in grouping certain forms of revenue together. A proposal is offered to consider public revenue in its various phases, initially as a based in national wealth, then as mobilized in the form of budget revenue, redistributed for public needs, and then administered.

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Key words: public needs; public revenue; public expenses; Russian budget, budget revenue; tax revenue; non-tax revenue.

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Introduction

Russian legislation uses the term “non-tax revenue of the budget” but does not offer an appropriate definition of this term. There is also no well-established corresponding notion in academic discourse. The purpose of this article is to clarify the nature of non-tax revenue of the budget. These revenue should be seen as a component of budget revenue, which itself is a type of public revenue. Thus, our methodology here will be first to establish the notion of “public revenue.” Having done this it will be possible to consider different types of public revenue and to analyze the methods of its classification. This will allow us to offer an approach to the main problem of the article, entailing a comparison of tax and non-tax revenue of the budget.

It should be noted that the theme of public revenue in general and non-tax revenue in particular is essentially unexplored, and even a preliminary discussion raises numerous outstanding theoretical and practical problems, unstudied historical events and exciting areas for research and practice.

Notions of Public Revenue and Budget Revenue

First of all, public revenue is quantified in monetary terms. The monetary nature of public revenue is notable due to the fact that there are methods of satisfying public needs in kind. This would include various duties, i.e., services rendered without compensation, nationalization of private property, and spoils of war. These methods are generally not in current practice, but some forms of duties paid in kind currently exist³.

Defining the essence of *public revenue* is not possible without establishing a connection to *public expenses*. Such a connection is organic and inseparable, and is expressed in the fact that public revenue are found and mobilized for the only purpose: to cover (secure) public expenses. In other words, public expenses appear before public revenue and determine their existence. This state of things is expressed by the existence of the principle of *priority of public expenses over revenue*,⁴ this principle is broadly understood as one of the criteria for distinguishing public and private finance.⁵

³ For example, the original methods for covering public needs in Russia were a quitrent and tribute (poliudie). The conscription is in use until today, satisfying a significant defensive role of the State, and correctional community service is in use as well; one may easily find evidence of the use of prison labor in the history of Soviet Russia.

⁴ This is one of the principles for establishing the budget revenue and expenses, as detailed in Komyagin D.L. Treasury and Budget. Moscow, 2014, pp. 167-175 (in Russian); Komyagin D.L., “System of the Budget Law Principles” (Russian Legislation and Scientific Dogma), *Reformy i Pravo [Reforms and Law]*, 2012, no. 4 (in Russian); Komyagin D.L., “Revisiting the Notion and Classification of Public Revenue,” *Publichno-pravovyye Issledovaniya [Public and Legal Research]*, 2014, no. 1, pp. 60-93 (in Russian).

⁵ For more detail, see Kozyrin A.N., “Financial Law and Financial Management in Foreign Countries,” *Centr Publichno-pravovyykh Issledovaniy [Public and Legal Research Center]*, Moscow, 2009, p. 24 (in Russian).

It has long been observed that “[...]working out a plan for the coming economic period, the financial economy, contrary to the practice of private economy, firstly determines the needs and expenses necessary to meet them, and only after that the means to cover them.”⁶ In other words, public expenses are determined by *public needs*. This is also proved by the fact that the budget expenses cannot be formed arbitrarily, but are due to prior commitments (which arise from regulatory legal acts and agreements), and a governmental unit cannot cut expenses only because the anticipated revenue are not enough to satisfy them.⁷

The principle of priority of public expenses means that the *volume of necessary public expenses determines the volume of public revenue*, i.e., the sources for covering expenses. This is the way the budget is planned, and the reverse order (from revenue) would make its preparation pointless, because the budget is intended to meet public needs financially and to perform public functions. The State has different ways of revenue mobilization, from direct seizure of property (through the determination of new taxes or an increase of their rates, or nationalization) to market mechanisms (through the sale of state property, use of state property for compensation, the introduction of state monopoly on certain activities, etc.). The sources of public revenue are diverse and are constantly renewed.⁸ Failure to secure budget expenses indicates weakness of the public authority and a potential crisis in government management.

The essential feature of public needs is the fact that they are usually *not quantified in monetary terms*, as they are related to, for example, health, defense, education, and cultural requirements⁹. In some cases, public needs can be expressed by physical characteristics such as weight, area, or volume, but this is often not the case. However, modern economic mechanisms require transforming all of the various public needs into monetizable form.¹⁰ In the budget sphere, this is expressed by models with indices (indicators) that measure the success of all kinds of budget expenses in fulfilling their purpose.¹¹ Once the cost of satisfying public needs is calculated, it is possible to pay them using public funds. Needs that we cannot measure in fact are unfortunately omitted from the sphere of state obligations, despite political rhetoric to the contrary.

⁶ von-Eheberg K.T., “Course in Financial Science,” St. Petersburg, 1913, p. 32 (in Russian)

⁷ For more detail on budgetary framework determinancy by previous laws and other decisions, see Komyagin D.L., “Budget as Strategic Planning Element,” *Finansovoe Pravo [Financial Law]*, 2012, no. 9, pp. 11-17 (in Russian).

⁸ For more detail, see “Treasury and Budget,” Moscow, 2014, pp. 15-33 (in Russian).

⁹ For more detail on items of public expenses, see Komyagin D.L., “Revisiting the Public Expense Classification,” *Reformy i Pravo [Reforms and Law]*, 2010, no. 3, pp. 10-15 (in Russian); Komyagin D.L., “Types of Public Expenses: History and Modern Age,” *Finansovy Vestnik [Financial Bulletin]*, 2014, no. 7, pp. 10-18 (in Russian).

¹⁰ This task is not easy and inevitably entails costs and misrepresentations. In addition, one may state that no efficient solution to this problem is currently in practice worldwide. It should be noted, without going into the philosophical range of problems, that one of the “methods” for solving this problem is the simulation of an “economic citizen,” whose needs lend themselves to forecasting.

¹¹ The notion of indicators of achieving the purposes of budget expenses was provided for the first time by the Conception of Budget Process Reform in the Russian Federation in 2004-2006, approved by the Government of the Russian Federation, dated May 22, 2004, no. 249 (void).

It should be noted that some public needs may be covered not by public revenue but by private funds. The institution of state and private partnership is a field undergoing active development. The notions of quasi taxes and parafiscal charges are also familiar. These concepts are widely used in the modern practice of public management and represent compulsory duties imposed in the public interest for the benefit of persons who are not public authorities.¹² Such charges cannot be referred to public revenue, as funds belonging to the State (a governmental unit) are not affected.

The role of private donations in meeting public needs should never be underestimated, and has been significant at all times. For example, M. I. Rostovtsev notes that “the cities [of the Roman Empire under the Flavian and Antonine dynasties] owed their lustre exclusively to the generosity of the higher and well-to-do sections of population.”¹³ Illustrating the essentially voluntary nature of funds collection from citizens for public needs in the ancient world, P. P. Genzel states that “if monopoly sources and spoils of war were not sufficient, it was necessary to cover the deficit anyway, and of course in such cases the government appealed to all citizens. In such an urgent case, all full citizens were obliged to contribute in equal parts to cover expenses.”¹⁴ In general, such *eisphora* in the ancient world was not a permanent levy, and the financial stability of the Greek and Roman cities was supported by a system of perpetual liturgies:

The ancient community ... expected that all of its members were willing to sacrifice their own interests for the benefit of the community. Thus, a system of ‘liturgies’—public duties that included forced labor—was formed when the privileged and well-to-do classes were responsible for the poor [...] The system of liturgies in the ancient world was as old as the State itself. The obligation of every citizen to support the State with his or her work and his or her own funds, on the one hand, and the responsibility of officials authorized by the government for the faithful performance of their duties, on the other hand, were fundamental legal notions in the Eastern monarchies and were seen as such in the Hellenistic States.¹⁵

Public revenue, as opposed to *eisphora*, liturgies, quasi taxes, and parafiscal charges, are forms of revenue that have been transformed into public property, even though all of them are directed at meeting public needs.

Thus we can say that, firstly, public revenue have *monetary form*; secondly, that they are funds that constitute into *public property*; and, thirdly, that they exist to meet *public needs*.

¹² See Kozyrin A.N., “Tax Law of Foreign Countries: Theoretical and Practical Issues,” Moscow, 1993, p. 9 (in Russian); Guseynova A.A. Comparative and Legal Characteristic Description of Parafiscal Payments in the Financial Law of Russia and FRG, *Reformy i Pravo [Reforms and Law]*, 2014, no. 3 (in Russian).

¹³ Rostovtsev M.I., *Society and Economy of the Roman Empire*, St. Petersburg, 2000, vol. 1, p. 141 (in Russian).

¹⁴ Genzel P.P., “Outline of Financial History,” *Reformy i Pravo [Reforms and Law]*, 2014, no. 2 (in Russian).

¹⁵ Rostovtsev M.I., *Op. cit.*, p. 96.

The above-mentioned features also include the relations connected with the borrowing of funds by a governmental unit. Indeed, public needs may also be covered by borrowing, i.e., on public (state or municipal) credit, a practice which was initially resorted to only in urgent cases only, but is now in constant use today.¹⁶ The problems connected with borrowing on state and municipal credit are specific, and are generally considered a separate province within the field of financial law. In any case, borrowed funds shall be returned with the payment for their provision, and such payments are made using public revenue. For this reason, K. Marx said that public loans were illusory and fictitious capital, an unproductive use of capital, and an anticipatory (i.e., taken in advance) tax, and the Russian Minister of Finance E. F. Kankrin famously called the consequence of public credit (i.e., paper money subject to) “sweet poison.”¹⁷

Public credit is characterized by recoverability and payment of interest, making it different from public revenue. In other words, when mobilizing public revenue, a governmental unit has no counter obligations to repay debt and pay interest, as opposed to the obligations it incurs in connection with borrowing.¹⁸

Thus, *public needs* are met using *public expenses*, as well as *private funds*, *duties paid in kind* and *public credit*. Public expenses are covered using *public revenue* only.

Accordingly, we can offer the following definition of public revenue: It entails *monetary funds mobilized as the property of a governmental unit for satisfying public expenses and not involving counter monetary obligations*.

The following approach to the definition of public revenue is related to economic understanding of its function.

In economic theory and tax law, revenue means economic benefit in cash or in kind, and as such, revenue acts as an object of taxation.¹⁹ Economic benefit is an indefinite notion, which can be understood both as a future accession of property and assets and as a surplus on the balance sheet. In any case, it is hardly possible to determine public revenue as an economic benefit. Such revenue, as shown above, does not constitute an end in itself, but appears only in so far as is

¹⁶ See, for example, Isaev A.A., “State Credit,” *Finansy i Nalogi: Ocherki Teorii i Politiki [Finance and Taxes: Outline of Theory and Politics]*. Moscow, 2004, pp. 389-392 (in Russian); Orlov M.F. On State Credit. *U Istokov Finansovogo Prava [At the Origins of Financial Law]*. Moscow, 1998, vol. 1. Statute (in Russian); Speransky M. M., “Financial Plan,” *U Istokov Finansovogo Prava [At the Origins of Financial Law]*, Moscow, 1998, vol. 1. Statute (in Russian); Ozerov I.Kh, *State Credit: Lecture Notes in Financial Law*, Moscow, 1901 (in Russian), etc.

¹⁷ According to Lebedev V.A., “Paper Money,” *Finansovoe Pravo [Financial Law]*. *Zolotye Stranitsy Finansovogo Prava [Golden Pages of the Financial Law]*, Moscow, 2000, vol. 2, p. 415 (in Russian).

¹⁸ According to the existing tradition, the relations, in which the State (a governmental unit) acts as a borrower, are called a public (municipal) debt.

¹⁹ Article 41 of the Tax Code of the Russian Federation (hereinafter referred to as the RF Tax Code).

dictated by public needs and, more specifically, by public expenses.

To determine public revenue, we can use another economic category, namely, *national wealth* (*public wealth*). There is both a produced (national income²⁰) and a non-produced (for example, natural resources) national wealth.

The Great Soviet Encyclopedia defines national wealth by the set of material goods that are currently owned by the whole society or its individual classes, groups and persons; national wealth can be accumulated and natural.²¹ It is difficult to calculate national wealth using the Soviet methodology accurately because, depending on economic policy, some assets (e.g., securities, debts, and deposits) and property withdrawn from civil circulation may be excluded²².

Marx's political economy offers a definition of national wealth as "the objectification of human labor."²³ Its most important component is tangible wealth, i.e., the totality of accumulated material value. The results of labour not fixed in material form such as work experience, are also considered as part of the wealth of a nation.

Today, national wealth is treated as a macroeconomic indicator that includes the aggregate value of all economic assets (nonfinancial and financial) at market value owned by residents of this country on any particular date.

National wealth is always a source of public revenue, regardless of the nature of this revenue. National wealth is also a source of national income. In economic literature, one can find the assertion that public revenue is a part of national income.²⁴ It should be noted that a part of public revenue is mobilized using non-produced national wealth, i.e., the treasury. We would rather talk about the national wealth as a source of public revenue in general.

Thus, public revenue appears as a result of *redistribution of national income*. *National wealth is a source of public revenue.*²⁵

The next (second) definition of public revenue is its description as *a part of the national wealth*

²⁰ National income is a part of the total annual value of social product (GDP) remaining after deduction of production material costs, or a newly created value and a corresponding share of the aggregate social product. National income is used for consumption and accumulation (The Great Soviet Encyclopedia, 1954, vol. 29, p. 301), see also Ragolsky M., *Revenue and Expenses of the Soviet State*, Leningrad, 1927, p. 9 (in Russian).

²¹ *The Great Soviet Encyclopedia*, 1950, vol. 5, pp. 338-339.

²² In the USSR such property was formed by land, mineral resources and forests.

²³ Marx, K., *Collected Works*, 1959, vol. 26, part 3, p. 446.

²⁴ Yanzhul I.I. *Main Principles of the Financial Science. Doctrine of State Revenue*. Moscow, 2002, p. 513 (in Russian).

²⁵ One can say that this point of view is common but for some reasons only for the origin of taxes although tax revenue are only a part of the public revenue: Orlov M.Yu., "Tax as a Form of Reasonable Limitation of Fiscal Sovereignty of the State," *Finansovoe Pravo [Financial Law]*, 2006, no. 2 (in Russian); Demin A.V., *Russian Tax Law: A Textbook*, Krasnoyarsk, 2006 (in Russian).

alienated to public property and redistributed in monetary form to cover public expenses.

The third approach for determination of public revenue is connected with its identification with budget revenue. Indeed, public revenue mainly consist of centralized (budget) revenue, although they include certain decentralized funds, e.g. revenue from unitary enterprises, budget and autonomous institutions.²⁶ The relation between public revenue and budget revenue is described, as a rule, as the relation between a part and the whole. However, we can consider this relation otherwise, in terms of procedure: budget revenue is the *phase of public revenue* after the moment of alienation of national wealth into public property, at which point its *redistribution* becomes possible. Following the redistribution of public revenue that occurs within the budgetary system, its *administration* begins, i.e., actions for correct calculation of funds received and, if necessary, for return of excess amounts, and for recovery of deficient amounts, etc.

According to the legal definition, budget revenue is *funds that enter the budget*, with the exception of funds determined as funding sources for the budget deficit by budget legislation.²⁷ In the context of budget accounting, budget revenue can be defined as budget proceeds not involving changes in assets (financial and non-financial) and liabilities.

Also, public revenue can be defined by analogy with budget revenue as *funds that enter into the ownership of a governmental unit and do not involve changes in assets and liabilities of the budget*.

The first and the last definitions are similar to each other. A minor difference between them is that the mobilization of public revenue may involve a change in the public assets of a governmental unit that is not reflected in the budgetary system, e.g., changes incurred while privatizing, exploiting public property, mineral resources, forests, and other cases. At the same time, financial and non-financial assets and liabilities that have already been taken into account in the budgetary system should not be changed as a result of mobilization of budget revenue; otherwise, our inquiry would become focused not on revenue but, for example, on debt liabilities.

Is there a difference between budget revenue and public revenue? The author considers it

²⁶ According to article 298 of the RF Civil Code, the revenue received by autonomous and budget institutions are transferred to the independent disposal of autonomous institutions. This financial independence of budget and autonomous institutions is confirmed by the contents of Federal Law no. 7-FZ, *On Non-profit Organizations*, dated January 12, 1996 and Federal Law no. 174-FZ, *On Autonomous Institutions*, dated November 3, 2006, accordingly. According to article 2 of Federal Law no. 161-FZ, *On State and Municipal Unitary Enterprises*, dated November 14, 2002, the property of a unitary enterprise belongs under the ownership of the Russian Federation to a subject of the Russian Federation or a municipal unit, but these enterprises are entitled to retain a part of net profit.

²⁷ Article 6 of the Budget Code of the Russian Federation (hereinafter referred to as the RF Budget Code).

possible to approach the question as follows: There is a theoretical problem connected with the existence of *decentralized revenue* (i.e., revenue not reflected in the budgetary system) being alienated into public property. As mentioned above, this may take the form of profits from unitary enterprises and revenue of autonomous and budget institutions. The fact is that such funds are of a very unusual type: They are in *public ownership but not available for disposal by the owner* (a governmental unit). Funds in public ownership but not at the disposal of the owner have no definition in the field of law. We can assert a kind of transitional state: Decentralized public revenue will ultimately pass into the private ownership or shall be considered in the budgetary system.

The above-mentioned definitions of public revenue suggest that public revenue:

- is directed to satisfy public expenses;
- for this purpose is redistributed by the owner.

However, public revenue not included in the budgetary system does not meet the specified requirements. It is not available for redistribution and cannot serve as a source to cover the public expenses.

Again, the existence of public revenue not included in the budgetary system can only be temporary. It can be concluded from the argument above that the notion of *budget revenue is identical to the notion of public revenue*.

Thus, public revenue can be determined in *three ways*: firstly, in connection with public needs and public expenses; secondly, in relation to the national wealth that is their source; and, thirdly, in connection with their inclusion in the budgetary system. Budget revenue does not differ from public revenue, but there is a problem with the existence of decentralized revenue not incoming into the budgetary system.

Following I. I. Kucherov, we should remember the appropriateness of use of statutory concepts as the main method of law²⁸. If such method is appropriate for clarifying the internal structure of a tax, it is definitely appropriate to discuss the structure of public revenue as a more general notion. Public revenue goes through several distinct phases, the first of which is *mobilization* of revenue (we speak here about the *sources* of revenue) followed by *redistribution* in order to meet

²⁸ Kucherov I.I., "Revisiting the Statutory Concepts of Taxes and Duties," *Finansovoe Pravo [Financial Law]*, 2010, no. 1 (in Russian).

public needs (such revenue are *budget revenue*²⁹). Public revenue that has already been redistributed is *administered*.

Types of Public Revenue

In order to clarify the essence of non-tax revenue it is first necessary to understand that such revenue is just one of the possible types of budget revenue. There are many classifications for public revenue along different methodologies, and the majority of them are not related to the division into tax and non-tax budget revenue.³⁰ However, only this classification is reflected in the Russian legislation today, and that is why it becomes necessary to enquire into the essence of non-tax revenue.³¹

According to the Russian budget legislation, budget revenue includes tax and non-tax revenue.

Non-tax revenue includes the following:

- revenue from the use and sale of property in public ownership;
- revenue from paid services rendered by public institutions;
- funds from the imposition of civil, administrative and criminal sanctions, remedies and other proceeds from enforced withdrawals;
- self-taxation by citizens (at the municipal level).³²

This list is not exhaustive but appears very simple and short. The sources of budget revenue are actually distinguished by great variety, however, and cannot be presented in a final form. For example, non-tax revenue of the federal budget comprises the following, non-exhaustive list:³³

1. revenue from the use and sale of the property owned by the Russian Federation;
2. revenue from the paid services rendered by federal state-owned institutions;
3. a portion of profits of federal unitary enterprises;

²⁹ The budget revenue have also two states: before inclusion into the budgetary system (not included) and included. It should be said on rise of the budget revenue, for example, from the moment of execution of the tax liability by a taxpayer. In this case, the source of budget revenue is a tax. The budget revenue may be classified on two grounds: own – regulating; primary – secondary.

³⁰ Details of classification of public revenue: Komyagin D.L., “Revisiting the Notion and Classification of Public Revenue,” *Publichno-pravovye Issledovaniya [Public and Legal Research]*, 2014, no. 1, pp. 60-93 (in Russian).

³¹ Article 41 of the RF Budget Code.

³³ Taken from: Articles 41-51 of the RF Budget Code and Annex 1, *List of Codes of Budget Revenue* to Order no. 65n of the Russian Ministry of Finance, *On Approval of Guidelines Concerning the Application of Budget Classification in the Russian Federation*, dated July 1, 2013, or Annex 6 *List of the Main Administrators of the Federal Budget Revenue* to Federal Law no. 384-FZ, *On the Federal Budget for 2015 and for Planning Period 2016 and 2017*, dated December 1, 2014.

4. licensing fees;
5. customs duties and customs fees;
6. fees for the use of forests;
7. fees for the use of water objects;
8. fees for the use of water biological resources;
9. fees for negative environmental impacts;
10. consular fees and reimbursement of actual consular costs;
11. patent fees;
12. fees for the provision of information and documents contained in the state registers;
13. disposal fees;
14. single and regular fees for the use of mineral resources;
15. fees on agreement about fishing area;
16. fees on agreement about output quotas or use of water biological resources;
17. fees for use rights for mineral resources;
18. profits of the Central Bank of the Russian Federation;
19. revenue from foreign trade;
20. funds from the sale arms and military equipment utilization;
21. funds from the issue of tangible assets from the state reserve of special raw materials and fissile materials;
22. Other.

It should be noted that most of the above-mentioned forms of revenue of the federal budget are calculated as the yield after payment of taxes and other obligatory payments by state institutions

or enterprises, detailed exactly by budget legislation.³⁴ This attests to the fact that tax and non-tax revenue may be derived from the same source.

The classification of sections of ordinary revenue of the state budget of the Russian Empire, as given by E. V. Sapilov based on reports of the State Control Office of the Russian Empire, serves as another example of the great variety public revenue can take.³⁵

Section 1. Direct taxes

1. Land tax, immovable property tax and duty
2. State trade tax
3. Money capital income duty

Section 2. Indirect taxes

4. Drinking taxes
5. Tobacco income
6. Sugar income
7. Oil income
8. Matches income
9. Customs income

Section 3. Duties

10. Stamp, legal, registry, and record duties
11. For carry-over property
12. For passports
13. For passengers and cargos transported by railway
14. For property insured against fire
15. Different duties

³⁴ Article 51 of the RF Budget Code.

³⁵ Sapilov E.V., *State Revenue, Expenses and Taxes in Pre-revolutionary Russia (1898 – 1914)*, Moscow, 2011, pp. 153-154 (in Russian).

Section 4. Governmental regalia

16. Mining income
17. Monetary income
18. Postal income
19. Telegraph and telephone income
20. Income from the state sale of beverages

Section 5. State-owned property and capital

21. Quitrent articles and trades
22. Forest income
23. State-owned railways
24. State-owned factories, technical facilities and warehouses
25. Profit from the treasury capital and bank operations

Section 6. Alienation of state property

26. Revenue from the sale of immovable property

Section 7. Redemption payments (before 1905)

27. From former peasants of landlords
28. From appanage peasants
29. From former state peasants

Section 8. Reimbursement of expenses of the state treasury

30. Obligatory payments of railway companies
31. Return of loans and other expenses
32. Benefits of the state treasury from extraneous assets
33. Military compensation (contributions from Turkey, China, and the Principality of Bulgaria in 1902)

Section 9. Different revenue

1. Different minor and windfall revenue

Let us consider the doctrinal classifications of public revenue.

Chronologically, the first is a *classification of sources of public revenue is the order of increasing force of coercion employed in collection*. This classification can be considered evolutionary and historical, although with many caveats, as all of the following types of revenue arose at different times and in different countries, sometimes simultaneously, sometimes in a different sequence.

This classification allows us to consider the following sources of public revenue: *gifts, funds of a ruler, public property, state trade, regalia, duties, and taxes*.

The total absence of coercion is typical of *gifts or donations* obtained by the state, which most often are made in kind but also can take monetary form,³⁶

The funds of a ruler are known as a historical source for covering public expenses not connected with coercion. In the Middle Ages, the ruler was supposed to have sufficient private funds to manage the State.

Revenue from *public property* (or “domain,” as in the French *domains publiques*) are the next source of budget revenue not connected with coercion. Such revenue can be received directly from the operation of property (fruits and riches of the earth) and from the use and disposal of property (lease and sale). In the era of the USSR, the revenue from the “Soviet economy” was considered as the main revenue of the state budget.³⁷

The next type of public revenue is revenue from *state-owned trade* not related to a dominant position of the state in the market. Receipt of such income is not yet connected with coercion; however, over time, such income may take on the nature of regalia.

According to the definition of I. I. Yanzhula, “*regalia*” is state-owned trade, which the State has privilege prior to other persons, i.e., “such commercial sources of revenue that the State uses mainly or exclusively for itself, completely excluding or significantly limiting private

³⁶ A contribution or a tribute paid by the State that lost the war is not a gift because such payments exist as a result of military coercion. One may say that military tribute is the result of the greatest possible degree of coercion.

³⁷ Ragolsky M., *Revenue and Expenses in the Soviet State*, Leningrad, 1927, p. 25 (in Russian). However, such revenue were not more than a part of profits of state enterprises, transformed into a tax after transition of state enterprises into private ownership.

competition.”³⁸ Regalia can be defined as the state monopolies in any economic sector, although the monopoly is not always obvious.

In resorting to regalia to generate income, the State crosses the border of non-violence, and so introduces state coercion into revenue gathering. On the one hand, one may not wish to resort to the service provided by a state monopoly. On the other hand, the lack of an alternative means that it is necessary to use exactly these services. This was the case, for example, with postal regalia.³⁹ Wine and tobacco regalia are another possible example.

It should be understood that the existence (or absence) of coercion in regalia is relative because the State itself creates and regulates a market where it then acts as a participant. Because of this some services cannot be performed by non-state legal entities or individuals.

Regalia occupy an intermediate position on a spectrum of private and public revenue, and due to that they are divided into regalia in which the State: 1) competes on a nearly-equal basis with private enterprises, and does not restrict competition (as was the case in pre-Revolutionary Russia with the state-owned railways, armories, porcelain factories, income from government lotteries, etc.); 2) restricts or completely eliminates competition for non-fiscal interests (as in the emission of money, or the postal business at some point, etc.); 3) limits or eliminates all competition (as in the mining, salt, tobacco, match regalia)⁴⁰.

The next type of revenue is a *duty*, a fee charged from individuals in favour of the State when these individuals deal with state institutions.⁴¹ The semantic origin of this word is explained by V. I. Dal as something received from a product (a monetary fee from the imported goods or a customs duty, a clearance) as well as a custom of ancient standing.⁴² According to the RF Tax Code, the state duty is a fee charged from its payers when they apply before state, local or other authorities and/or the officials who are authorized to perform legal actions in relation to these payers.⁴³

The similarity between duties and taxes is noticeable, and the RF Budget Code relates duties to tax revenue (article 50). On the other hand, a duty has a feature in common with regalia: In both

³⁸Yanzhul I.I. Op. cit., p. 137.

³⁹It should be noted that many types of regalia originally appeared not for profit but because of necessity, as certain public needs were not provided at all (this applies, for example, to the postal services and railways).

⁴⁰See: Yanzhul I.I., Op. cit., pp. 138, 139.

⁴¹Ibid., p. 509.

⁴²Dal V.I., *The Explanatory Dictionary of the Living Great Russian Language*, Moscow, 2009, vol. 3, p. 368 (in Russian).

⁴³ According to Article 8 of the RF Tax Code, a fee is a compulsory payment charged from organizations and individuals. Payment of this fee as well as of a duty is one of conditions for collection of fees from taxpayers by public and local authorities, performance of legally significant actions including provision of certain rights or licenses by other authorized bodies and officials.

cases, a payer resorts to the services of state (municipal) institutions. The difference is that the regalia correspond to the transfer of materialized goods, works and services, and the duty corresponds to the performance of legal acts that are not subject to market turnover and have no market value. A tax, unlike a duty, is applied to everyone and does not involve any obligation to perform actions.

We can say that certain duties have a coercive nature; the duty for judicial proceedings is illustrative of this. The courts are state authorities that have exclusive competence to administer justice. There is no other possible recourse for justice besides the courts; therefore, resorting to the courts necessarily involves paying whatever duty the state imposes. In addition, the amount of a duty, as well as the tax rate, are not negotiable because they are established by the law (the act of a local authority).

Failure to pay a duty results in refusal to perform legally significant acts; however, if such actions were performed, a collection of duties (as fees) does not differ from a collection of taxes.

The last source of public revenue is a tax, as described below.

In the classification system discussed above, non-tax revenue is not referred to any particular group; this would in any event be difficult, because the sources of public revenue are very different.

According to a second well-known system of classification, that of I.I. Yanzhul, all public revenue is divided into two groups: *ordinary* and *extraordinary*.⁴⁴ The ordinary sources are divided into two classes, according to the method of receipt: revenue received by *private-law* and *public-law* methods (private-law and public-law). These two ways of mobilization can also be called lenient and strict, or *voluntary* and *compulsory* revenue.

Private-law revenue refers to revenue that “was received by the State from its citizens of their own free will, by virtue of a unilateral or a bilateral agreement.”⁴⁵ The discussion above shows that this includes *gifts* (voluntary donations), revenue from *state property, trades, and certain duties* having no coercive nature.

Public-law revenue (received using the coercion) includes *regalia, duties* (with some exceptions) and, of course, *taxes*.

According to I. I. Yanzhul, *extraordinary* sources of revenue, i.e., those that are used in

⁴⁴ This classification is available as expounded by Yanzhul I.I.: Yanzhul I.I. Op. cit., pp. 53-59.

⁴⁵ Ibid., p. 53.

exceptional cases, are divided into *loans, sale of property (domains), and confiscation*.

In this classification system, we find no arrangement for grouping non-tax revenue. In addition, the revenue that are presently called non-tax revenue are essentially divided on a higher level, so that revenues from the sale of public property are considered extraordinary, revenue from the use of property, certain duties and trades are private-law revenue, and revenue from the remaining duties and regalia are public-law revenue.

For the sake of completeness, we offer a few additional doctrinal classifications of public revenue that also do not include such “non-tax revenue”.

The third classification of budget revenue is offered in the *Plan of Finance* (in Russian), of M. M. Speransky, according to which all public revenue can be divided into three parts according to their sources:⁴⁶

1) *duties and taxes* (including fees such as the poll fee; duty fees; fees for stamped paper; land fees; fees from merchants and burghers; deductions from wages; passport fees; local, district fees for recruiting, fees for maintenance of district administrations and other district costs; customs duties);

2) *revenue from state-owned capital*, which, in turn, are divided into three parts: revenue from capital, “which the treasury uses for processing” (ores, salt, fishing, and hunting); revenue from capital, “which the treasury uses for industrial trade” (state-owned factories, sale of exclusive drinks, and post); revenue from capital, “which the treasury uses for maintenance of various public institutions” (roads, canals, coins, and banks);⁴⁷

3) *revenue from state-owned property* (state-owned land, various quitrent articles, and forests).

M. M. Speransky classifies revenue according to the *sphere* of its use: *general* and *private*; and according to *moment of time* of receipt: *ordinary* and *extraordinary*.⁴⁸

Fourth, according to the territory principle, revenue can be divided into *federal* (received within the whole territory of the Russian Federation), *regional* (collected within the subjects of the Russian Federation), and *local* categories.

Fifth, revenue that enters a particular budget item within the budgetary system as a percentage

⁴⁶See: *U Istokov Finansovogo Prava [At the Origins of Financial Law]*, pp. 49, 50 (in Russian).

⁴⁷Ibid.

⁴⁸Ibid.

deduction from taxes or other fees according to annually approved standards is called *regulatory budget revenue*; and revenue that enters into the budget in full or in a fixed percentage on a permanent or long-term basis is called *fixed* budget revenue.

Sixth, budget revenue can be divided into *external* (coming from non-residents and other foreign sources) and *internal* (coming from residents and other domestic sources) categories.

A. G. Paul offers a system which classifies revenue as *primary* (main) and *secondary* (derivative), depending on its source—from outside the budgetary system or by transfer to the relevant budget from other budgets. Secondary revenue should include funds for financial assistance (intergovernmental transfers) received from other budgets within the budgetary system.⁴⁹

Thus, there is already a sufficient number of doctrinal classifications for public revenue along various methodologies, none of which offers a method for classifying “non-tax revenue” despite the norms of the Russian legislation applying this notion (article 41 of the RF Budget Code). This makes it possible to raise the question of whether it is reasonable and judicious to use the notion “non-tax revenue” at all.

Taxes as a Source of Public Revenue

A *tax*, as a source of public revenue, “sharply separates the public and the private sector.”⁵⁰ Taxes are the main source of replenishment of the modern government budget and a striking example of state coercion. If we compare, for example, means of self-taxation of citizens of a governmental unit and a tax, we will observe a difference in the nature of the establishment of taxation (which occurs not by the direct will of people, but solely by the mechanism of law), and the coercive nature of tax collection supported by the power of the state apparatus.⁵¹

The tax legislation in the Russian Federation (and in other countries) is so developed that tax law is treated as a separate sub-sector of financial law. Also, the RF Tax Code exists as a codified normative legal act, which fact probably gave rise to the idea of legal division of budget revenue between tax and non-tax revenue.

It should be noted that a tax is a statutory concept and stands among the above-mentioned

⁴⁹See: Paul A.G., Op.cit., p. 15.

⁵⁰Ibid., p. 57.

⁵¹ It should be noted that foreign legislation illustrates that the main characteristic of a tax is its gratuitousness but not its coercive nature. According to the German Tax and Payments Regulations (*Abgabenordnung*), taxes are defined as a monetary payment which is made not in connection with certain actions in favor of a taxpayer and collected by public authorities to form the budget revenue (according to Kilinkarova E.V., *Tax Law in Foreign Countries*, Moscow, 2015, p. 69 (in Russian)). The Oxford dictionary defines “Tax Revenue” as follows: “payments to government without expecting direct benefit or return by the tax payer” (The Oxford English Dictionary. Volume XI).

sources of public revenue. We should note that tax revenue is distinguished by a specific method of its mobilization (establishment and seizure).⁵²

The fact is that a tax cannot be called a direct source of budget revenue, in contrast to a gift, funds of a ruler, public property, trade, regalia, or duties. In fact, a source of tax revenue is that which is called an “object of taxation” in the Russian tax legislation, i.e., the sale of goods (works, services), property, profit, income, expenses or other circumstance having value, quantity or physical characteristics, whose existence is connected with an obligation of taxpayers to pay tax according to the tax and duty legislation (Article 38 of the RF Tax Code).

A tax is a compulsory individual payment without compensation (article 8 of the RF Tax Code) but differs from other compulsory payments (for example, fines, natural resource fees, environmental fees, or customs duties) by the existence of a legal structure to service it, i.e. elements of taxation, including an object, a tax base, a tax period, a tax rate, a calculation procedure, an order and a period of payment (Article 17 of the RF Tax Code). It should be noted that the sale of goods (works and services) and of property may be a source of non-tax revenue.

We can conclude from the foregoing that a tax is not comparable with other sources of public revenue and belongs in its own category. We can also specify the theoretical and practical problem connected with the definition of *sources of public (budget) revenue* – namely, whether a tax is a source of public revenue or should be considered a kind of second expenditure from different revenue sources.⁵³ In any case, reintroducing the notion of sources of public revenue removes the contradiction in the academic literature between the notions of taxes and duties as obligatory payments (the tax law), and tax revenue (the budget law).⁵⁴

Conclusion

It bears repeating in our conclusion that today there is no definition of tax and non-tax revenue of the budget, in either legislation or in academic literature. Even tax revenue does not represent a constant value, as the list of sources from which it is drawn is adjusted from time to time⁵⁵ in

⁵² See *Budget Law: Textbook*, edited by Sattarova N.A., Moscow, 2009 (in Russian); Paul A.G., *Budget Revenue*, Moscow, 2012, p. 25 (in Russian).

⁵³ Kilinkarova E.V. states that the notion of a tax varies in different countries. The following different terms are used to designate what is called a tax in Russia: in English: *tax, excise, impost, duty, levy, cess, rate*; in French: *taxe, contribution, impot, droit*. In Germany *steuer* is one of compulsory payments, in Spain *impuesto* is a part of general compulsory payments of *tribute*, similar notions are used in Italy: *imposte and tribute* (Kilinkirova E.V., *Tax Law in Foreign Countries*, Moscow, 2015, pp. 69-71 (in Russian)).

⁵⁴ Kucheryavenko N.P., “Harmonization of Generic and Type Structures of Budget Revenue Regulation,” *Ocherki Byudzhetno-Pravovoy Nauki Sovremennosti [Outline of Contemporary Budget and Legal Science]*, Moscow-Kharkov, 2012, p. 329. In this Article, the contradiction is revealed by the example of the Ukrainian legislation, but it is equally related to the Russian legislation.

⁵⁵ For example, in the Russian Federation until 2004 the tax revenue included customs duties, customs fees and other customs payments.

response to changes in financial policies and the expansion of the tax base, which runs in parallel with the reduction of the public sector's share in an economy.⁵⁶

In budget legislation⁵⁷ and academic literature,⁵⁸ the notion of non-tax revenue is suggested by method of exclusion: All that is not included in tax revenue of the budget is non-tax revenue.

Non-tax and tax revenue, however, cannot be placed side by side, as they involve different classification systems. The list of non-tax revenue is open and ever-changing, is not uniform, and has no single origin. Therefore, it is appropriate to consider that «the definition of non-tax revenue and non-tax payments is still 'academic'»⁵⁹. We might also think about an alternative legal classification of public revenue.

The consideration of the definition of public revenue revealed a variety of theoretical and practical problems.

First, it is relevant and appropriate to introduce (or to return to) the notion of a *source of public revenue* for active use.

Second, the available public revenue not included in the budgetary system (decentralized revenue) presents a problem, since it cannot be redistributed to covering public expenses.

Third, the notion of budget revenue is identical to the notion of public revenue.

Fourth, public revenue can be defined in *three ways*: firstly, in connection with public needs and public expenses; secondly, in relation to the national wealth, which is its source; and, thirdly, in connection with inclusion in the budgetary system.

Finally, public revenue has several internal phases, the first of which is its latent state, the second in its status as a *source* of revenue, and its third, its state when it is *mobilized*. *Redistribution* of revenue to meet public needs follows mobilization, at which point it is called *budget* revenue. The redistributed budget revenue is then *subject to administration*.

⁵⁶Lazareva N.P., *Tax Law in Foreign Countries*, Khabarovsk, 2014, p. 12. (in Russian).

⁵⁷ Article 41 of the RF Budget Code.

⁵⁸Omelekhina N.V., *Budget Law in the Russian Federation*, Novosibirsk, 2005, p. 110 (in Russian); Parygina V.A., Tedeev A.A., *Budget Law and Procedure*, Moscow, 2005, p. 230 (in Russian).

⁵⁹Peshkova Kh.V., *Budget Law in Russia*, Moscow, 2011, p. 256. (in Russian).

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