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ВЕСТНИК

НАЦИОНАЛЬНОЙ АКАДЕМИИ НАУК
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NAS RK is pleased to announce that Bulletin of NAS RK scientific journal has been accepted for indexing in the Emerging Sources Citation Index, a new edition of Web of Science. Content in this index is under consideration by Clarivate Analytics to be accepted in the Science Citation Index Expanded, the Social Sciences Citation Index, and the Arts & Humanities Citation Index. The quality and depth of content Web of Science offers to researchers, authors, publishers, and institutions sets it apart from other research databases. The inclusion of Bulletin of NAS RK in the Emerging Sources Citation Index demonstrates our dedication to providing the most relevant and influential multidiscipline content to our community.

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ROLE AND SIGNIFICANCE OF INCOME OF PUBLIC INSTITUTIONS IN CIVIL AND BUDGETARY LEGISLATION OF THE KYRGYZ REPUBLIC

Abstract. The article analyzes using the normative and systematic methods, as well as analysis and synthesis, the content of the statements of the Civil Code of the Kyrgyz Republic, the Budget Code of the Kyrgyz Republic, the Laws of the Kyrgyz Republic "On State and Municipal Services", "On Non-Profit Organizations", "On Basic Principles of Budget Law", Regulations "On Special Funds and Deposit Amounts of Institutions on the State Budget of the Kyrgyz Republic" 1998 and 2000, approved by the Government of the Kyrgyz Republic, as well as other acts of this body and Model Civil Code of the Commonwealth of Independent States, as well as practice the application and improvement of these acts and the works of legal scholars, in addition, the judicial practice of the Supreme Court of the Kyrgyz Republic related to the subject of the research was studied, the data of the Accounts Chamber of the Kyrgyz Republic on audit of annual republican budgets were analyzed.

The article reveals essence of state institutions of the Kyrgyz Republic as legal entities, their role and significance, place in the system of non-profit organizations. Particular attention is paid to the trends in the theory of public legal entities. The authors conduct historical analysis of existence of the state institutions of the Kyrgyz Republic. The revenues of this institutions, ratio of the norms of civil and budgetary legislation in the regulation of activities of institutions, which generate income, are investigated, and importance of legislation on public services in the regulation of the provision of paid services is revealed. Importance of special funds as a source of profitable activity is considered. Comparative analysis of the norms of the budgetary and civil legislation governing activities of the state institutions with income has been carried out.

Key words: institutions, income, self-management, state, paid services, budget, taxes.

Introduction. In modern law and legislation, more and more interest is aroused by study of commercial persons and subjects of corporate relations, which is natural, since the basis of the market relations in democratic system of state structure is precisely economic entities, which often determine policy of state, making demands on it to create conditions for their effective development.

Methods. The article analyzes using the normative and systematic methods, as well as analysis and synthesis, the content of the statements of the Civil Code of the Kyrgyz Republic, the Budget Code of the Kyrgyz Republic, the Laws of the Kyrgyz Republic "On State and Municipal Services", "On Non-Profit Organizations", "On Basic Principles of Budget Law", Regulations "On Special Funds and Deposit Amounts of Institutions on the State Budget of the Kyrgyz Republic" 1998 and 2000, approved by the Government of the Kyrgyz Republic, as well as other acts of this body and Model Civil Code of the Commonwealth of Independent States, as well as practice the application and improvement of these a cts and the works of legal scholars, in addition, the judicial practice of the Supreme Court of the Kyrgyz Republic related to the subject of the research was studied, the data of the Accounts Chamber of the Kyrgyz Republic on audit of annual republican budgets were analyzed.

Discussion. The legislation of the Kyrgyz Republic establishes, for example, such economic entities as non-profit organizations are fully supported by the state. Foreign scientists believe research on public and non-profit organizations has recently shifted towards the main body of research on governance of organizations and many public and non-profit scholars focused on that (Gnan, Hinna, Monteduro, 2013, p. ix). Foreign literature notes the non-profit sector has become increasingly important in diverse economic, political and social environments (Euske N.A., Euske K.J., 1991, p. 81). So, in accordance with Art. 5 of the Law of the Kyrgyz Republic "On Non-Commercial Organizations" dated October 15, 1999, state support can be provided in the form of targeted financing of certain socially useful

programs of non-commercial organizations, as well as in other forms not prohibited by law. Interference of state bodies or officials in activities of non-profit organizations is not allowed, except in cases when it is provided by law.

This organizational and legal approach has been established in almost the entire post-Soviet area.

State institutions are reflection of the functions and the obligations of the state to society. It is these subjects that carry out the social task of providing population with education (preschool, secondary, higher, etc.), preserving and strengthening health of population, improving its sanitary culture; perform cultural and organizational functions, etc. In addition, state bodies themselves are created precisely in form of institutions with the right to act in civil circulation on behalf of state, conclude business agreements for organizing their own activities (for example, labor contracts, contracts with utilities and supply services, etc.). In Soviet times, such institutions formed the basis of almost all civil law relations. At that time, it was the state acted as the sole owner of all the property of the Soviet Union, and on its behalf, the overwhelming majority were institutions, it would be more correct to say - network of budgetary institutions carried out various tasks of state in one area or another throughout the USSR.

As noted by S.N. Bratus in his research, designating state enterprises and institutions by state bodies, wrote the state budgetary institutions are state bodies perform administrative, organizational, economic, cultural, educational and similar functions at the expense of that share of social product does not enter production and individual consumption. Some of this share of social income is used for general, non-production management costs (Bratus, 1947, p. 137). In future, this researcher comes to the conclusion: "… based on different functions of state and various forms of implementation of these functions, state bodies should be divided into enterprises and budgetary institutions. And then the author draws parallel between Soviet institutions and bodies of bourgeois state, noting at the same time their great difference not only in social, but also in legal terms. Thus, "bodies of these states are not legal entities: they act as treasury bodies, as a single legal entity. Soviet institutions, which possess certain measure of property independence, are subjects of law. In Soviet legislation, the concept of the institution is combined with the idea of state body performing not production, but administrative and cultural-organizational functions" (Bratus, 1947, p. 138).

Attempts to separate from the bourgeois system led to the substantiation of the Soviet theory of essence of legal entities and their system. And as noted by E.A. Sukhanov, "the main contribution to development of new for that time legal structures of state enterprise, and then state institution was made by the outstanding Russian legal scholars S.N. Bratus and A.V. Venediktov. They logically substantiated almost impeccable legal constructions adapted to the needs of the economy, which have successfully survived to this day largely due to the fact that in the modern Russian economy not only persists, but also increases the direct or indirect participation of the federal state and other public owners in property turnover, primarily through legal entities created by them" (Sukhanov, 2018, p. 6).

Accordingly, the concept developed by outstanding scientists is used in legislation of modern states of almost all countries of the former Soviet Union, including Kyrgyzstan.

Since gaining independence, our country, on the basis of the Model Civil Code of the Commonwealth of Independent States, has developed the system of legal entities with inclusion of private entities, legal entities in civil circulation. In this connection, legal entities were subdivided into two types - commercial and non-commercial. The special place in the system of subjects of entrepreneurial law is occupied by non-profit organizations, the conditions for assigning them to persons directly engaged in entrepreneurial activities have significant specificity, in contrast to commercial legal entities and individual entrepreneurs (Chekurda, 2019, p. 277). Abroad, non-profit organizations are considered as employee groups (unions and professional associations), shareholders (institutional investors including pension funds and endowments), community and other interest groups, government contractors, competitors, consumers, and suppliers (Ben-Ner, Van Hoomissen, 1991, pp. 519-550). At the same time, the main essential difference between these types is receipt of profit as the main activity (commercial organization) and non-distribution of profit received between members (non-profit organization). This is a worldwide practice, for example, in the USA the Internal Revenue Code which is one of the governmental regulatory schemes regulating NPO's requires that all profits go back into the operation of the organization (Bottiglieri, Kroleski, Conway, 2011, p. 51-60). In legal science, dynamism of the legislative framework for functioning of non-profit legal entities is noted (Avtonomov, Grib, 2020, p. 81-103). However, it should be noted such a distinction today causes ambiguous reaction from the scientific community. So, D.I. Stepanov suggests using two approaches to distinguish between these two types of legal entities: functional and economic. At the same time, in his opinion, "application of functional approach (bearing in mind inadmissibility of the main aim - making a profit) will be impossible in relation to non-profit organizations, since then it will be necessary to determine the criteria – the "aims of activity" and the clear types of organizations (Stepanov, 2007, p. 15-16). In addition, according to D.I. Stepanov, in modern law, the functional approach turns out to be inoperative for another reason, which is mainly associated with increasing commercialization of non-profit organizations. "Commercialization, or

increasing role of the entrepreneurial component in activities of non-profit organizations", the author believes, "is a feature characteristic of modern times, which manifests itself in departure from philanthropic beginning and prevalence of compensated equivalent element in current activities of such organizations" (Stepanov, 2007, p. 16). In turn, N.V. Kozlova means division into two types of legal entities is absent in understanding of European law (Kozlova, 2011, p. 57). However, today the legislation of Russia, Kazakhstan, Kyrgyzstan and other countries of the Commonwealth of Independent States continues to maintain existing division of legal entities.

In the context of determining significance of such institutions, it is relevant to identify their essence through the ratio of private and public principles. Recently, this issue has also increasingly become the subject of the scientific discussions. If we pay attention to the main studies in recent years, then it is necessary to say unequivocally about the growth in teachings of the concept of "public legal entities" (or "legal entities of public law"). In particular, the Kazakh scientist, researcher T.E. Kaudyrov, recognizing, in theory, attempts are made for autonomous existence of subjects of public and private law, proposes to recognize different regulation of legal entities of private, public and private-public law (Kaudyrov, 2010, p. 30). The Georgian scientist-researcher L. Chanturia also speaks about this (Chanturia, 2010, p. 161-162).

State institutions - in particular, other organizations (i.e. legal entities), where the state acts as a founder - in general, today raises questions about existence of legal entities of public law. It seems to us this tendency, i.e. recognition of some public principles in legal entities is inevitable. Since essence of legal entities lies in private legislation and their entry into civil circulation has a private basis, but everything is predetermined for them to enter into property circulation is public norms. In particular, the same state institutions for entering into civil circulation in order to conclude any transaction are associated with the need to comply with requirements of public legislation - budgetary, on public procurement, the introduction of accounting, the use of property, etc.

Judicial practice shows even economic entities, the founders of which are states, are forced to rely on the decisions of the Accounts Chamber when concluding and executing contracts. For example, Electric Stations OJSC was forced to admit the impossibility of further payment for contract work based on the conclusion of the Accounts Chamber (Resolution of the Supreme Court of the Kyrgyz Republic dated August 23, 2016, case No. ED-1292/15mbs3).

Further, the right to independently dispose of property is for modern Kyrgyzstan, and for all CIS countries, in principle, established institution. This concept reveals legal essence of income of institutions. According to the report on the audit of the annual budget by the Accounts Chamber of the Kyrgyz Republic, in 2015-2016 alone, the revenue plan for such funds amounted to about 13 billion soms (192.6 million US dollars) from the entire resource part of the budget of 150 billion soms (2.2 billion US dollars)). It means this is a very significant part of the state's activity.

According to Art. 231 of the Civil Code of the Kyrgyz Republic stipulates that institutions have the right to retain income earned by themselves. This norm allowed the huge army of the network of budgetary institutions of Kyrgyzstan to build up the economic potential, especially in conditions of constant underfunding, they actively joined in earning their own income for survival.

As S.N. Bratus, in Soviet times, budgetary institutions were subjects of civil law, which possessed special means, i.e. income. In the future, budgetary institutions could be self-supporting and budgetary, the first of them exclusively pursued the aim of earning and paying for their own expenses with these funds, and for the second, income was only a side activity and, as this scientist claims, this activity is related to the functions performed by this institution. only in the sense that as a result of its activities, an additional material base is created for the implementation of the tasks assigned to the institution (Bratus, 1947, p. 202).

At the same time, special funds are the amounts formed from those revenues of budgetary institution, which, on the basis of special decrees (the Government of the Soviet Union, the Government of the Union Republic or the local council - depending on the subordination of the institution) can be spent by this institution for special purposes without carrying out income and expenditure side of state or local budget. In other words, these funds could be spent by budgetary institutions on their own, without spending in the budget, i.e. for independent needs, as opposed to budget funds.

Thus, even under the Soviet Union, the system of budgetary institutions was formed, which could be either self-supporting or budgetary institutions had their own incomes, called "special funds". At the same time, of course, they were an institution of civil law. Today, with the transition to the market mechanisms, the institutions in the civil legislation also have incomes are called "the right of self-management" (Article 231 of the Civil Code of the Kyrgyz Republic), but not "special means". While in the budgetary legislation there is the concept of special funds of budgetary institutions. Accordingly, in regulating the essence of profitable activities of budgetary institutions, it is necessary to distinguish between civil and budgetary legislation of the Kyrgyz Republic.

And here we should proceed from the fact that "special funds" today, being exclusively institution of budgetary legislation, have their own properties of regulation. So, special funds do not always remain

(in the sense of budgetary institution) equivalent concepts of income of state institutions (as institution of civil law). For a very long time, at least before the adoption of the Budget Code of the Kyrgyz Republic (in 2016), the special funds were regulated by the Law of the Kyrgyz Republic "On Basic Principles of Budget Law" and the Regulation on Special Funds approved by the Government of the Kyrgyz Republic. So, the Regulation "On Special Funds and Deposit Amounts of Institutions, which are on the State Budget of the Kyrgyz Republic", approved by the Resolution of the Government of the Kyrgyz Republic dated May 25, 1998 No. 295, it was established special funds and deposit amounts are funds received by budgetary institutions in addition to appropriations allocated from the state budget of the Kyrgyz Republic (p. 1). Further, in Clause 6 of this provision, it is established: special funds are incomes of budgetary institutions received from sale of products, performance of work, provision of services or other activities.

In 2000, the new Regulation “On Special Funds and Deposit Amounts of Institutions Held on the State Budget of the Kyrgyz Republic” was adopted (Resolution of the Government of the Kyrgyz Republic dated August 28, 2000 No. 531), which provided for the same norms. At them among the special means there were such means as:

- funds from collection of fees for passage of heavy and large vehicles on public roads;
- funds from collection of fees for passage of vehicles on toll roads and artificial structures on public highways;
- receipts from collection of consular fees of the Ministry of Foreign Affairs of the Kyrgyz Republic;
- receipts from collection of fees for registration of pledge and funds of pledge registration offices received for provision of registration services;
- funds of customs authorities from their non-commercial activities at the expense of accrued customs duties.

Differently, these are funds cannot be ordinary paid state services, but rather main activity of state bodies - supervisory, control, etc., the so-called tax and other mandatory payments (which should directly go to resource part of budget), which , in principle, could at that time be the funds of special account (in the budgetary legislation), but cannot be income of state institutions (as stated in Article 231 of the Civil Code of the Kyrgyz Republic), since institutions cannot have such income. Since, according to Part 5 of Art. 1 of this acts, civil legislation does not apply to property relations based on administrative or other power subordination of one party to the other. In this regard, analyzing the legislation of Russia, M.S. Ignatova notes the functions of state bodies can be in the form of functions:

- on adoption of regulatory legal acts;
- for control and supervision;
- for the management of state property;
- for the provision of public services (Ignatova, 2014, p. 99).

In other words, in Russia it is unambiguously defined about inadmissibility of shifting the concepts of public services and the functions of institutions for control and supervision.

Accordingly, foregoing speaks of inequality of the two concepts in different branches of law, denoting income of state institutions.

But in the understanding of budgetary legislation, such revenues could be directed not only to the needs of specific institution itself, but also to the system of any state body (which is a budgetary institution) or its territorial and subordinate institutions. Thus, the funds of the special account of the State Agency for Environmental Protection and Forestry of the Government of the Kyrgyz Republic can be used to provide one-time financial assistance, compensation for cost of vouchers to health institutions, and bonuses and material incentives to employees of the agency's system. At the same time, the agency is a separate budgetary institution, and its territorial organizations also act as separate budgetary institutions (Resolution of the Government of the Kyrgyz Republic dated June 27, 2012 No. 446 "On Approval of Regulation on Special Account of the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic")/

The same situation is with the State Agency for Geology and Mineral Resources of the Government of the Kyrgyz Republic on the basis of the Regulation "On the Special Account of the State Agency for Geology and Mineral Resources under the Government of the Kyrgyz Republic", approved by the Resolution of the Government of the Kyrgyz Republic dated January 29, 2016 No. 40.

Sometimes special funds do not come into independent disposal (within the meaning of Article 231 of the Civil Code of the Kyrgyz Republic) and for their use head of budgetary institution needs permission from the Government of the Kyrgyz Republic, as the founder of this legal entity. Thus, the Kyrgyz State Medical Academy in 2002 allocated funds from the special account to celebrate the anniversary of the first president of the Academy of Sciences of the Kyrgyz SSR, an outstanding scientist and public figure, academician I.K. Akhunbaev, on the basis of the Order of the Government of the Kyrgyz Republic dated September 19, 2008 No. 472-r. Another example, in the same year, the Ministry of Defense, on the basis of the order of the Government of the Kyrgyz Republic dated June 7, 2002 No. 297-r, also used its own special funds for targeted needs.

In the Budget Code of the Kyrgyz Republic, the issues of special funds of budgetary institutions are resolved through the possibility of accumulating in a special account in the form of:

a) provision of paid state and municipal services;
b) sponsorship and voluntary contributions;
c) guardianship fees;

d) charitable or grant aid;

e) deductions from international institutions for joint research work;

f) funds from the sale of goods of own production (Art. 105).

Moreover, according to Art. 19 of this Code, proceeds from provision of paid state and municipal services are funds received in the form of income from provision of services in accordance with the registers of state and municipal services determined by the legislation of the Kyrgyz Republic.

State services, in turn, in accordance with the Law of the Kyrgyz Republic "On State and Municipal Services", is the result of the activities of state institutions carried out within their competence to fulfill request of individuals and legal entities and aimed at the implementation of rights, satisfaction of the legitimate interests of consumers of services or execution responsibilities arising from civil law relations (Art. 3). These services cannot include supervisory, control and licensing functions (Art. 1).

In other words, in contrast to the previously existing norms, the Budget Code directly indicated only funds from the provision of paid services can be accumulated in special account and funds for other non-tax payments (fees), which are results of control and supervisory powers of state bodies, cannot be included.

However, the issues of “independent disposal” (in the meaning of Art. 231 of the Civil Code of the Kyrgyz Republic) remain the institution of such income, since the Government, by its own decision, reserves the right to determine the direction of these funds. Accordingly, this speaks of preservation of difference between the concept of income, established in this article, and special funds in budgetary legislation.

In addition, income in the form of rent is definitely not received by “independent disposal”, despite the fact that Art. 231 of the Civil Code of the Kyrgyz Republic is established. Since these funds, according to Art. 101 of the Code on Non-Tax Incomes are sent to budget, and after 70 they are returned to budgetary institutions for the maintenance and repair of leased property, as well as for the development of material and technical base (while these funds are not reflected in special account, but are indicated in budget account).

Obviously, state bodies today do not set themselves the task of solving issue of the ratio of the norms of civil and budgetary legislation on income of budgetary institutions. This can be clearly seen when studying the Audit Reports on Budget Execution by the Accounts Chamber of the Kyrgyz Republic. For example, in 2018, other issues of financial discipline are noted with regard to special funds, without specifying the issues of the relationship between the two legislations. Thus, it is noted “... disordered system of administration of special account funds and the presence of conflicting decisions of the Government of the Kyrgyz Republic allowed individual ministries and departments to:

- have fund and income over 1.2 billion soms (17.9 million US dollars), subject to inventory and bringing in accordance with the law;

- use funds from special accounts in the amount of 2.0 billion soms (29 million US dollars) to pay salaries, various bonuses, incentives and social guarantees.

Attempts by state bodies at this stage are most likely focused on ensuring and replenishing the revenue side of the budget, therefore, the authorities to greater extent raise questions of compliance with the norms of budgetary legislation, rather than ensuring a balance between budget and civil legislation.

In this regard, an interview with E.A. Sukhanov in 2013, where he directly notes it is easiest for the authorities to destroy the institutions of civil law, rather than budgetary or tax, since they protect such authorities as the Ministry of Finance, the tax service, etc., and straighten the norms of civil law in someone else's. then for the sake of it - this is no problem, since he does not have defenders in the person of any state body (Sukhanov, 2013, p. 4).

However, in this regard, it is interesting to observe certain attempts by legislator or authorities to give these funds - income of budgetary institutions or special funds - some kind of independence and identification of it from the state. Thus, the Tax Code of the Kyrgyz Republic adopted in 2008 provided for a new type of tax on special funds of budgetary institutions, which was canceled in 2012. Naturally, there could be no taxation of subject, which is one of persons of treasury itself or part of budget. That is why in the latest decisions of the Supreme Court of the Kyrgyz Republic on the tax obligations of budgetary institutions for special funds, the need to pay tax was indicated, but in the decisions the respondent party indicates that special funds are one of types of budgetary funds and are included in budget, respectively, and so are in resource part of the budget, which means budget cannot tax its own funds (Resolution of the Supreme Court of the Kyrgyz Republic dated February 21, 2017, case No. AD-546/15mbs7).

Thus, the right to independently dispose of property (income of state institutions), regulated by Art. 231 of the Civil Code of the Kyrgyz Republic, provides broad rights to carry out profitable activities. However, the norms of budgetary legislation and legislation on public services represent the different regulation and in some way limit this right provided for by civil law. So, budgetary institutions have the right to use income from rent only 70%, and then these funds are used exclusively for maintenance and repair of leased property (if not, then they are withdrawn to the budget); also, revenues of budgetary institutions can be used not only by a specific institution itself, but by a decision of the Government of the Kyrgyz Republic or higher organization, funds can be directed

to needs of other institutions. This is a consequence of lack of a common understanding of the civil and budgetary legislation of the Kyrgyz Republic. To date, the authorities, including the Accounts Chamber of the Kyrgyz Republic and the judiciary, do not set themselves the task of implementing two branches of the legislation on these issues.

It is obvious in near future the legislator will not try to resolve this issue. Although today we have the norms of civil legislation declaring the "independence" of the income of budgetary institutions, which are reduced to naught by the norms of this legislation.

Results. 1. Today in the Kyrgyz Republic, including in all the countries of the former Soviet Union, there are still legal entities such as government agencies. Accordingly, such institutions took the basis of Soviet law, which differed from foreign, so-called "bourgeois" law, in that Soviet institutions were recognized as subjects of civil law, and bourgeois institutions were not subjects of law and acted as treasury bodies as a single legal entity.

2. State institutions in the modern legislation of the Kyrgyz Republic and all former Soviet republics are non-profit organizations do not pursue profit-making as main target. On the contrary, commercial organizations are aimed at making profit. However, in the theory of civil law, the legislative division of such legal entities and their basis for division have recently been challenged.

3. The right to independently dispose of property of institutions is an established institution, which is one of the necessary qualities of such institutions, i.e. rights of institution to income received.

4. The income of state institutions in the form of the right to independently dispose of property, regulated by Article 231 of the Civil Code of the Kyrgyz Republic, provides broad rights to carry out profitable activities. However, the norms of budgetary legislation and legislation on public services represent a different regulation and in some way limit this right provided for by civil legislation.

5. This approach is a consequence of lack of common understanding of the civil and budgetary legislation of the Kyrgyz Republic. To date, authorities, including the Accounts Chamber of the Kyrgyz Republic and the judiciary, do not set themselves the task of implementing two branches of legislation on these issues.

6. Obviously, in the near future the legislator will not try to resolve this issue. Today we have the norms of civil legislation declaring the "independence" of the income of budgetary institutions, which are reduced to naught by the norms of budgetary legislation.

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ҚЫРГЫЗ РЕСПУБЛИКАСЫНЫҢ МЕМЛЕКЕТТІК МЕКЕМЕЛЕРІ МЕН АЗАМАТТЫҚ ЖӘНЕ БЮДЖЕТТІК ЗАҢНАМАЛАРДАҒЫ КІРІСІНІҢ РӨЛІ МЕН МАҢЫЗДЫЛЫҒЫ

Аннотация. Басылымның авторлары нормативтік және жүйелік әдістерді, талдау мен синтезді қолдана отырып, Қырғыз Республикасының Азаматтық кодексінің, Қырғыз Республикасының Бюджет кодексінің, «Мемлекеттік және муниципалдық қызметтер туралы», Қырғыз Республикасының заңдарының, «Коммерциялық емес ұйымдар туралы», «Бюджет құқығының негізгі қағидалары туралы», «Қырғыз Республикасының мемлекеттік бюджеті бойынша мекемелердің арнайы қорлары мен депозиттері туралы» 1998-2000 жылдардағы ережелер, Қырғыз Республикасының Үкіметі бекіткен, сондай-ақ осы органның басқа актілері және Тәуелсіз Мемлекеттер Достастығының Үлгі Азаматтық кодексі, осы актілерді қолдану және жетілдіру практикасы, заң ғалымдарының еңбектері, сонымен қатар, Жоғарғы соттың сот практикасы зерттеу тақырыбына қатысты Қырғыз Республикасы зерттелді. Қырғыз Республикасының Есеп палатасының жылдық республикалық бюджеттердің аудиті туралы мәліметтері талданды.

Мақалада Қырғыз Республикасының мемлекеттік мекемелерінің заңды тұлға ретіндегі мәні, олардың рөлі мен маңызы, коммерциялық емес ұйымдар жүйесіндегі орны ашылады. Мемлекеттік заңды тұлғалар теориясының тенденцияларына ерекше назар аударылады. Авторлар Қырғыз Республикасының мемлекеттік институттарының болуына тарихи талдау жасайды. Мемлекеттік мекемелердің кірістері, кірістер әкелетін мекемелер қызметін реттеудегі азаматтық және бюджеттік заңдар нормаларының арақатынасы зерттеліп, ақылы қызмет көрсетуді реттеудегі мемлекеттік қызметтер туралы заңнаманың маңыздылығы анықталды. Арнайы қорлардың пайдалы қызмет көзі ретінде маңыздылығы қарастырылады. Кірісі бар мемлекеттік мекемелердің қызметін реттейтін бюджеттік және азаматтық заңнаманың нормаларына салыстырмалы талдау жасалды.

Түйін сөздер: мекемелер, кірістер, тәуелсіз басқару, мемлекеттік, ақылы қызметтер, бюджет, салықтар.

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РОЛЬ И ЗНАЧЕНИЕ ДОХОДОВ ГОСУДАРСТВЕННЫХ УЧРЕЖДЕНИЙ В ГРАЖДАНСКОМ И БЮДЖЕТНОМ ЗАКОНОДАТЕЛЬСТВЕ КЫРГЫЗСКОЙ РЕСПУБЛИКИ

Аннотация. Авторы публикации с применением нормативно-правового и системного методов, анализа и синтеза проанализировали положения Гражданского кодекса Кыргызской Республики, Бюджетного кодекса Кыргызской Республики, Законов Кыргызской Республики «О государственных и муниципальных услугах», «О некоммерческих организациях», «Об основных принципах бюджетного права», Положений «О специальных средствах и депозитных суммах учреждений, состоящих на государственном бюджете Кыргызской Республики» 1998 г. и 2000 г., утвержденных Постановлениями Правительства Кыргызской Республики, а также иных актов данного органа и Модельного гражданского кодекса стран Содружества Независимых Государств, а также практику применения и совершенствования данных актов и труды ученых-юристов. Кроме того, изучена имеющая отношение к предмету исследования судебная практика Верховного суда Кыргызской Республики, проанализированы данные Счетной палаты Кыргызской Республики по аудиту ежегодных республиканских бюджетов.

В статье раскрывается сущность государственных учреждений Кыргызской Республики как юридических лиц, их роль и значение, место в системе некоммерческих организаций. Особое внимание уделено тенденциям теории публичных юридических лиц. Авторами проводится исторический анализ существования государственных учреждений Кыргызской Республики. Исследованы доходы государственных учреждений, соотношение норм гражданского и бюджетного законодательства в регламентации деятельности учреждений, которая приносит доходы, а также раскрывается значение законодательства о государственных услугах в регулировании оказания платных услуг. Рассматривается значение специальных средств как источника доходной деятельности. Осуществлен сравнительный анализ норм бюджетного и гражданского законодательства, регулирующих деятельность государственных учреждений, имеющих доходы.

Ключевые слова: учреждения, доход, самостоятельное распоряжение, государство, платные услуги, бюджет, налоги.

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