

REVIEW

From

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Faculty of Law of Sofia University “St. Kliment Ohridski”

of the materials submitted for participation in the competition for the academic post of **Professor at Paisii Hilendarski University of Plovdiv**

in: Field of Higher Education 3. Social, Economic and Legal Sciences

in professional field: 3.6. Law (Financial and Tax Law)

1. General information about the competition

In the competition for "Professor" announced in State Gazette, No. 96/17.11.2023 as needed by the Department of Public Law at the Faculty of Law of ‘Paisii Hilendarski’ University of Plovdiv (PU) Assoc. Prof. Krasimir Simeonov Mutafov, PhD (Associate Professor of Finance and Tax Law at PU ‘Paisii Hilendarski’) participated as the only candidate.

By Order No. PД-2181/16.01.2024 of the Rector of ‘Paisii Hilendarski’ University of Plovdiv I have been appointed as a member of the Academic Board of Examiners in the above-mentioned competition. At the first meeting of the Academic Board of Examiners, I was assigned to prepare a peer-review of the documents submitted for participation in the competition and the meeting of conditions for the holding of the academic post of "Professor" by the candidate who submitted documents for participation in the competition, Assoc. Prof. Krasimir Mutafov, PhD.

2. Documents submitted for participation in the competition

Assoc. Prof. Krassimir Mutafov was the only participant in the competition and submitted, on an electronic data medium and on paper, the documents required under Art. 77, Para. 1 of the Rules on the Development of the Academic Staff of PU, adopted by a decision of the Academic Council of PU on 18.04.2011, in the version of the Rules

after the amendments of 22.11.2021, namely: (1) application form to the Rector for admission to the competition; (2) curriculum vitae in European format; (3) a diploma certifying the conferred higher education and academic degree of ‘Master’; (4) a diploma certifying the conferred academic degree of ‘Doctor of Philosophy’; (5) a certificate of the academic post of "Associate Professor"; (6) a list of scientific works and copies of publications; (7) proof of compliance with the minimum national requirements; (8) a declaration of originality and authenticity of the enclosed documents; (9) annotations of the materials referred to in Art. 76. of the Rules on the Development of the Academic Staff of PU (in Bulgarian and English); (10) self-assessment of the contributions, in Bulgarian and English; (11) a list of citations; (12) service record of work experience; (13) documents of academic work.

Assoc. Prof. Mutafov participated in the competition with the following scholarly publications:

1. “Liability for Another Person’s Tax Debt” (ISBN978-619-138-183-0), second supplemented and revised edition, Sofia, 2023, “Nova Zvezda” Publishing House, p. 236 - a monograph with academic editing (Assoc. Prof. Yurii Kouchev, PhD), which contains a complete scholarly research of a fundamental institute of financial (tax) law - the constitution of a third party as a person liable to tax in respect of the actual tax legal relationship that gave rise to the tax liability, in the two elements of the legal relationship in which the legal liability is manifested: the substantive and procedural stages. The work is an original composition, which does not replicate or summarize existing knowledge in the field of tax law, contains an extensive content, bibliography and in-text references to other academic works.

2. “Special Regimes of Taxation under the VAT Act” (ISBN 978-619-163-012-7), a monograph, published on the basis of a defended dissertation with the same title, Sofia, 2013, ‘Feneya’ Publishing House, pp. 163.

3. Articles and studies:

3.1 “Liability for Another Person’s Tax Debt - General Characteristics”, Journal of Society and Law (ISSN 0204-85-23), issue 2 / 2022, pp. 31-54.

3.2 “The State and Municipalities as Active Subjects in Tax Law”, ‘Norma’ journal ISSN 1314-5126 (online print), issue 7/2019, pp. 7-32.

3.3. “Tax Law in the Legal System of the Republic of Bulgaria”, Journal “Studia Iuris” (ISSN 2367-5312), edition of the Faculty of Law of PU, issue 1/2021, pp. 22-38.

4. For participation in the competition (according to the indicators of Group F of Table 1 of the Rules on the Implementation of the Development of Academic Staff in the Republic of Bulgaria Act) the following were submitted:

4.1. “Legal Capacity and Persons in Tax Law” (ISBN - 978-954-8752-32-9), Burgas, 2018, publishing house “Bryag”, pp. 193;

4.2. “Textbook on the Management of Public Finances” (ISBN - 978-619-202-870-1) for the academic major ‘Public Administration’ at the Faculty of Law of ‘Paisii Hilendarski’ University of Plovdiv, Plovdiv, 2023, ‘Paisii Hilendarski’ University Press, p. 226;

4.3. Manual “Collateral Proceedings under the Tax and Social Insurance Procedure Code” (ISBN - 978-619-198-184-7), Sofia, 2023, “Nova Zvezda” Publishing House, p. 214.

3. No publications outside the scope of the competition were submitted.

3. Brief biographical data about Assoc. Prof. Krasimir Mutafov

Assoc. Prof. Mutafov holds a higher education degree with a major in ‘Law’ from the Higher Institute of the Ministry of Interior Sofia. ‘Doctor of Philosophy’ in Law since 2011. From December 2006 to 30.01.2015, he was successively Assistant Professor and Chief Assistant Professor at Burgas Free University (BFU). Since 2015, he has been an Associate Professor at the same University. From 01.06.2020 to the present, he has held the academic post of Associate Professor at the ‘Faculty of Law’ of Plovdiv

University, Department of 'Public Law Sciences'. He delivers lecture courses in Financial and Tax Law.

4. Implementation of the scientometric indicators

From the documents submitted for participation in the competition, it is evident that Assoc. Prof. Krasimir Mutafov, PhD has fulfilled the conditions for holding the academic post "Professor" under Art. 60, Para. 1 of the Rules on the Implementation of the Development of Academic Staff in the Republic of Bulgaria Act, as follows:

(1) in holding the higher education and academic degree of *Doctor* of Law (Diploma No. 0011/25.11.2011);

(2) in having held the academic post of *Associate Professor* at the Faculty of Law of BFU and PU for more than two academic years (according to the reference issued by the Faculty of Law of PU, Assoc. Prof. Mutafov has been lecturing at the University for the last 4 academic years):

(3) in having presented a monograph – "Liability for Another Person's Tax Debt" (ISBN978-619-138-183-0), second supplemented and revised edition, Sofia, 2023, "Nova Zvezda" Publishing House;

(4) in having presented four other original scholarly publications (a book, 2 studies and 1 article) that do not replicate the scholarly publications submitted in the competition for the academic post of *Associate Professor*;

(5) in having met the minimum national requirements for the holding of the academic post of *Professor* in the group of indicators A, C, D, E, F according to Table 1 of the Rules on the Implementation of the Development of Academic Staff in the Republic of Bulgaria Act by achieving 475 scientometric points out of the 450 points required, distributed as follows:

5.1. Group A Indicators (50 out of 50 required scientometric points) - defended dissertation on the topic "Special Taxation Regimes under the VAT Act";

5.2. Group C Indicators (*100 out of 100 required scientometric points*) – a monograph submitted for participation in the competition, reviewed and edited by a scholar.

5.3. Group D Indicators (*115 out of 100 required scientometric points*) - published a book based on the defended dissertation; 2 studies and 1 article in journals reviewed by a scholar and edited collective volumes after acquiring the academic post of *Associate Professor*;

5.4. Group E Indicators (*110 out of 100 required scientometric points*) - 11 citations in scholarly editions listed in the national reference list of NACID;

5.5. Group F Indicators (*100 out of 100 required scientometric points*) - Assoc. Prof. Mutafov has presented 2 textbooks and 1 manual.

(6) no engagement in plagiarism has been proven in relation to the scholarly publications submitted for the competition;

5. Evaluation of the Candidate's academic and practical activity

5.1. The monograph “Liability for Another Person’s Tax Debt”

The monograph submitted for the competition – “Liability for Another Person’s Tax Debt” has a volume of 234 pages (introduction, three chapters, conclusion and bibliography). There are 299 footnotes. The bibliography includes 100 bibliographic sources. The work is devoted to an important, topical and unexplored issue in a monographic volume and has the qualities of comprehensive scholarly research.

In Chapter One, entitled “Legal Liability – Types”, the author, in the context of his main thesis that liability for another person’s tax debt, is a type of legal liability insofar as it is realised in the field of law and by legal means, summarises the general theoretical understanding of the characteristics and types of legal liability as a necessary introduction to the main part of his presentation.

Chapter Two, “Liability for Another Person’s Tax Debt - general characteristics, persons, realization”, examines the special features of a liability for another person’s

tax debt as the content of the actual tax legal relationship, in comparison with the joint and several liability, the property reporting liability under the Public Financial Inspection Act and liability for another person's debt as an institute of private law. The procedure for exercising liability is examined, including the special procedure of the audit in special cases under Art. 122 et seq. of the Tax and Social Insurance Procedure Code.

Chapter Three is entitled "Types of liability for another person's tax debt". This part of the work examines the main hypotheses of liability for another person's tax debt, introduced in Bulgarian tax legislation – third-party liability under Article 19 of the Tax and Social Insurance Procedure Code and under Article 177 of the VAT Act. The prerequisites for the occurrence of liability are examined in a polemical style, and with a critique of some of the case-law and interpretative practice of the Supreme Administrative Court. In the fourth paragraph of Chapter Three, the author, going beyond his basic thesis on liability for another person's tax debt solely as a (distinct) form of legal liability, considers it, as I believe is also the established understanding in doctrine, as an institute of tax law in the broader context of the complexities in developing established and unconcluded tax legal relations, which also encompass joint and several liability (initial and subsequent).

The conclusion of the work summarizes the findings on the specific features of liability for another person's tax debt and proposals for amendments to the current tax legislation made in the research.

5.2. Contributions (academic and practical)

The work enriches the legal discussion by exploring the topic of liability for another person's tax debt in its positive-law recommendation of a specific system of tax legal relations, as an independent type of legal liability (different from the established types). In constitutional theory, the question of the possible (new) function of state power - the financial function - has already been put forward for academic discussion, in view of the particular importance of the legal relations that make up the system of public

finance (Financial Constitutionalism, M. Belov, S., 2015). The formulated research findings are presented clearly, in a polemical style, without violating the measure of proper academic consideration. The practical-application value of the research lies in the summarized case-law of national and supranational jurisdictions in the matter of liability of taxable persons who are not the subject of tax legal relations by reason of their natural connection with the objective preconditions that give rise to them. The subject under study is a topical issue concerning a tax law institute in the system of guarantees for the repayment of tax liabilities, which I believe is yet to receive wider development.

5.3. In addition to the dissertation thesis, the author has presented a monograph, two studies and one article.

All publications are devoted to the fundamental topics of tax law.

The monograph “Special Regimes of Taxation under the VAT Act” was published on the basis of a defended dissertation for the award of the higher education and academic degree of Doctor of Philosophy in Law. The work was reviewed by an Academic Board of Examiners comprising: Prof. Ivan Todorov, PhD (scientific supervisor); Prof. Lyuben Karanikolov, PhD; Prof. Emilia Kandeveva-Spirodonova, PhD; Assoc. Prof. Yurii Kouchev, PhD and Assoc. Prof. Manol Stanin, PhD (data are from the register of the academic staff of NACID), therefore I do not express an opinion on the dissertative character of the topic and qualities of academic analysis, which I believe the work possesses.

In the study “The State and Municipalities as Active Entities in Tax Law”, the author examines the fundamental issues in tax law theory about the legal personality of the authorities that exercise their state powers as parties in tax legal relationships. The origin, material content and the procedure for exercising their powers as part of the revenue administration in the broad sense of the word are examined. The cases examined are those in which Bulgaria, as a subject of international law, concludes international agreements governing the tax rights and obligations of persons (natural

and legal) subject to its jurisdiction, which do not create new tax obligations for them. Bulgaria, as a tax jurisdiction, is party to a number of double taxation agreements. The standards they create are not addressed by the States themselves, but the persons they cover. In the context of tax decentralisation, local self-government and municipal administrative bodies are also subjects of tax law relations in respect of their legitimately active participants.

The study “Liability for Another Person’s Tax Debt - General Characteristics” is the subject of the monograph with which Assoc. Prof. Mutafov participated in the competition, and in a synthesized form presents the theses of the author, developed in the monograph. The theses set out in the study are: (1) no equivalence can be drawn between liability for another person’s tax debt and ‘tax substitution’, since substitution has no application in Tax Law. The enforcement of liability does not lead to substitution of the tax debtor by a third party, as a result of which he is relieved of his obligation, but rather to a specific type of legal liability imposed for an offence against Tax Law, which cannot be attributed to any of its varieties known to us from the general theory of law - criminal, administrative, civil and disciplinary; (2) the following main characteristics of liability are indicated: its occurrence always and only by virtue of the Law; the sanction imposed on the subjects for their unlawful conduct is expressed in the obligation of the third party to pay another person’s tax debt (3) the tax imposed on the third party by the tax audit act should be considered only as the amount of the sanction that the third party is liable to pay as a result of the offence committed by it. This means, according to the author, that the tax audit act determines the legal basis of the liability, the sanction to be imposed, and its amount; therefore, it would be incorrect to assume that it establishes the tax due in its classical understanding; (4) the rule that liability for another person’s tax debt is a subsidiary liability has been adopted in Tax Law. This means that the third party will bear it only where the State has been unable to satisfy its claim against the true, original tax debtor. For this reason, it is limited to the amount and type of what could not have been paid and/or collected by the tax subject. (5) Liability for another person’s tax debt has the functions of legal liability –

educative, preventive, and with a restorative component. I find that these original theses of the author need even more in-depth scholarly argumentation.

In his article “Tax Law in the Legal System of the Republic of Bulgaria”, Assoc. Prof. Mutafov presents the thesis of the autonomy of Tax Law as an independent branch of law, separate from Financial Law. The author's theses include him among the supporters, in academic discourse, of the understanding that Tax Law has specificities that distinguish it from other branches of public law as an independent element of the legal system.

6. Conclusion

After reviewing the materials and academic works presented in the competition, in view of their significance and the scientific and applied contributions contained therein, I consider that Assoc. Prof. Krasimir Mutafov, PhD meets the requirements for the filling of the academic post of *Professor* under the Development of Academic Staff in the Republic of Bulgaria Act, the Rules on its Implementation and the Rules on the Development of Academic Staff of the Paisii Hilendarski University of Plovdiv, therefore I recommend to the Academic Board of Examiners and the Faculty Council of the Faculty of Law at PU that they appoint *Assoc. Prof. Krasimir Simeonov Mutafov, PhD* to the post of *Professor* in the professional field 3.6 Law (Financial and Tax Law).

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08.03.2024

Reviewer: