

REVIEW

ON COMPETITION FOR ACADEMIC POSITION "PROFESSOR"

The opinion has been compiled in accordance with the requirements of Chapter Three, Section IV of the Promotion of Academic Staff of Republic of Bulgaria Act - Conditions and procedure for occupying the academic position "professor", Section IV of the Regulations for the Implementation of the Act and the relevant acts of the Plovdiv Unoversity "Paisii Hilendarski"

1. General information

Author of review: Prof. Veselin Hristov Tsankov, Ph.D

Legal ground: order of the Rector of PU to announce a competition and decision of the Scientific Jury.

2. Contest details

Scientific field: 3 "Social, economic and legal sciences",

Professional field: 3.6 "Law"

Scientific specialty: "Financial and tax law"

Announcement: promulgated in SG no. 96, 17.11.2023

3. Contest candidate

Sole candidate for the announced competition – Assoc. Prof. Krasimir Simeonov Mutafov, Ph.D. from the Plovdiv University "Paisiy Hilendarski".

4. General presentation of the received materials

In order to participate in the competition, the candidate Assoc. Prof. Krasimir Simeonov Mutafov Ph.D. has submitted 2 monographs, 2 studies, 1 article. Diplomas, reports on the applicant's activity, a report on compliance with the minimum national requirements, certificates are also presented. The required documents under the PASRBA, the Regulations for its implementation and the internal regulations of the PU are also presented.

5. Applicant data

Prof. Krasimir Simeonov Mutafov Ph.D. was born on 27.11.1967.

He graduated with a Master's degree in Law; Diploma for higher education, series A 84, No. 004812 of 17.11.1992.

For the period 04/03/1995 – 23.06.1998 is a chief legal counselor at Tax Administration - Burgas; Main Directorate of the Tax Administration - Ministry of Finance.

On 01.10.2010 he held the position of assistant in tax and financial law – Burgas Free University.

On 27.04.2012 he held the position of chief assistant in tax and financial law - Burgas Free University

On 30.01.2015 - elected as an "associate professor" in tax and financial law, Burgas Free University.

Since 01.06.2020 he has been working in the Faculty of Law of PU "Paisiy Hilendarski".
Attorney-at-law - member of the Burgas Bar.

6. General characteristics and assessment of the candidate's scientific output

I accept the following contest publications for review.

1. "Responsibility for Foreign Tax Debt", second supplemented and revised edition, S. 2023, ed. "Nova Zvezda", ISBN 978-619-138-183-0, scientific editor Associate Professor Yury Kuchev, p. 236 .
2. "Responsibility for Foreign Tax Debt - general characteristics", studies, magazine "Society and Law", issue 2 / 2022, pp. 31-54, ISSN 0204-85-23.
3. "The State and Municipalities As Active Entities in Tax Law", studies, "Norma" magazine/online format/, issue 7/2019, p.7-32, ISSN 1314-5126 print .
4. "Tax Law in the Legal System of the Republic of Bulgaria", article, Studies Juris magazine, edition of the Faculty of Law of the PU, issue 1/2021, pp. 22-38, ISSN 2367-5312.

All works are registered in NACID.

They do not repeat those who participated in the acquisition of the educational and scientific degree "Doctor" and in holding the academic position "Docent" (Art. 29, Para. 1, Item 3 of the PASRBA).

Based on the presented publications, the following findings and conclusions can be made:

The publications submitted by the candidate are written in a very good style, with clarity of presentation, good structure and precise language. I have no comments on their relevance, content, methodical level, correctness of the results, literary awareness. The results achieved by the candidate prove the presence of very good knowledge in the field of Financial and Tax Law, as well as a sense of current problems in law enforcement.

The author's scientific achievements are successfully transferred to the students training, as well as through the publications that find practical application. Criteria for the scientometric assessment of the candidate's achievements are the minimum requirements of the Regulation for the Application of the Act. From the applied report it is clear that they are satisfied. Assoc. Prof. Krasimir Simeonov Mutafov has indicated in the applied documents points on the relevant indicators and it is clear that he has met the relevant requirements.

The scientific production of the candidate may be assessed as meeting the direction of the announced competition.

7. Characteristics and assessment of the candidate's educational and pedagogical activities

It is clear from the provided work experience report that Associate Professor Krasimir Simeonov Mutafov Ph.D. has a solid teaching experience at BSU and PU. The candidate is the academic supervisor of students and of a doctoral student. Assists UF in conducting student scientific sessions, summer scientific conferences, etc.

The scope of the candidate's educational and pedagogical activity is also confirmed by the scientometric indicators that are presented in the candidate's documents.

8. Scientific and scientific-applied contributions of the candidate

I accept the contributions indicated by Assoc. Prof. Krasimir Simeonov Mutafov in the Report on the contributions in the field of the announced competition, which is presented in the attached documents. In general, the same are mostly enrichment of existing knowledge and application of scientific achievements in practice.

MONOGRAPHIC PAPER: Liability for Foreign Tax Debt - second supplemented revised edition, S. 2023, ed. "New Star". The work contains 234 pages, including the literature used. The development is a monographic work dedicated to this legal responsibility specific to tax law, which is not found in some of the other legal branches. In our legal literature, there are separate publications and works in which attention is paid to separate issues related to this issue, which are episodic in nature or are part of textbooks. In contrast, the monograph represents a comprehensive scientific development that covers all aspects of liability for foreign tax debt and is based on historical and comparative legal analysis. A numerous case law on the topic of the study was analyzed, as in addition to the regulatory framework, the acts of the administrative courts, as well as the Supreme Administrative Court, including its interpretive practice, were subjected to a critical analysis. Attention was also paid to the practice of the EU Court of Justice on preliminary inquiries in tax cases, insofar as it is relevant to the topic, as well as the fact that these acts, from the point of view of their legal essence, are a non-normative source of tax law, with which the court gives mandatory instructions to member states regarding the interpretation and application of Community law.

Structurally, the monograph includes an introduction, three chapters and a conclusion.

Chapter one is entitled "Legal responsibility - nature, types" and is a useful introduction to the nature of the researched matter, thus moving from the general to the specific. In the first paragraph of this part of the work, the author has drawn attention to the main theoretical propositions related to the legal essence of legal responsibility known to us from the general theory of law. In the cited legal literature, domestic and foreign, the definitions of legal responsibility seem to be perceived more in its procedural aspect, or in other words, from the point of view of the moment when it will already be realized in relation to the subject who committed the offense. Seen from the point of view not of its imposition, it is actually realized through a system of legal relations that arise, develop and terminate within the framework of strictly regulated procedural rules, and this cannot be denied. In this direction, the opinion is rightly expressed in our literature that the manifestation of legal responsibility is like a system of legal relations. But this is observed only when it is implemented in relation to legal entities. A successful attempt was made to arrive at a different view of the essence of legal responsibility, leaving the plane of its manifestation, i.e. from the procedural side.

In this regard, legal liability, regardless of the exact form in which it will be realized /criminal, administrative penalty, tort, disciplinary/ is the negative legal consequence of an unfulfilled, poorly fulfilled obligation of the legal entity, which he is obliged to bear. Seen from this aspect, legal responsibility could be seen as an abstract possibility recognized and guaranteed by law for a person to be subject to a legal sanction for an offense committed by him. It will find a concrete manifestation, it will develop as a system of legal relations only when the legal fact that can give rise to it occurs - the offense. Perceived in this way, legal responsibility must equally apply to all legal entities that are recognized as such by the relevant legal system. The main legal characteristics of legal responsibility, as well as its functions, are presented here. Attention was drawn to the so-called "objective non-guilt liability" in cases where administrative criminal liability is realized against legal entities and sole traders and a "property penalty" penalty is imposed, and the interpretative practice of the Supreme Administrative Court has been subjected to a critical analysis.

In the second paragraph, the types of legal liability known in our legal system - criminal, administrative penalty, disciplinary and civil, as well as some other types adopted in foreign legal doctrines are discussed.

In **Chapter Two** of the work, "Liability for foreign tax debt - general characteristics, subjects, realization" the features of this specific type of legal liability are presented and analyzed. In the first paragraph, a general description is made, and some terminological clarifications are made in view of the term "substitution" sometimes used in the scientific literature and in practice as a synonym for liability for foreign tax debt. The author, citing the relevant arguments, draws the reader's attention to the fact that its implementation does not lead to the replacement of the tax debtor by a third party, as a result of which he is freed from his obligation. Hence the fully justified conclusion that it is a matter of a separate type of legal responsibility, for a committed offense of tax legal norms. The main characteristics of this type of liability are also presented here, distinguishing it from joint and several liability and from property accounting liability under the Tax-Insurance Procedure Code, as well as from liability for foreign debt in private law, which shows the interdisciplinary approach adopted in the research. In paragraph two, the procedure in connection with the realization of the responsibility for a foreign tax debt is considered. In the context of the topic, attention has been paid to the audit /general and special in accordance with Article 122 of the Tax-Insurance Procedure Code /as one of the forms of tax-insurance control through which this responsibility is realized, as well as to the acts by which it is established. Arguments are given in support of the view that the revision proceedings pursuant to Art. 122 of the Tax-Insurance Procedure Code may not be considered as a manifestation of operational independence by the revenue authorities, and that it is used in the realization of the responsibility. Paragraph three is dedicated to the entities that can bear this tax-specific legal responsibility. Only those persons to whom the tax law recognizes the quality of passive tax subjects can be attracted to it, which has led the author to pay the necessary attention to this issue. Here, the persons who can be constituted as subjects of responsibility are examined in a more abstract sense from the point of view of their legal organizational form. In this aspect, an attempt has been made to justify the thesis that the bearers of responsibility for foreign tax debt in all its varieties can also be natural persons registered as sole traders in the sense of the Commercial Code, as far as we believe they are independent subjects of tax law.

Chapter Three is entitled "Types of Liability for Foreign Tax Debt". It examines the individual types of liability for foreign tax debt regulated in our legislation - the liability of third parties under Article 19 of the Tax-Insurance Procedure Code, the liability of persons in cases of abuses in VAT taxation, including joint and several liability, which in our opinion in some cases hypotheses contains the elements of this type of legal responsibility. In the first paragraph, the prerequisites leading to its occurrence - the illegal behavior of the responsible third parties, the damage caused, the cause-and-effect relationship between them, as well as the guilt as a subjective element - are comprehensively examined. In the second paragraph, the issues related to liability for foreign tax debt are subjected to a thorough analysis in accordance with Article 19, Paragraphs 1-9 of the Tax-Insurance Procedure Code. A positive impression is made by the well-founded criticism of the legislation and the case law, including the interpretation of the Supreme Administrative Court, insofar as the latter unjustifiably expands the circle of persons who can be its bearers, as well as the subject and scope/in connection with Art. 19, paras. 1 and 2 of Tax-Insurance Procedure Code/, which also speaks of rich practical experience of the author. The third paragraph covers the matter related to the responsibility of the persons in cases of abuses according to the order of Art. 177 of VAT. In this connection, the opinion that it cannot be defined as joint and several from the point of view of its legal essence, but is a type of liability for foreign tax debt, is substantiated and supported by relevant arguments. And this is so because it does not possess any of the marks inherent in joint and several liability. Regardless of the fact that the legal fact that gives rise to them is the same, namely the performance of a taxable supply within the meaning of Article 12 VAT Act, the rights and obligations of each of the participants in the legal relationship are different, which circumstance excludes the possibility of joint and several liability between them. Therefore, rightly, in my opinion, attention has been drawn to the fact that, considered in substance, it reveals in its content all the elements that are inherent in the responsibility for a foreign tax debt, regardless of the presence of certain peculiarities regarding the prerequisites for its occurrence, determined by the specific mechanism of taxation with VAT and more precisely by its multiphase and non-cumulative nature. The last fourth paragraph of this part of the monograph made a successful attempt to justify the view that in some cases, in essence, joint and several liability has the marks of liability for foreign tax debt and should be considered as its variety. A careful reading of the provisions of Art. 211 and Art. 265 of the Tax-Insurance Procedure Code would lead to the logical conclusion that in this case we cannot speak of "joint liability", regardless of the fact that the legislator uses this name for it in relation to third parties and the author rightly draws attention to this inaccuracy on the part of the legislator. Relevant arguments are presented concerning that the main element that can allow us to characterize it as such is missing - the existence of a common legal fact from which the tax liability arose for the debtor and the subjects of responsibility. In the specific hypothesis, it cannot be assumed that there is a common indivisible obligation between them, which leads to the logical conclusion that we are faced with the so-called in the law "false solidarity", similar to the responsibility under Art. 177 of VAT.

Conclusion: The work presented is a monographic study of legal liability specific to tax law. Well-founded *de lege ferenda* proposals have been made, with a view to improving the currently effective regulatory framework in relation to the researched issues, which shows in-depth scientific knowledge combined with extensive practical experience.

As contributions of the work, I would point out:

- the systematization and analysis of the prerequisites that lead to its occurrence, as well as the demarcation from the property accounting responsibility under the Tax-Insurance Procedure Code;

- the reasoned opinion that one of the features of this is a type of responsibility is manifested in the sanction that they impose on the subjects for their illegal behavior, representing the obligation of the third party to pay a foreign tax debt and the tax of the third party determined by the audit act, is the amount of the penalty that he must pay as a result of the offense committed by him;

- the view that sole traders as an independent subject of tax law can, in this capacity, be the bearers of responsibility for foreign tax debt;

- the justified criticism of the interpretation activity of the Supreme Administrative Court in connection with the expansion of the subject scope of liability for foreign tax debt, as well as of the entities that can be its bearers, which is in contradiction with the principle of legality of taxes. Here, the author reasonably assumes that it should refer to all elements of the tax considered as a legal relationship, including the release of liability for foreign tax debt;

- the numerous and well-founded *de lege ferenda* proposals in connection with the improvement of the regulatory framework.

The two studies and the article are of a good value, on current and significant issues.

Recommendations and suggestions for improvement:

- given the scientific knowledge and serious practical experience of the author, the proposals made for the development of the regulatory framework and the interpretative practice of the Supreme Administrative Court could be further developed and deepened;

- perhaps some more effort and argumentation should be directed to the last paragraph of the monograph to analyze in detail the joint and several liability of the third parties, by which to support the author's essentially correct final conclusion;

- it is necessary the author's publication activity to be developed, as it is quite modest at the moment, as well as participation in public events - conferences, scientific sessions, discussion on draft laws, etc.

A general conclusion may be made that the presented publications lead to an increase in knowledge in the subject scientific field and represent an original development in the researched scientific direction.

I accept that the contributions are personal achievement of the author and are result of consistent, persistent and purposeful creative activity. I have not detected plagiarism in the works submitted under the procedure, and I have not received a non-anonymous and motivated written notice of plagiarism.

The candidate's efforts are concentrated in the scientific specialty of the competition, but I would recommend for the future an expansion of interests in fundamental theoretical and practical issues. This would strengthen the theoretical foundation of the research. I recommend that in the future Assoc. Prof. Dr. Krasimir Simeonov Mutafov should prioritize publications in

open access publications included in Scopus and WoS. This is an important signal and guarantee of the quality and better visibility of research for the scientific community.

The mentioned recommendations do not devalue the achievements and contributions of the author and do not call into question his compliance with the requirements of the recruitment competition for the academic position "professor". They can only increase the value of the candidate's works in the future and give an adequate assessment of his persistent and systematic work and his scientific achievements.

Conclusion

The review and findings made, evaluations of the practical experience, the teaching activity and the scientific creativity of Assoc. Prof. Krasimir Simeonov Mutafov Ph.D. give me reason to positively evaluate his systematic, purposeful efforts.

I will vote as a member of the Scientific Jury with a positive vote for his candidacy for awarding the academic position of "professor" in professional direction 3.6 Law; in the scientific specialty "Financial and Tax Law".

03.06.2024

Prof. Veselin Tsankov, D.Sc.