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LEGAL REGULATION OF RELATIONS IN THE FIELD OF IMPLEMENTATION OF FINANCIAL CONTROL, ACTIVITIES OF HIGHER EDUCATIONAL INSTITUTIONS

Abstract. The article generalizes the existing approaches to the definition of the term “financial control”. A detailed analysis of the Law of Ukraine “On Education”, the Regulation “On State Audit Office” and the Concept of Development of State Internal Financial Control are carried out. The state and prospects of internal and external financial control in higher educational institutions are investigated.

It is substantiated that the legal department, in the state of which the specialist with special knowledge in the field of budget institution activity is desirable, is responsible for the legality and legal validity of the decisions taken. The specified person has the authority and responsibility for receiving and using funds from the budgets with the maximum achievement. In the framework of internal financial control, it is expedient to build an information and communication system for monitoring and processing of common methodological and organizational control principles through the development of the Regulations on the implementation of internal control, job descriptions of employees and the Guidelines for the implementation of internal control.

It is noted that financial control, as a separate field of research has always been in demand and caused considerable interest. Given the cross-cutting nature of financial control, it is logical that it is unique and unique in various areas of implementation. Uniform unified financial control knowledge can not be applied — each industry has its own nuances.

It is determined that financial control occupies the leading place in the activity of the University and, subject to its high quality, results will surpass all expectations. The existence of a legislative framework regulating the procedure for the implementation of financial control, the rights and powers of controlling bodies is not a guarantee of success. First of all, it is necessary that the specified laws be fulfilled and the controlling entities deliberately comply with the requirements of the legislation not because of the fear of negative consequences, but because of the desire for effective, economical use of funds in order to achieve the best result.

Keywords: financial control, legal regulation, state budget, non-profit organizations, budgetary institutions, business project, state administration, allocations for education.

ПРАВОВЕ РЕГУЛЮВАННЯ ВІДНОСИН У СФЕРІ ЗДІЙСНЕННЯ ФІНАНСОВОГО КОНТРОЛЮ ЩОДО ДІЯЛЬНОСТІ ВИЩИХ НАВЧАЛЬНИХ ЗАКЛАДІВ

Анотація. У статті узагальнено існуючі підходи до визначення терміна “фінансовий контроль”. Детально проаналізовано Закон України “Про освіту”, Положення “Про державну аудиторську службу” та Концепцію розвитку державного внутрішнього фінансового контролю. Досліджено стан та перспективи внутрішнього та зовнішнього фінансового контролю у вищих навчальних закладах. Обґрунтовано, що за законність та правову обґрунтованість прийнятих рішень відповідає юридичний відділ, у штаті якого — бажана посада фахівця зі спеціальними знаннями у галузі діяльності бюджетної установи. На зазначену особу покладаються повноваження та обов’язки щодо отримання та використання коштів з бюджетів з досягненням максимального результату. В рамках здійснення внутрішнього фінансового контролю доцільною є побудова інформаційно-комунікаційної системи контролю та опрацювання єдиних методично-організаційних засад контролю через розроблення Положення про здійснення внутрішнього контролю, посадових інструкцій працівників та Методичних вказівок зі здійснення внутрішнього контролю.

Відзначено, що фінансовий контроль як окрема сфера досліджень завжди користувався попитом та викликав чималий інтерес. Враховуючи наскрізний характер фінансового контролю, логічними є його особливості та унікальність у різних сферах здійснення. Неможливо застосувати єдині уніфіковані знання з фінансового контролю — кожній галузі властиві свої нюанси.

Визначено, що фінансовий контроль посідає провідне місце у діяльності ВНЗ, й за умови якісного його здійснення результати перевершать усі сподівання. Наявність законодавчого масиву, який регламентує процедуру здійснення фінансового контролю, права та повноваження контролюючих

органів не є запорукою успіху. Насамперед необхідно, щоб зазначені закони виконувалися та підконтрольні суб'єкти свідомо виконували вимоги законодавства не через страх настання негативних наслідків, а через бажання ефективного, економного використання коштів з метою досягнення найкращого результату.

Ключові слова: фінансовий контроль, правове регулювання, державний бюджет, неприбуткові організації, бюджетні установи, бізнес-проект, державне управління, асигнування на освіту.

ПРАВОВОЕ РЕГУЛИРОВАНИЕ ОТНОШЕНИЙ В СФЕРЕ ОСУЩЕСТВЛЕНИЯ ФИНАНСОВОГО КОНТРОЛЯ, ПО ДЕЯТЕЛЬНОСТИ ВЫСШИХ УЧЕБНЫХ ЗАВЕДЕНИЙ

Аннотация. В статье обобщены существующие подходы к определению термина “финансовый контроль”. Осуществлен подробный анализ Закона Украины “Об образовании”, Положения “О государственной аудиторской службе” и Концепции развития государственного внутреннего финансового контроля. Исследовано состояние и перспективы внутреннего и внешнего финансового контроля в высших учебных заведениях.

Обосновано, что за законность и правовую обоснованность принятых решений отвечает юридический отдел, в штате которого — желаемая должность специалиста со специальными знаниями в области деятельности бюджетного учреждения. На указанное лицо возлагаются полномочия и обязанности по получению и использованию средств из бюджетов с достижением максимального результата. В рамках осуществления внутреннего финансового контроля целесообразно построение информационно-коммуникационной системы контроля и обработки единых методически-организационных основ контроля за разработку Положения об осуществлении внутреннего контроля, должностных инструкций работников и Методических указаний по осуществлению внутреннего контроля.

Отмечено, что финансовый контроль как особая сфера исследований всегда пользовался спросом и вызвал немалый интерес. Учитывая сквозной характер финансового контроля, логичными есть его особенность и уникальность в различных сферах осуществления. Невозможно применить единые унифицированные знания по финансовому контролю — каждой отрасли присущи свои нюансы.

Определено, что финансовый контроль занимает ведущее место в деятельности вуза, и при условии качественного его осуществления результаты превзойдут все ожидания. Наличие законодательного массива, регламентирующей процедуру осуществления финансового контроля, права и полномочия контролирующих органов не являются залогом успеха. Прежде всего необходимо, чтобы указанные законы выполнялись и подконтрольные субъекты сознательно выполняли требования законодательства не из-за страха наступления негативных последствий, а из-за желания эффективного, экономного использования средств с целью достижения наилучшего результата.

Ключевые слова: финансовый контроль, правовое регулирование, государственный бюджет, неприбыльные организации, учреждения, бизнес-проект, государственное управление, ассигнование на образование.

Statement of the problem. The intention of Ukraine to become an integral part of the European community requires following particular requirements and corresponding to fixed standards. Official bodies corruption issues have already become a barrier in the achievement of defined goals not once and resulted in lack of confidence from the international financial institutions and foreign investors. One of the displays of corruptness is various illegal machinations with state budget funds, which lead to their non-efficient and improper use.

Analysis of recent publications on the subject. Financial control as a separate area of research has always been in demand and generated high interest. Taking into consideration the throughout character of the financial control, its particularity and uniqueness in different implementation spheres are logical. It is impossible to apply unified financial control practice – each branch has its own peculiarities. The works of outstanding scientists, such as L. A. Savchenko, I. Vashchenko, M. Horbach, O. Hrytsenko, S. P. Pankiv, P. Petrenko, N. D. Pohosian, D. S. Rohovenko, S. O. Shokhin, are devoted to the financial control studies.

Statement of objectives (purpose) of the article. The purpose of the article is to analyze the legal regulation of relations in the field of financial control, on the activities of higher educational institutions.

The main material of the study. There has never been any undivided

opinion as for the financial control definition. Each scientist had his or her own view, which he or she tried to justify from the scientific point of view. L. A. Savchenko defines financial control as an activity of state bodies and non-governmental organizations, the very entrepreneurs or their structural subdivisions, natural persons empowered with corresponding powers or rights that is directed to the provision of legitimacy, financial discipline, and wisdom during mobilization, distribution and application of financial resources; public financial control means the regulated by legal norms activity of state bodies, local government bodies, other public entities and non-governmental organizations, entrepreneurs or their structural subdivisions, natural persons empowered with corresponding powers or particular rights that is directed to the provision of legitimacy and efficiency of their distribution, redistribution and application as well as legitimacy and efficiency of state and communal property management [1, p. 44].

S. O. Shokhin and L. I. Voronina consider financial control as the cross-sectoral control system by the empowered with controlling functions state and public bodies in terms of financial and economic activity of enterprises, institutions and organizations with the aim to estimate objectively the economic efficiency of this activity, determine legitimacy and expediency of economic and financial operations and

detect state budget income reserves [2]. Hracheva O. I. defines financial control as the activity of bodies and organizations empowered by the state to provide legitimacy in the process of mobilization, distribution, redistribution and application of the state financial funds and create municipalities aimed at performing efficient financial policy in the society to provide civil rights and freedoms [3, p. 14].

Financial control over higher educational establishments activity also has its peculiarities. It is impossible to research it without studying legislative batch, which regulates the procedure of creating and empowering bodies in the stated area.

Art. 78 of the Law of Ukraine “On Education” states that financing of establishments, institutions and organizations in the system of education shall be performed from corresponding budgets as well as other sources not forbidden by law. The Law of Ukraine “On Higher Education” contains an equal norm, namely art. 71 states that financing of state higher educational establishments shall be performed from state budget on the conditions of government order on paying for services related to training specialists, scientific and academic staff and from other sources not forbidden by law following the principles of target and efficient use of funds, publicity and transparency in making decisions; financing of communal higher educational establishments shall be performed from local budgets and other sources not forbidden by law; financing of private HEE shall be performed by their founders and from other sources not forbidden by law. HEE with the state form of ownership

have to establish quality and efficiency standards of services provided, since such institutions exist at the account of taxpayers’ money, and it is completely understandable that requirements towards their level are tougher with higher expectations.

Annually the Law on State Budget for the corresponding year determines the amount of appropriation for education. At this, it is necessary to remember that such expenditures are protected and their size cannot be less than 7 percent of GDP and they are financed from state and local budgets as well as other financial sources not forbidden by law (art. 78 of the Law of Ukraine “On Education”). The source and amount of financing are determined by profiled laws on the contrary to implementation of control means over financial resources use. The Law of Ukraine “On Education” (art. 69) contains the provision on performing state supervision (control) aiming at realization of the unified state policy in this sphere and satisfaction of the society’s interests regarding duly education and training activity quality. Other control arrangements, including the ones related to finances, are not considered. On the other hand, the profiled law shall not contain powers and duties of the financial control bodies, since these are separate spheres of state management regulated by a different legislative batch. It is necessary to start determining bodies’ powers with norms fixed in the Budgetary Code of Ukraine.

In their majority, HEE work at the account of funds from state budget, though an opportunity of their financing either from local budgets, or other sources not forbidden by law is also

stipulated. According to art. 22 of the BC of Ukraine, the ministries refer to the key funds managers. The Ministry of Education and Science is not the exception. Among the authorities of the key managers are management of budget funds in terms of established budgetary powers, provision of the efficient, effective and target use of budget funds, organization and coordination of the lower level budget funds managers' and budget funds beneficiaries' performance within the budgeting process; internal control over the completeness of revenues, taking budget commitments by the lower level budget funds managers and budget funds beneficiaries as well as their spending of budget funds; provision of organization and accounting, filing and submission of financial and budget reporting according to the procedure stipulated by law. The MEE authorities in the field of financial control are stipulated directly by the Code. Chapter 17 of the BC of Ukraine contains the list of bodies with the citation of key controlling powers aimed at providing the budget legislation observance. The Verkhovna Rada of Ukraine as a general competence body is also empowered to carry out financial control at all the stages of budgeting process; however, it is not its main activity. Thus, we offer to consider more in detail special competence bodies' authorities mentioned in the Code.

The Ministry of Finances of Ukraine performs financial control with general management features. It is empowered to perform control over the budget legislation observance at each stage of the budgeting process as for either the state budget, or local budgets. In case of violations detection it may stop

operations and further consider these violations at including the budget order to the State Budget. The provision on the Ministry of Finances contains the list of authorities and rights to their implementation, mainly directed to the budgetary and financial policy.

The authorities of the Treasury of Ukraine as a special competence body refer to the budget legislation requirements observance. Financial control of HEE of the state form of ownership is interdependent and interconnected with budget control. The State Treasury Service implements its control authorities during accounting the state and local budgets income and expenses, filing and submission of financial and budget reporting by managers and budget funds beneficiaries. The Treasury controls the estimates conformity of budget funds managers towards the budget markup indicators, the conformity of budget funds taken by managers of budget commitments towards the corresponding budget allocations or budgetary program passport (in case of program-and-target method application within the budgeting process). The Treasury state budget execution system stipulates the authorities of the body mentioned, which are primary directed to the performance of settlement and cash operations for managers and state budget beneficiaries.

Legal relations between HEE and the State Fiscal Service are quite mediated. Budgetary institutions do not refer to the taxpayers of corporate profit tax, whether registered in the Register of Non-Profit Organizations. However, they remain to be tax agents for employees at paying personal income tax

and single social tax. Besides, HEE are bound to pay land fees.

HEE have the toughest relations with the State Audit Service and the Accounting Chamber in the sphere of financial control. The legal nature of the controlling bodies mentioned differs, but they were created and operate with the only goal to control the use of (the Accounting Chamber also controls the income of) state budget funds.

The State Audit Service is a central executive body, which principal task is to control the use of and saving state budget funds. It implements its authorities through the state financial audit, inspection, state purchases checks and purchases monitoring. The necessary and minimally enough task of the financial control is to detect deviations from fixed standards and principles of legality, efficiency, effectiveness and cost-effectiveness of resource management violations.

Availability of financial control in a budgetary institution (HEE) is a condition required for the efficient operation in the sphere of education with the aim of preventing, detecting and terminating financial violations [4, p. 337].

The provision on The State Audit Service bounds it key tasks, namely formation and implementation of the state policy in the sphere of state financial control; performance of state financial control directed to the evaluation of the efficient, legal, target and effective use and saving of state budget sources, irrevocable and other assets, achievement of the budget funds economy; provision of administration services in cases stipulated by law. The Cabinet of Ministers coordinates its activity, and the Service reports on the performance results

to the executive. The Audit Service has various authorities, which display themselves in different branches; however, their goal is to perform financial control. The financial control body is empowered with jurisdiction authorities that have a positive impact on the implementation of its functions with further opportunity to bring offenders to justice.

The Accounting Chamber is the only special competence body, which authorities to perform financial control are fixed in the Constitution of Ukraine. Representatives of scientific societies have repeatedly suggested creating the single state financial control system led by the supreme body of financial control recognized by INTOSAI and EUROSAI – Accounting Chamber. They have grounded the expediency of finance control process coordination, creation of a unified informational-and-communication system aimed at the exchange of information on control measures results, violations detected with further opportunity to track means for their cessation, liquidation and bringing to justice for their execution. Art. 98 of the Constitution of Ukraine fixes that the Accounting Chamber controls funds income to the state budget and their use on behalf of VRU. The Accounting Chamber provides state external financial control (audit) by means of the financial audit, efficiency audit, expertise, analysis and other control measures. Any sphere of activity of a budgetary institution regarding funds income to the state budget and their use is controlled by the Accounting Chamber. During the execution of control measures an external financial control body has an opportunity to

see the condition of affairs from any perspective, detect budget misses and arrears. Everything would turn right, but the absence of empowering with jurisdiction authorities is observed. As a result of performing control (audit) the Accounting Chamber cannot bring offenders to justice; it reports and forwards materials to VRU and informs the police on violations in case of their detection. The absence of opportunity to bring to justice reduces authority of the Accounting Chamber in the society, non-response of the police to violations detected by it provokes abuse of their rights and non-performance of duties by the budget funds beneficiaries and managers.

Currently, the Ukrainian society is not ready to follow legislation requirements without sanctions for their non-performance. We will definitely see the spread of audit measures with the achievement of their execution goal, but in future.

HEE internal financial control is worth extra attention. The necessity of formation an efficient system for HEE internal financial control is driven not only by the fact that they are budget beneficiaries, but also by the fact that educational activity is financed from the protected expenditures. According to art. 55 of the Budgetary Code of Ukraine, budget protected expenditures mean general budget fund expenditures, which volume cannot be changed at cutting fixed budget assignments directed (including) for staff training by higher educational establishments of I-IV levels of accreditation.

Internal financial control is a self-organized audit process to check execu-

tion and implementation of management decisions in the sphere of financial management aimed at achieving strategic goals and preventing crisis situations [5]. The State Internal Financial Control Development Concept for the period up to 2017, which aimed at strengthening financial discipline, optimizing expenditures and promoting efficient use of budget funds by means of transition from administrative to managerial culture, was devoted to issues concerning organization and operation of the internal financial control back in 2005. We think that the tendency to try using audit instead of control-and-revision measures (revision is one of the most spread ones) is connected with it.

Audit aims to detect disadvantages and give recommendations as for their elimination, while revision aims mainly at bringing to justice by means of penalties application, as a rule. The primary goal of internal control is the provision of an educational establishment operation efficiency by means of efficient and target use of funds and property belonging to it with observing legislation requirements, providing educational services of high quality and satisfying customers (higher education acquirers) needs. Primarily an establishment manager must have interest in the reliability of the internal control results. Reliable information based on the control results contributes to making justified managerial decisions, taking into consideration the up-to-date management requirements towards scheduling activity of HEE as a business project, which is expected to achieve particular goals. It is possible to timely prevent a number of financial violations, which can lead to unwanted results, thanks

to the information on accounting and financial records state.

Systematical implementation of internal financial control in an educational establishment will boost functional rights and duties determination and clear fixing to implement empowered authorities. It is necessary to foresee liability and other types of responsibility, stipulated by law, to provide duly efficacy.

Conclusions. In the internal financial control system, apart from audit, internal administrative control is distinguished, which at the level of a budget funds manager should be presented as a system for organization and implementation of control measures that aim to check conformity of processes, performed operations and/or decisions made by an establishment through regulatory documents, management instructions, authorities and responsibility of employees [6, p. 189]. To achieve goals of internal financial control, it is not enough to execute the requirements listed. The key success criteria for the provision of the efficient operation of budget funds managers in general and HEE in particular is the strict compliance with Legal Acts requirements that regulate legal relations sphere mentioned. Legal department is responsible for legality and legal justification of the decisions made. Its staff shall contain the position of a specialist with specific knowledge in the sphere of a budgetary establishment activity. This person authorities and duties must be connected with the receipt and use of funds from budgets to achieve the best results. In the frames of internal financial control implementation it would be wise to establish

informational-and-communication control system and develop unified methodological-and-organizational control principles by means of the Provision on Internal Control, job description for employees and Methodical Instructions in terms of performing internal control.

Financial control occupies a leading place in the frames of HEE operation, and the results will exceed all expectations under the condition of its qualitative implementation. Availability of legislative batch that regulates the procedure of financial control implementation as well as rights and powers of controlling bodies does not guarantee the success. First of all, it is important to follow the laws mentioned, and controlled entities must comply with legislation requirements consciously, not due to the fear of negative consequences occurrence, but due to the intention to use funds efficiently and cost-effectively aiming at achieving the best result.

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