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# CUESTIONES POLÍTICAS

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# Administrative and legal regulation of public financial activity

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**Vyacheslav Tylchyk** \*

**Tetiana Matselyk** \*\*

**Viktor Hryshchuk** \*\*\*

**Olena Lomakina** \*\*\*\*

**Markiiian Sydor** \*\*\*\*\*

**Yevhen Leheza** \*\*\*\*\*

## Abstract

The purpose of the research is the basic characteristics of the management of financial activity in countries such as: France, Germany, United States of America, Great Britain, and Sweden. The organizational structure of financial management bodies was studied and the participation of state legislatures in financial policy was emphasized. Also, a review of materials and methods was carried out based on the analysis of documents for the regulation of public financial activity. The methodology included a comprehensive analysis and generalization of the available scientific and theoretical material, as well as the formulation of relevant conclusions. During the research, the methods of scientific cognition were used: terminological, logical-semantic, functional, system-structural, logical-normative, comparative. It is concluded that the participation of all the higher powers of government is fundamental in the formation and implementation of public policy in the field of finance; this requires a wide range of bodies and institutions exercising control over financial activities; concentration of financial management in a single-

\* Professor, Head of the Department of Administrative Law and Process and Customs Security, Doctor of Law, University of State Fiscal Service of Ukraine, Ukraine. ORCID ID: <https://orcid.org/0000-0001-5964-3439>

\*\* Professor, Department of Financial Law, National University of the State Fiscal Service of Ukraine, 31 University Street, Irpin, 08205, Ukraine. ORCID ID: <https://orcid.org/0000-0003-0354-4663>

\*\*\* PhD, Director of Department of Law Enforcement Activity, State Tax University, 31 University Street, Irpin, 08201, Ukraine. ORCID ID: <https://orcid.org/0000-0003-4621-4058>

\*\*\*\* Candidate of Law, Associate Professor, Head of the Department of Administrative and Constitutional Law, Faculty of Maritime Law, Admiral Makarov National University of Shipbuilding, 9 Heroiv Stalinhradu Ave., Mykolaiv, 54025, Ukraine. ORCID ID: <https://orcid.org/0000-0003-4397-5978>

\*\*\*\*\* Candidate of Law, Associate Professor of the Department of Administrative Law Disciplines, Law Faculty, Lviv State University of Internal Affairs, 26 Horodotska Street, Lviv, 79007, Ukraine. ORCID ID: <https://orcid.org/0000-0002-5615-7766>

\*\*\*\*\* Professor, Doctor of Science in law, Professor at the Department of Administrative and Customs Law, University of Customs and Finance, Dnipro, Ukraine. ORCID ID: <https://orcid.org/0000-0001-9134-8499>

line ministry, as well as distribution among several ministries and a clear division of powers between financial management bodies, among other aspects.

**Keywords:** financial activities; management bodies; administrative regulation; legislative bodies; international finance.

## *Regulación administrativa y legal de la actividad financiera pública*

### **Resumen**

El propósito de la investigación son las características básicas de la gestión de la actividad financiera en países como: Francia, Alemania, Estados Unidos de América, Gran Bretaña y Suecia. Se estudió la estructura organizativa de los órganos de gestión financiera y se enfatizó la participación en la política financiera de los órganos legislativos del poder estatal. También, se realizó una revisión de materiales y métodos en base al análisis de documentos para la regulación de la actividad financiera pública. La metodología incluyó un análisis integral y generalización del material científico y teórico disponible, así como la formulación de conclusiones relevantes. Durante la investigación se utilizaron los métodos de cognición científica: terminológico, lógico-semántico, funcional, sistema-estructural, lógico-normativo, comparativo. Se concluye que, la participación de todos los poderes superiores del gobierno es fundamental en la formación e implementación de la política pública en el ámbito de las finanzas; lo que requiere de una amplia gama de órganos e instituciones que ejercen control sobre las actividades financieras; concentración de la gestión financiera en un ministerio de una sola línea, así como la distribución entre varios ministerios y una clara división de poderes entre los órganos de gestión financiera, entre otros aspectos.

**Palabras clave:** actividades financieras; órganos de gestión; regulación administrativa; órganos legislativos; finanzas internacionales.

### **Introduction**

While examining functioning of the financial system in the society we should emphasize that organization of financial management in our state differs somewhat from the management of the same kind in foreign countries.

In the process of reforming the system of state authorities in Ukraine and their powers it is necessary to find new approaches to functioning of these bodies with the purpose of their optimization, increase of their efficiency, effectiveness, social orientation, etc. A significant importance here belongs to experience of financial activity functioning and management in foreign countries characterized by high economic development, stability of financial policy, growing integration of financial markets in the country, etc.

### **1. Literature review**

Research of theoretical and practical aspects concerning formation of financial systems in foreign countries has found their reflection in works of such scientists as V. I. Ospishchev, who notes that the US budget system is characterized by the stolidity of fiscal and tax relations between the state and its regions. In fact, the states have equal rights in this area with the federation as a whole, so at the federal level and in the states, there are identically named taxes (income tax on individuals and corporations). The most fundamental limitation on state tax rights consists in prohibition on introduction of certain indirect taxes that impede free trade between the states, which is prohibited by the US Constitution (Ospishev, 2008). The author emphasizes that there is practically no direct redistribution of funds between the states. But according to the Constitution the US Congress has the right to finance only the “General Welfare of the USA” which also prevents redistribution of funds between regions. The States may establish any form of taxes, but they cannot prevent interregional economic ties, which leads to equal tax pressure (Ospishev, 2008).

A number of researchers emphasized the importance of studying foreign experience of financial system development as the main condition for improvement of the domestic financial sector of national economy. For example, S.Y. Konoval notes that in recent years the global trend consists in liberalization and globalization of financial systems and, as a result, increased mobility of capital and increased economic risks.

That is why state regulation of financial systems is becoming increasingly important. However, it should be noted that the use of the world experience in financial system state regulation from the standpoint of its adaptation to Ukrainian realities is insufficiently studied (Burdenko, 2011).

Urgency of the article is conditioned by the necessity to reform the system of public authorities in Ukraine, including management bodies of financial activities.

## **2. Materials and methods**

Research of materials and methods based on the analysis of documentary sources and normative legal acts of financial activity management in foreign countries. The dialectical method of cognition of the facts of social reality is the foundation where formal-legal and, rather, legal approaches are based in many respects. The formal-dogmatic method contributed to development of the author's explanation of the current state, problems, and practical role of legal technologies for further development and improvement of financial activity management in foreign countries. The officially legal method gave an opportunity to suggest directions and types of using legal technologies as prospects of financial activity management in foreign countries.

## **3. Results and discussion**

Turning to a direct consideration of the purpose of our research we propose to focus separately on the structure of financial management bodies in foreign countries and on interaction of financial management bodies with other state bodies. France is one of the countries characterized by stable financial system and effective interaction of state authorities in the sphere of financial activity. It should be noted that France with its bicameral parliament (the Senate and the National Assembly) implements financial laws and the state policy by both chambers of the Parliament and the President of France who has a considerable authority in the sphere of defining financial policy (France Insurance Industry, 2010).

In addition, France does not have a special body to manage finances, that is it does not have the Ministry of Finance as a separate body, and the function to implement the state financial policy is entrusted to the Ministry of Economy, Finance and Budget. This body combines various functions in the sphere of finance, including the following: direct implementation of financial policy in the state, control over various financial transactions, certain control functions in the direct implementation of financial policy performed by lower authorities, etc (Leheza et al, 2018).

A characteristic feature of financial management in France is that this country has a large number of bodies responsible for implementation of direct financial policy and financial control. In particular, a specific feature of financial management in France is that such management is carried out by the highest authorities. This is confirmed by the opinion of N. Y. Melnychuk, who notes that in France in addition to the Ministry of Economy, Finance and Budget, there is a system of administrative inspection which includes three inter-ministerial inspectorates: General Inspectorate of Finance, General Inspectorate of Administration, General Inspectorate of

Social Affairs. In addition to that, the scientist named such bodies as the Commission of Finance, Economics and Planning (National Assembly) and the Commission of Financial and Budgetary Control (Senate), the Commission of Financial Transparency in Political Life, which controls declaration of incomes of participants of political life of the country - mostly state officials (Melnychuk, 2015).

The system of financial management in the USA is interesting from the managerial point of view. The highest governing body in the USA is the Ministry of Finance, which is often referred to as the Treasury. Another important body in the field of financial management is the Office of Management and Budget (OMB) under the President, which is responsible for controlling the expenditure side of the budget (Government Finance Statistics Yearbook, 2001).

Availability of the Office of Management and Budget (OMB) under the President emphasizes the role, importance and active participation of the President of the State in the management of financial activity. In the United States a significant role concerning implementation of financial control is assigned to the Government Accountability Office.

On behalf of the chambers and commissions of the US Congress or even individual congressmen, the Government Accountability Office may evaluate effectiveness of government programs as well as activities performed by federal agencies; conduct special surveys and verifications of the validity of product prices; financial and economic aspects of contracts of the Department of Defense. Inspectors of the Government Accountability Office also check activities performed by the executive power inspectors. In some cases, the checks are carried out in coordination with the investigation bodies of the Department of Justice and other bodies entrusted with the relevant authorities (Kyrylenko, 2015).

According to J. Schaffritz activities of the Government Accountability Office consist in carrying out annual inspections of the state of finances of federal agencies as well as in preparing documents and recommendations for the President and the Congress of the USA on the basis of inspections (Shafritz, 2003).

In addition, a specific feature of financial management in the United States is that in this country, financial management is distributed between two government bodies: The Department of Treasury and Customs and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

The US government is committed to the autonomy and independence in performing financial and tax policy. Thus, the financial management bodies include several federal bodies - the Government Accountability Office, the Office of Management and Budget which are subordinated to the President of the country. There is also an advisory body in the financial management

system, which participates in the procedure of forming basics of financial and economic policy of the country. An important role in the US financial market is given to commodity and stock exchanges and special funds of the United States, which function as independent financial institutions (Leheza *et al.*, 2020).

In our opinion, Germany is another country to be researched. General financial management is carried out at the level of the highest bodies of state authority - the Bundestag. The Ministry of Finance of Germany is the main body determining the state policy in the sphere of finance, it develops fundamentals of financial and tax policy, determines the state budget, its components, it also controls execution of the state budget and other financial processes in the society.

In addition, alongside with the Ministry of Finance, there is the Federal Office of Finance and Administration of the Public Debt, which are accountable to the Federal Ministry of Finance. The first department is engaged in tax inspection of enterprises, taxation of foreign capital investments, problems of eliminating double taxation and the the second administration deals in operations on issue and repayment of loans and financing the budget deficit (Ter-Minassyan, 1995).

One of the main bodies of financial control in Germany is the Federal Chamber of Accounts. Examining activities of this body, V. M. Geyets notes that the legal status of this body is enshrined in the Principal Law of the country. The Federal Chamber of Accounts is responsible for the control over budgetary financing and management of the Federation's economy. The scientist stresses that, when auditing correctness of accounting, the Federal Chamber of Accounts monitors compliance with the laws, budget, and administrative regulations (Geyets, 2012).

In the United Kingdom, financial management is carried out by Her Majesty's Treasury, which combines the functions of the Ministry of Finance and the Ministry of Economy. Her Majesty's Treasury is headed by the Chancellor, and along with him the financial activities are managed by the Paymaster General, the Financial Secretary (the First Deputy Minister), the Parliamentary Secretary and 5 Lords Commissioners. Unlike Ukraine, the UK also has a specialized body, which is responsible for public debt management - the UK debt Management Office. When examining the powers of the UK debt Management Office Yu. Ivanenko defines its following functions: management of government cash balances, operational management of deposits (Leheza *et al.*, 2021).

Administration of other state obligations on guarantees of credits and investments, management of services on purchase and sale of securities, etc. It functions as part of the institutional structure of public debt management in the United Kingdom. Creation of a separate Agency was accompanied by

a clear division of functions of monetary policy and debt management, so that short-term monetary policy decisions did not affect its implementation. (Ivanenko, 2008).

In Sweden, which is a parliamentary monarchy, the main department for state control and accounting is the National Audit Office. Its purpose is to achieve an effective management of financial activity. Its activity is characterized by two directions: conducting annual audits of financial and economic activities of national institutions and enterprises and auditing the of public procurement efficiency. Unlike many other European countries, the Swedish ministries are not empowered to directly manage government agencies. Therefore, the Swedish Constitution allows the Parliament and the Government to have their own public sector control structures (Dikan, 2007).

### **Conclusion**

As a conclusion, we should note that management of financial activities in foreign countries is carried out on the basis of close relations between the highest state authorities, a clear order of public relations in this sphere, impartial distribution of functions among various state authorities in implementation of financial policy, which is, in its in turn, a consequence of an effective financial policy in such countries.

Thus, in foreign countries there is a considerable variety of authorities, which manage and control financial activities, target, and rational use of financial resources in the state. Thus, the main features of financial management in foreign countries include:

1. Active participation of all branches of the state power in formation and realization of state policy in the sphere of finance and implementation of financial policy in the life of the society. In other words, the legislative bodies and the President of the country take an active part in the management of financial activity.
2. Within the limits of their competence, they not only adopt financial laws, develop, and approve main directions of financial policy, but also make the most important financial decisions of the state. For example, the Treasury Department of the USA, the Office of Management and Budget, the Council of Economic Advisers are parts of the presidential administration, and the President is given considerable authority in formulating and implementing public financial policy. A similar situation exists in France, where there is a significant involvement of the Senate, the National Assembly, and the President in managing the financial activities of the state.

3. Existence of an extensive system of bodies and institutions that exercise control over financial activities in the state, financial transactions between various public authorities in the sphere of financial relations (for example, the United States, the United Kingdom).
4. the highest financial public authorities may be concentrated in one ministry, usually the Ministry of Finance (USA, Germany), or they may be distributed among several ministries, such as in France and the United Kingdom.
5. The bodies responsible for financing management in foreign countries envisage existence of a large number of subsidiary bodies, separate autonomous subdivisions, departments, which are responsible for the implementation of a particular area of financial activities (for example, regulation of money circulation, public debt payment, debt policy, tax policy, economic policy, analytical activities in the sphere of finance, accounting and financial reporting, etc.) Diversity of financial management bodies is observed in such countries as Germany and the USA.
6. There is a clear delineation of powers among subsidiary and autonomous bodies in the sphere of financial control. That is, the matter is about a clear delineation of competence among autonomous financial management bodies in accordance with their sphere of influence. For example, clearly delineated are the control functions between the Federal Office of Finance and Administration of the Public Debt in Germany, General Inspectorate of Finance, General Inspectorate of Administration, and the General Inspectorate of Social Affairs in France etc.

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