

CONTROVERSIAL ISSUES ON MANAGEMENT OF THE PUBLIC DEBT AND STATE RESERVES

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In the period under review, a major international event was the Moscow meeting of G20 finance ministers and heads of central banks. In Russia, a few developments took place. On January 31, 2013, Premier Dmitri Medvedev approved the Main Guidelines for the RF Government's Activities in the Period till 2018. The Ministry of Economic Development of the Russian Federation has prepared the Forecast of Long-Term Social and Economic Development of the Russian Federation in the Period till 2030. The prospect of a transfer of state reserves for placement on the domestic market and the public debt in management of a nongovernment company were largely discussed; also the Ministry of Finance of the Russian Federation and the Ministry of Economic Development of the Russian Federation debated the issue of reduction of the size of the National Welfare Fund and reallocation of thus available funds to the Development Fund.

It was stated in the final press-release on the results of the Moscow meeting of G20 finance ministers and heads of central banks that “growth rates of the world economy were still rather weak and major risks prevailed”¹. At the G20 meeting, it was recognized that the Russian tax system complied in general with the market requirements and did not interfere with a free flow of capital and goods (work and services). The main conclusion of the above meeting was the abandonment of foreign exchange schemes as a means of solution of some countries' problems at the expense of the others (“refrain from competitive devaluation”), that is, a condemnation of speculative activities with the exchange rate of national currencies. The general impression is that financial and banking authorities are seeking to prevent disparities which may upset the balance maintained on the international market and aggravate the consequences of the financial crisis and shift it to the political and social area. In other words, some adjustments and fluctuations of national currencies are recognized as admissible, but the principle of market determination of the exchange rate should be maintained. Quantitative weakening, for example, of the Japanese yen is recognized as economically justified, however, apart from a large scale natural calamity which consequences Japan has been fighting with during the past two years the Japanese production has been ousted in the same period from the Chinese market on political (territorial) grounds.

The G20 decisions are quite expectable because the financial crisis is of a universal nature, it is not overcome yet and technical work is still being done to locate and drive out toxic assets from the market. It is expedient to carry out that work with utilization of insurance and hedging instruments in order to minimize the damage to the existing market infrastructure.

From the point of view of a layman, other provisions of the final press-release are not momentous, either. In particular, G20 countries intend to adopt “reliable mid-term fiscal strategies” for the sake of stable growth. The above means strengthening of the states' revenue base as it is the basis for maintaining of the current macroeconomic stability. The St. Petersburg G20 summit in September may become a more informative one.

The last G20 meeting showed that Russia is regarded as an important, quite a reliable and predictable part of the system of global market relations. The consequences related to Russia's accession to the WTO and the continued capital outflow did not result in any failures of the country's financial and economic policy. As regards the issue of promotion of international investments in Russia, it seems the result will be sooner produced by the economic policy of the Russian government, rather some foreign political decisions and arrangements.

¹ A. Analbayeva, Currency Truce. The Financial G20 Decided to Give Up the Idea of Competitive Devaluation, Website vz.ru of February 16, 2013.

It is worth mentioning in the country's domestic life the following developments which do not directly concern taxation, but determine the general guidelines and conditions for further development of the country's economy, that is, form the infrastructure for functioning of the tax system. On January 31, 2013, Premier Dmitry Medvedev approved the Main Guidelines for the RF Government's Activities in the Period till 2018. In particular, it is declared that government intends to prevent advanced growth in consumer demand as compared to growth in labor efficiency (it is evident that consumer demand has failed so far to become a real economic incentive and in such conditions its advanced growth results in destabilization of production). It is supposed that in subsequent years growth rates of consumer demand and labor efficiency should narrow. Growth in households' consumption will be more balanced and slower, the document reads.

It is declared that it is important to cut the oil and gas deficit of the federal budget and pursue the policy of budget consolidation. As a result of the anti-crisis policy, budget expenditures sharply increased and the oil and gas deficit amounted to 10.5% of GDP¹; the above figure exceeds by 100% the acceptable level and accounts for nearly a half of the budget. The Government of the Russian Federation warns that reduction of the deficit will result both in containment of the state demand and slowdown of economic growth. The Government of the Russian Federation is going to overcome the negative trends by means of creating stable and highly competitive markets and improving investment attractiveness of the economy.

It is worth mentioning the Forecast of the Long-Term Social and Economic Development of the Russian Federation in the Period till 2030 prepared by the Ministry of Economic Development of the Russian Federation. According to Premier D. Medvedev, it is that Forecast which is going to be used by the Government of the Russian Federation as the basis of the budget strategy of Russia². The Forecast outlines the expected changes in the structure, composition and distribution of productive forces in the world economy, changes in the structure of industrial demand in the next 17 years, and consequently, includes the guidelines for formation of state programs of economic development of Russia in future.

In our view, taking into account the complexity of the goals the Government of the Russian Federation has to identify economic priorities in the mid-term and short-term prospects in order to exclude a fragmentary or conflicting nature of measures to be taken. In Russia, serious discussions have been held of late on many issues. As the results of such discussions may have a direct effect on the level of a tax burden, it would be important, in our view, to study those matters in detail.

The official representatives of the Ministry of Finance repeatedly stated that the large scale capital outflow which continued for several years was a technical phenomena and prevented overheating of the Russian economy, while the Head of the Central Bank of the Russian Federation said, on the contrary, that half of the annual capital outflow was ensured through highly doubtful operations or directly or indirectly by related companies³, that is, it was a large scale organized and well-planned operation. Due to a considerable outflow of capital and insufficient budget resources for modernization and upgrading of production assets, the more burning debates took place on the issue of a possible transfer of state reserves for placement on the domestic market and the public debt in management of a nongovernment company. Deputies of a number of factions happened to be unprepared to assign in management of an open joint-stock company government liabilities which secured 8% of the income referring to the fact that during the crisis it would be highly problematic to find other assets which could yield such a high risk-free income. According to them, assignment of the public debt in management of an open joint-stock company on the market may in reality become a simple replacement of profitable and risk-free assets on the balance of the open joint-stock company by less profitable and higher risk assets, that is, assets of another quality.

In the meantime, there were debates between the Ministry of Finance of the Russian Federation and the Ministry of Economic Development of the Russian Federation on the issue of reduction of the size of the National Welfare Fund (NWF) and reallocation of thus available funds in the Development Fund (an analogue of the former Investment Fund). The negative stand of the Ministry of

1 S. Kulikov. The Russian debts have exceeded the gold and foreign exchange reserves. Each citizen owns nearly \$4,200 to foreigners. Web-site: ng.ru of February 12, 2013.

2 Web-site: Kommersant.ru of February 19, 2013.

3 The CBR uncovered conspiracy in capital outflow from Russia, Web-site: lenta.ru of February 20, 2013.

Finance of the Russian Federation was commented by Finance Minister A. Siluanov¹. According to him, establishment of the Development Fund will be accompanied by growth in budget expenditures and apart from that – as a result of reallocation of sources – revenues to the National Welfare Fund will decrease: at present extra oil and gas budget revenues are credited to the Reserve Fund until it amounts in total to 7% of GDP, while the funds in excess of that amount are allocated equally between the NWF and infrastructure projects. According to A. Siluanov, the reserve funds should be placed by Rosfinagststvo.

As seen from the above, the debates take place simultaneously as regards placement in the market of both state reserves and government debts, but purposes of those deals are quite different: in one case the reserve funds are placed, while in the other the funds are attracted against debt obligations. Accumulation of the public debt with simultaneously growing risk of a loss of a portion of state reserves is fraught with strengthening of a tax burden and/or emission of the national currency. Let us illustrate this.

To start with, it is important to decide upon the composition of the reserves. Some economists associate international (gold and foreign exchange reserves) of the Central Bank of the Russian Federation with state reserves of the Russian Federation². One should make a distinction between them. The international (gold and foreign exchange) reserves of the Central Bank of the Russian Federation are nongovernment reserves of the Russian Federation and they are needed for securing of a stable exchange rate of the national currency of the Russian Federation for the purpose of servicing international trade. One of the main objectives of the Central Bank of the Russian Federation as any central bank is to manage the exchange rate of the national currency. If state banks fail to maintain relatively stable mutual conditions of currency conversion, the international financial system will break down (completely or partially) and, as a consequence, trade relations will be obstructed. On the open world market, there is an exchange of goods (work and services) from different countries. The free market is based on the balance between the supply and demand on real assets – goods (work and services) whose physical quantity is limited, while correlation of prices and proportions of the exchange are carried out by means of establishment of the currency exchange rate. Currency reserves are mainly records in ledgers of foreign central banks – issuers of respective currencies³. So, the banking system of a sovereign state is a relatively independent and autonomous entity which rules of functioning are determined by the authority which is in charge of management of the national currency, including emissions.

1 The Ministry of Finance opposed revival of the Investment Fund, Web-site: lenta.ru of February 4, 2013.

2 For example, in the blog of prominent economist O.Dmitrieva, Deputy Head of the Just Russia Faction published on the Web-site of Ekho Moskvyy on January 28, 2013 it was stated that: “first, the mechanism of formation of the Reserve Fund and the National Welfare Fund was initially wrong. The revenues received from export of primary products are not used in the country’s economy, but invested into a foreign economy through gold and foreign exchange reserves”.

3 Here is an example. Suppose, a Russian oil company sold oil to a foreign state. It means that on the market of that country where the deal was made a portion of the currency owned earlier by the resident-buyer of oil passed to the Russian oil company which in its turn sells the currency proceeds for rubles and the central bank of the country where the deal was done makes a record in its ledgers that that a portion of the currency is credited to the accounts of the Central Bank of the Russian Federation. By using the notion “accounts of the Central Bank of the Russian Federation”, the complex system of correspondent banking relations inside the banking system of the Russian Federation is meant where operations are regulated by Regulation on Book-Keeping Rules approved by Order No. 385-P of July 16, 2012 of the Central Bank of the Russian Federation in respect of the rules of transacting operations with first order account No.301. At the same time, a record is made in the ledgers of the Central Bank of the Russian Federation that foreign currency was bought for rubles at the central bank of the country where the deal on sale of oil was made. The above funds can be later exchanged (sold) for rubles to an individual or importer-company which concluded a contract on import of goods (work and services) from the country where oil was sold to. Or if the importer (an individual or legal entity) intends to buy goods (work and services) in the third country, the Central Bank of the Russian Federation may sell the available currency for the currency of the third country, that is, open a currency account in that country and in the currency which the importer needs. As a result, the importer will buy goods (work and services) for currency at prices and on terms of the country where the trade deal is made. So, if the Central Bank of the Russian Federation fails to offer foreign currency in exchange for rubles, the exchange rate of the Russian national currency will collapse; such a collapse will be accompanied by growth in foreign currency prices and devaluation of savings and earnings in rubles. As the Russian economy does not produce many goods (work and services), the state has to take measures to buy them on the foreign market. For the above purpose, either the mechanism of borrowing or the mechanism of forced appreciation of the rate of the national currency by way of limitation of its supply on the domestic market will be used. A radical method of forced accumulation of funds in the budget is taxes.

The foreign debt, like any other debt is a temporary borrowing of a foreign property. If an entity whose property was borrowed would like to have it back, it (an individual or a state) may by judicial means or on the basis of arrangements with the debtor be in a position to confiscate it and demand payment of interest for utilization of it. So, when Russia encounters a situation where the volume of the foreign debt is higher than international (gold and foreign currency) reserves of the Central Bank of the Russian Federation, it should be remembered that such a situation may provoke property disputes, sanctions and imposition of attachments, while as regards state debts (including granted guarantees) of government agencies of the Russian Federation, constituent entities of the Russian Federation and state corporations any sanctions up to an attachment on the property of the Russian Federation may be applied¹.

The position of exporters – yes, the aggregate foreign debt of Russia is growing at an advanced rate and it has already exceeded the international (gold and foreign currency reserves) of the country, but it is not dangerous because in other countries the share of the debt as a percentage of GDP is higher than in Russia – causes concern. Aggregate foreign debts should be assessed with taking into account the limits of economic sovereignty and possible social consequences for each specific country.

The conflict begins when the government enters the market as a borrower of foreign currency, but later fails to repay its debts. In such a case, the following happens. Records on borrowings are made in the ledgers of the Central Bank of the Russian Federation and the central bank of the state where foreign currency was borrowed from. On the date of repayment of the debt, a reversing entry is to be made in the ledgers. If there is no currency in the account, it will be blocked. To prevent blocking of accounts, the Central Bank of the Russian Federation will probably transfer the available currency reserves from other accounts, while in case of need it may sell a portion of the gold reserve on the market. If there are insufficient funds for repayment of state foreign debts, the creditor may impose an attachment not only on the account, but also on the property of the state. As a result, all the proceeds which are paid in the course of trade and financial operations to the account of the Central Bank of the Russian Federation will be transferred to the creditor until the debt is repaid. Thus, the unpaid state foreign debt may result in the country's settlements on the world market being blocked.

Consequently, the Central Bank of the Russian Federation – though it is not the emitter of the state debt – has to determine the limits of state borrowings on foreign markets. Due to the above, it is evident that Rosfinagentstvo which is to be established should not be independent as regards management of the state foreign debt and should toe the line of the Central Bank of the Russian Federation.

As regards advanced growth in debts of private entities (at present those debts exceed half of the total foreign debt²), in case of their bankruptcy social unrests may follow, so, as was stated above work collectives should have the right to be represented in governing bodies of state-run and private enterprises and demand the outside administration if decisions approved by the governing bodies come into conflict with the rules of standard collective bargaining agreements.

The following type of the reserves is state reserves. Those reserves should have high liquidity, that is, they can be easily converted any moment into the amount of funds which was reserved for servicing of technical reserves which arise in fulfillment of state obligations, primarily, the budget

1 F.Vertlib. Dissertation abstract: “Responsibility of the State for a Failure to Fulfill International Economic Obligations”, PhD thesis in law, Moscow, 2009, Moscow University of the Ministry of the Interior of the Russian Federation, leading organization of the Russian Foreign Trade Academy of the Ministry of Economic Development of the Russian Federation. “An international agreement concluded between a Russian state corporation and the foreign state has characteristics of an international agreement of the Russian Federation even if its content deals with the rights and obligations of the specific economic entity. In some conditions, economic obligations specified in such an agreement can be regarded as obligations of the Russian Federation, while foreign states may be in a position to demand satisfaction for the failure to fulfill those obligations both from the corporation and the Russian Federation, which situation is in conflict with individual provisions of the laws on state corporations where immunity of the Russian Federation from obligations of a corporation is specified”.

2 In 2012, the share of the private sector in the total foreign debt of the Russian Federation amounted to about 60%. The calculation was made on the basis of the data of the Web-site of the Central Bank of the Russian Federation (cbr.ru/statistics/data_standard/data_rus.htm; Item14 “The Foreign Debt of the Russian Federation”, Other sectors (without participation in the capital)).

(it is the budget of the enlarged government that is meant in this context)¹, that is, state reserves are the funds reserved for fulfillment of state obligations. High liquidity and risk-free quality of state reserves are ensured by investments in government treasury bonds of economically developed countries with powerful competitive market economy. Using the technical apparatus of the Central Bank of the Russian Federation, the government like an ordinary customer (an exporter or importer) transfers state reserves into currency obligations of other countries.

According to the Ministry of Finance of the Russian Federation, Rosfinagentstvo should be assigned the function of management of state reserves. The above analysis showed that as regards ensuring of the uninterrupted execution of the budget the state reserves should be invested into highly liquid assets.

The topic of the state domestic debt is quite difficult for the Russian Federation, as well. Government borrowings should be made if the market margin from placement of the attracted funds is higher than the cost of servicing of the placed bonds. With the high cost of the state debt servicing and in conditions of the stagnating market (that is, in a situation of a weak revenue base of the budget), sooner or later the new obligations will inevitably be involved in servicing of the already accumulated debts, which situation is accompanied by growth in the budget deficit. The deficit can be reduced through cutting of expenditures and raising of taxes. In Russia, expenditures are reduced now and then by a simple novation of the debt (if the government unilaterally changes its obligations), which situation is unacceptable to creditors, or the deficit is eliminated through raising of a tax burden on taxpayers, which situation is unacceptable to taxpayers. By issuing state bonds at a high interest, the issuer actually sets the level of the inflation rate, that is, depreciates the national currency and prompts the Central Bank of the Russian Federation to push artificially upwards the rate of refinancing in order to maintain the national currency at the target level. The negative experience in issuing of high-yield GKO with a subsequent debt novation accompanied by a more than quadruple depreciation of the national currency has explicitly shown the risks of excessive overstating of the limits of borrowing and the cost of servicing of the domestic debt. It means that the limits of the state domestic debt, as well as those of the foreign debt should be determined not by the government bonds issuing center (the Government of the Russian Federation, the Ministry of Finance of the Russian Federation and the Ministries of Finance of constituent entities of the Russian Federation), but the national currency issuing center, that is, the Central Bank of the Russian Federation.

Due to the above stated, the stance of officials of the Ministry of Finance formulated by Deputy Minister S. Storchak requires explanations: "The Central Bank should not manage the country's debt because in such a situation a conflict of interests between the issuing center and the government borrowing agent arises"². Probably, a technical overlap took place because under the effective legislation³ the Central Bank of the Russian Federation is allowed to carry out such functions and the legislator does not see any conflict of interests.

It is believed that the debated issues of management of the state debt and state reserves can be narrowed down to the issue of utilization of the resources of the National Welfare Fund. So, the dispute between the Ministry of Finance of the Russian Federation and the Ministry of Economic Development of the Russian Federation, probably, boils down to the issue whether the NWF should remain a savings fund (that is, to be transferred to Rosfinagentstvo which is being established on the initiative of the Ministry of Finance of the Russian Federation and utilized entirely for carrying out operations on the financial market) or it can be partially transformed into an investment fund whose available resources can be spent beyond the limits of budget assignments (for example, on the terms of provision of returnable and paid borrowings). According to the Ministry of Finance, the saving status should be preserved, while the Ministry of Economic Development of the Rus-

1 For example, if oil prices fall, but payments are to be made in such an amount as was specified by the Law or in agreement and other.

2 S.Storchak, How to manage resources of the reserve funds, Web-site: vedomosti.ru of February 4, 2013.

3 Article 119 (2) of the Budget Code: "Fulfillment by the Central Bank of the Russian Federation, credit institution or other specialized financial institution of functions of the general agent (agent) of the Government of the Russian Federation as regards servicing of the debts of the Russian Federation, as well as debt placement, repurchasing, exchange and redemption is carried out on the basis of agency agreements concluded with the Ministry of Finance of the Russian Federation".

sian Federation believes that such a situation aggravates technical backwardness of Russia¹ and the Government of the Russian Federation should be assigned operating investment resources and allowed to spend them. The final decision on that issue, probably, depends on which strategy the Government of the Russian Federation prefers at the current stage of economic development: a passive (savings) strategy or an active one (an investment strategy).

In our view, in carrying out the debt policy it is important to take into account the European experience. At present, European partners deal with the consequences of the financial crisis. Support of the banking system is regarded in Europe as a priority objective for market recovery. At present, governments of the united Europe are developing a scheme of direct recapitalization of European banks. It is stated in the decision of the Council of Ministers of Finance of the Eurozone (Eurogroup) announced on February 11, 2012 by Jeroen Dijsselblom, Head of the Council that: until this June common rules of direct recapitalization of banks of the eurozone through the financial stabilization mechanism (FSM)² are to be formed. At present, FSM may extend loans for recapitalization of problem banks in accordance with the standard procedure, that is, through governments of the respective countries, which situation is accompanied by growth in state debts in the region where the debt crisis is not yet over. The Council sees its priority in ensuring of independence of the banking system of Europe from sovereign bonds of the member-states through restoration of the base market exchange relations and ensuring of the euro stability. The above should be taken into account in development of the Russian debt policy. Russia has to develop strategies which do not lead to growth in state debts. Putting of state debt management under complete control of the entity which is not a part of the banking system may actually result in growth in state debt-related liabilities and destabilization of the national currency. To cope with destabilization of the national currency, a tough anti-inflationary policy of the Central Bank of the Russian Federation (based on a high rate of refinancing to prevent flight from the ruble into a foreign currency) will be required, while to reduce liabilities related to the state debt and the interest accrued a tough fiscal policy is to be pursued. Considering the above, in our view, the issues related to control and management of the state debt should not be withdrawn from the banking system.

In the period under review, among technical tax issues it is important to single out, primarily, highest courts' decisions which fill gaps and explain application of the effective legislation, thus unifying the regulatory base of taxation developed in the Russian Federation.

1. Resolution No.11 of January 25, 2013 of the Plenum of the Supreme Arbitration Court of the Russian Federation determined the procedure for payment of VAT in realization of the property of the debtor who was recognized as bankrupt. In particular, the Plenum of the Supreme Arbitration Court of the Russian Federation explained that if the debtor is recognized as bankrupt it means that the fact was established that the debtor is no longer able to fulfill its obligations in a normal way and meet completely all the requirements of creditors, including those as regards mandatory payments (in accordance with Article 2 of Federal Law No. 127-FZ of October 26, 2002 on Insolvency (Bankruptcy)). After the debtor was recognized as bankrupt, liabilities related to payment of taxes, including VAT accrued on its property which is realized in the course of bankruptcy proceedings do not relate to current payments of the bankrupt-entity, but to the property which was left after payments to claimants were made. Due to the above, the amount of funds for which the property was sold in the course of bankruptcy proceedings is subject to payment in full by the buyer of the property (that is, without VAT withholding) to the bankrupt-entity or the organizer of the auction.

Another complex issue explained by the Plenum dealt with VAT taxation of the private entrepreneur's property in bankruptcy proceedings. In accordance with Article 143 of the Tax Code of the Russian Federation, VAT taxpayers are both entities and private entrepreneurs. However, as soon as the court of arbitration has passed a decision on bankruptcy of a private entrepreneur and open-

1 "The Ministry of Economic Development intends to use excess oil revenues on development of infrastructure. The above Ministry suggests that the Development Fund be established and replenished at the expense of oil and gas revenues after regulatory replenishment of the Reserve Fund", Web-site bfm.ru/finance of January 30, 2013.

2 Kommersant.ru of February 11, 2013.

ing of bankruptcy proceedings the state registration of a person as a private entrepreneur becomes null and void. The above factor entails respective tax consequences. With losing of the status of a private entrepreneur, the debtor ceases to be the payer of VAT, so, operations carried out by the receiver or the organizer of the auction on sale of his property in the course of bankruptcy proceedings are not subject to VAT taxation.

2. A bit earlier, in November 2012, by Resolution No. 9127/12 of November 6, 2012 of the Presidium of the Supreme Arbitration Court of the Russian Federation a principal decision was taken in respect of responsibilities of officials of companies which were recognized as bankrupt. In particular, the Presidium of the Supreme Arbitration Court of the Russian Federation explained on whom the burden of proof of responsibility rests in case of a claim being filed in accordance with Article 10 (5) of Federal Law No.127-FZ on Insolvency (Bankruptcy) to bring the former company manager to subsidiary responsibility for the company's liabilities.

In accordance with the above Article, the manager of the debtor is subsidiary responsible for the liabilities of the bankrupt party if by the time of rendering of ruling on establishment of oversight or passing of a decision on recognition of the debtor as bankrupt accounting and (or) reporting documents are unavailable or include no information on the property and liabilities of the debtor, or if the above information is falsified.

The Supreme Arbitration Court of the Russian Federation explained that the above norm cannot be regarded as the only evidence in solving of the issue of subsidiary responsibility of the manager and determined the following procedure for recognition of subsidiary responsibility.

The manager's responsibility arises not by virtue of Article 10 (5), but depending on the fact whether actions or instructions of that manager resulted in insolvency (bankruptcy) of the company by implication of the norm set out in Article 56 (3) (2) and Article 10 (4) of the Law on Bankruptcy.

To bring an official to subsidiary responsibility, it is required to establish: a) the fact of a failure to fulfill obligations as regards submission of the documents or the fact of absence of the relevant information in them; b) existence of the guilt of the entity of responsibility (that is, to establish whether all the required measures were taken by the manager of the debtor-company to ensure proper fulfillment of obligations as regards maintenance and submission of documents, in particular, the method of transfer of the documents from the former management, safekeeping of documents and other)); c) cause and effect relationship between unavailability of documents (lack or distortion of the information in documents) and infeasibility to meet creditors' claims.

For the above-stated reasons, despite the fact that in accordance with Article 10 (8) (2) of the Law on Bankruptcy subsidiary responsibility is established in the amount of both unsatisfied claims included in the creditors' register of claims and unsatisfied current claims, but if the person who is brought to responsibility proves that the amount of the damage caused by him to the creditors' property rights because of a lack of documents (lack or distortion of the information in the documents) is much lower than the amount of claims which are to be met the court has the right to reduce the extent of responsibility of such a person on the basis of Article 10 (4) (1) of the Law on Bankruptcy.

The Presidium explained that the above Resolution of the Supreme Arbitration Court of the Russian Federation constitutes grounds for revision of the earlier passed judicial acts on the basis of new facts. In other words, the manager of the bankrupt company is given an opportunity to reduce the amount of subsidiary responsibility to the level which is proportionate to his guilt.

3. An important document is the Concept of Development of Pre-Trial Settlement of Tax Disputes in the System of Tax Authorities of the Russian Federation in the 2013–2018 Period approved by Order No. MMV-7-9/78@ of February 13, 2013 of the Federal Tax Service of the Russian Federation.

4. It is worth mentioning Letter No. ID-4-3/1828@ of February 7, 2013 of the Federal Tax Service of the Russian Federation (together with Letter No. 03-08-13 of November 1, 2012 of the Ministry of Finance of the Russian Federation) which specifies the procedure for determination of the share

of real property in assets of a Russian entity for the purpose of taxation of the income of foreign entities from sources in the Russian Federation on application of Article 309 (1) (5) of the Tax Code of the Russian Federation. Referring to the Comments (Item 28.4 of the Comments) on the OECD Model Convention on Taxes on Income and Capital (Article 13 (4) of the Model), the Ministry of Finance of the Russian Federation and the Federal Tax Service of Russia explained that in order to determine the share of the real property it is necessary to proceed from the aggregate amount of all the assets of a Russian entity, whose shares (interests) were realized by a foreign entity. Calculation of the share of the real property can be carried out on the basis of the balance-sheet value of the assets of the Russian entity and the balance value of the real property specified both in the balance-sheet and calculation of the tax on property of the Russian issuer-entity. ●