



## Syllabus of Module

# 4. Financial Law

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### Module Annotation

Financial law is a separate legal sector, which represents a summary of the legal standards governing the relations arising from the process of the creation, distribution and use of the monetary mass and its parts. It is important to note that financial law is subject to those financial relationships in which the State acts or intervenes and which concern the monetary mass or parts thereof. Relations arising out of a contract are not subject to financial law, a rule of course there are exceptions to.

In view of the above, financial law should be seen as a field governed by public law with the closest links to the law of the public, European, criminal, international public and certain private sectors such as commercial or civil law.

Like a large number of other legal sectors, financial law is divided into two parts:

- the general part
- and specific part.

In the general part of financial law we include general knowledge about this field, such as the subject matter of financial law and its system, sources, financial relations and state supervision.

The specific part of financial law is then its own positive financial law and can be broken down according to the content relation of the standards as follows:

- legislation on public budgets and state funds (area of budgetary law)
- legislation on taxes, charges, duties and other compulsory charges
- currency and cash circulation legislation
- legislation on the foreign exchange economy
- legal arrangement of the loan
- financial market legislation.

The largest area within the above-mentioned “sub-sectors” of financial law is the area of budgetary law and the law on tax, charges and customs. The main emphasis in this module will be on the regulation of these areas.

Budgetary law can be defined as a summary of substantive and procedural legal standards governing the system of public budgets, the content of public budgets, financial management, the budgetary process and the relations arising from the creation, distribution and use of the monetary mass in these public budgets. Within the framework of budget law, general issues of the budget as a financial and legal institution, the budget system, the general content of the budget or budget principles are defined. In the light of the ongoing economic crisis, the issue of budgetary principles, in particular the principle of equilibrium, is gaining importance in the European context. Let us recall the project of the so-called fiscal union, of which the Czech Republic did not become a signatory, but which clearly documents efforts to practically bind the budgetary process to the principle of balance and to adjust the permitted level of the so-called structural deficit in EU Member States. On the other hand, the various articles of the budgetary system and the budgetary procedure involving the procedure for drawing up, negotiating, approving, implementing and controlling budgets are governed by budgetary law. The most important sources of budgetary law at the legal level are:

- Act No. 218/2000 Coll., on budgetary rules, as amended,
- Act No. 250/2000 Coll., on the budgetary rules of territorial budgets, as amended,
- Act No. 243/2000 Coll., on the budgetary determination of taxes, as amended,
- Act No. 420/2004 Coll., on the review of the management of local and local authorities and voluntary associations of municipalities, as amended,
- The Act on the State Budget of the Czech Republic for each year,
- laws governing individual state funds.

From the sub-legislative legal norms I would emphasize Decree No. 323/2002 Coll., on budgetary composition, as amended by the law on fees.

The law on tax, charges and customs again includes both procedural and substantive standards. In the financial law module, great emphasis is placed on tax law, the basic source of which are individual tax laws and tax regulations governing the area of tax administration. The importance and nature of double taxation treaties will also be discussed in the context of tax law.

The tax system of the Czech Republic consists of a summary of the legislation regulating the following taxes:

- Income Taxes (Act No. 586/1992 Coll., on Income Taxes, as amended by the law on fees)
  - personal income tax
  - corporate income tax
- Real Estate Tax (Act No. 338/1992 Coll., on Real Estate Tax, as amended)
- Road Tax (Act No. 16/1993 Coll., on Road Tax, as amended by the law on fees)
- Value Added Tax (Act No. 235/2004 Coll., on Value Added Tax, as amended by the law on fees)
- Excise Duties (Act No. 353/2003 Coll., on Excise Duties, as amended by the law on fees)
  - mineral oil tax, alcohol tax, beer tax, wine and intermediate products tax, tobacco products tax, heated tobacco products tax, raw tobacco tax
- Environmental Taxes (Act No. 261/2007 Coll., on stabilisation of public budgets, as amended by the law on fees)
  - tax on solid fuels
  - electricity tax
  - tax on natural gas and certain other gases

It cannot be forgotten that the area of indirect taxation in particular is significantly affected by EU law.

The fee system, regulated under fee law, consists of the following types of fees:

- Court (Act No. 549/1991 Coll., on court fees, as amended by the law on fees)
- Administrative (Act No. 634/2004 Coll., on administrative fees, as amended by the law on fees)

- Local (Act No. 565/1990 Coll., on local fees, as amended by the law on fees)
- other payments of a fee nature.

The last obligatory payment to the public budget is the customs duty. After the accession to the European Union, the budgetary importance of this payment for the Czech Republic has decreased considerably, as the bulk of the duty is a revenue of the EU budget. In terms of the customs issue I consider important the definition of types of customs duties and the concept of customs duty itself, the basis of customs duty, the rate of customs duty and the interrelation of customs issues in the Czech Republic and the EU.

In relation to the above payments, we will look at the main points of the legal regulation of the process of managing these payments, which are generally defined by Act

280/2009 Coll., Tax Code, as amended by the law on fees. As this legislation affects virtually everyone in the field of tax administration, it will be a particular focus of this module.

Another “sub-sector” of financial law is monetary law, which is a set of legal regulations governing the monetary unit, the issue of currency, the system of payments, treasury operations, cash circulation, non-cash payment transactions, etc. In the area of monetary law, I would like to emphasise Act No.6/1993 Coll., on the CNB, as amended by the law on fees, and the CNB's individual powers as the central bank of the Czech Republic and the body supervising the financial market. Next, we will focus on the legal regulation of cash circulation defined by Act No.136/2011 Coll., on the circulation of banknotes and coins, as amended. Act No. 284/2009 Coll., on payment transactions, as amended by the law on fees, is important in the context of non-cash payment transactions. We will supplement the issue with related areas, e.g. the definition of the powers of the financial arbitrator in the adjudication of disputes under Act No. 229/2002 Coll., on the Financial Arbitrator, as amended by the law on fees, the limitation of cash payments under Act No. 254/2004 Coll., as amended by the law on fees.

Another “sub-sector” of financial law is foreign exchange law, where attention will be focused on the basic definition of the legal regulation, subjects of foreign exchange law, principles of foreign exchange economy, foreign exchange places and the foreign exchange market.

The last thematic unit consists of financial market law, including the concept of the financial market and its division, the issue of entities operating on the financial market, financial market instruments – securities and financial derivatives.

## Module Objective

The aim of the module is to familiarise students with financial law as an independent legal branch in the system of our law, including the analysis and understanding of individual financial law institutes. Emphasis will be placed on the basic knowledge of the so-called specific part of financial law, especially the system of taxes and fees of the Czech Republic. The selection of topics is chosen so that the listener is gradually introduced to the basics of tax and financial law and then to individual taxes. For individual taxes, emphasis is placed on the definition of tax subjects, the subject of a tax, the tax base and the calculation of a tax. A more detailed analysis is then devoted to the tax aspects of business, primarily personal and corporate income tax and VAT. Procedural aspects are also not neglected, with a special focus on tax control.

## Literature

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