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The Practice of Legal and Tax Regulation of Land Relations in Agriculture in Russia

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Abstract

Land policy is the official activity of a government on its intentions and plans regarding the conservation, use, and allocation of land. Land relations are closely linked to property relations and environmental aspect of land usage. The main point is that land is a means of production in agriculture, and land relations are a part of agricultural policy in regions. Governmental policy is based on the legal approach and economic perspective of regulation. Statistical studies show the problem of land use for agriculture. The Russian Federation is the largest state in the world, however the acreage of agricultural land is being gradually reduced and the area of not used lands is enlarging. The tax system supports use of farmland for the purpose intended. At the same time local authorities could be interested in budget replenishment for current needs and, therefore, in increase of land tax. Taxes are rising for all arable land both used and unused. Based on the study of international practice we could offer up the successful land policy in the agriculture area.

Keywords: land relations, land administration, arable land, land code, tax regulation, land management.

JEL Classification: Q15, R14, R52.

Introduction

The Russian Federation is the largest state in the world. According to the UN the land area in Russia is 1712.5 million hectares on January 1, 2015 (Federal report, 2015). Russia is the fourth in the world in arable land after USA, India and China (UNdata, 2007).

Agriculture in Russia is growing and, provides small increase even in times of crisis according to statistics (Rosstat). At the same time agriculture in Russia is rather time-consuming and less profitable activity currently compared to other land uses. 'The profitability of agricultural production in the country hardly exceeds 10% on average, which is below the critical level of normal reproduction and is a direct route to bankruptcy' (Emelianova 2015, 18). According to the real estate reviews the cost of agricultural land is lower than the cost of land for development (Zemelnye 2015), so that rezoning from arable to land for development is held all around major Russian cities. Arable land is used for recreational and industrial purposes (Guseva 2012, 50). On the other hand, there are problems with organization and financing of agriculture in remote areas. The arable land is idle over there. This abandoned land might be estimated as a third of the all-arable land (Vovlechenie 2015).

1. The practice of legal and tax regulation of land relations in agriculture

Land administration is the processes of determining, recording and disseminating information about the ownership, value and use of land when implementing land management policies (according to the United Nations Economic Commission for Europe). Land policy is an official activity by a government of its intentions and plans regarding the conservation, use, and allocation of land. The object of land policy is the land relation.

'Land relations' is defined in the Land code of the Russian Federation as 'the relations on use and protection of lands in the Russian Federation as the basis of life and activity of people's living in the corresponding territory' (Land codex). Land relations are closely linked to property relations and environmental side of land usage (Baynova 2015, 162). The main point is that land is a means of production in agriculture, and land relations are part of agricultural policy in the region.

State regulation of the land relations includes legislative measures and economic methods. Legislative measures provide status of lands, fight against illegal activity and motivation of land use as well. The economic method is based on tax policy. Legislative measures, which are the main instrument of state regulation, are going to be considered in the article.

Number of federal laws including the Land Code governs the land relations in Russia. The Land Code establishes definition and structure of lands intended for agriculture and feature of their use. (Land codex, art 7) These norms are very important for protection of land resources as a basis of agriculture itself. Agricultural land could be reclassified only with a permit of a local government in a region.

The law 'On Agricultural Land Transactions' sets special restrictions on the use of arable areas and confers to regions extensive rights on regulation of farmland. (101-FL, art. 1) This is necessary because of various agriculture conditions in different territories of Russia, e.g. climate and soil fertility. Regions have an opportunity to make changes in the agricultural policy.

Regions have the following rights: pre-emption right on plot of land among agricultural lands in the trade, setting of minimum and maximum size of land plot, control of use of the land plots and the right of the organization of forced sale in case of non-execution of the law. The regional authorities can initiate forced sale of the land plot through court action in case foreign citizen becomes an owner of a land plot among agricultural lands and hasn't sold it within a year. (The law 'On Agricultural Land Transactions' forbids foreign citizens and persons without citizenship owning land plot in property, art. 3).

Each region has the right to have agricultural land resources, which had been bought in virtue of pre-emption right or forced sale. The region can lease or sell these lands but it depends on an agricultural policy at a regional level.

The agricultural policy of a region includes control of use of agricultural lands. The court can forcibly put up a land plot for sale if use happens with violation of the requirements of rational use of land established by law. Criteria of decrease in soil fertility or the government of the Russian Federation establishes substantial deterioration in an ecological situation. (101-FL, art. 6) Also in case a land plot isn't used for maintaining agricultural production within three and more years in a row a court-ordered forced sale of land plot could be held.

The government of the Russian Federation establishes marks of non-use of land plots. (78-FL, art. 13) In course of detection of violations authorities of region could file a court action for forced sale, but also could leave a land plot to an owner so that an owner incurs monetary sanctions. In this case, the possibility of sale is a part of an agricultural policy at a regional level, which depends on demand for agricultural lands and their quality.

How do legislative measures work as a practical matter? What is the real situation with the land relations in whole agricultural area? The Federal Service for Public Registration, Cadaster and Mapping, Rosreestr, which is the Federal executive authority, realizes functions of public administration in use and protection of land's area. The Rosreestr publishes annual report on a state and use of lands in Russia. Dynamics of changing of agricultural lands in 10 years is presented in Table 1.

Table 1. The agricultural land in Russia in 2006 – 2015

Year, given at 01:01.	Land plot area, million hectares	In % to the total amount of the lands in Russia	Including acreage, million hectares	Plot area from land recourses of a region which is not used, million hectares	Including arable land, million hectares	Bankrupt farms area, million hectares
2015	385.5	22.5%	196.2	46.1	3.5	16.3
2014	386.5	22.6%	196.2	45.8	3.3	16.4
2013	386.1	22.6%	196.2	45.7	3.5	16.6
2012	389.0	22.7%	196.3	46.0	3.6	16.9
2011	393.4	23.0%	196.1	48.8	3.7	17.3
2010	400.0	23.4%	196.1	50.7	3.7	16.4
2009	402.3	23.5%	196.0	48.4	3.7	15.6
2008	403.2	23.6%	195.6	46.6	3.6	14.3
2007	402.6	23.6%	195.1		There's little data	11.2
2006	401,0	23.5%	194.4	39.9	There's little data	6.2

Source: Roseestr's reports. (Federal report)

Data in 10 years shows the following tendencies. The agricultural land plot area is gradually reduced. Reduction isn't big in percentage terms, but the area decreases by one million hectares every year. At the same time the area of agricultural grounds itself, arable land and pastures doesn't decrease. Therefore, now reduction goes at the expense of other lands that have auxiliary value for agriculture.

Let's consider unused farmlands. Part of them is in property of regions after mandatory buyout or bidding. The region has the right to sell these lands at auction or reclassify them, for example, for building. Also bankrupt farms own unused lands. The region can initiate forced sale of these lands if they hadn't been used within three years. Statistical data shows that the area of unused lands had been growing at the end of the 2000th years. The peak of this growth is accounted for approximately for 2010, which is attributable to consequences of the economic crisis of 2008 – 2009. Then gain of not used lands was slowed down. But the area of not used lands doesn't decrease, and remains on higher level than 10 years ago. The area of not used lands in land redistribution fund of region is 15% more than 10 years ago. The area of not used lands at bankrupt farms has increased for 163%!

Data comparison allows drawing the following conclusions. Reduction of agriculture land area comes alongside increase of area of not used lands. The agricultural land plot area doesn't decrease, therefore, reduction comes at the expense of other lands where agricultural constructions or auxiliary plots are located. These lands are transferred for building, but at the same time, there is no damage to valuable lands. Increase in the area of plots of bankrupt farms shows that the authorities of regions aren't interested in repayment of not used lands. Land area doesn't decrease in local redistribution lands funds, what means that new buyers of these lands couldn't be found. Therefore, regions don't seek to sell forcibly plots of bankrupt farms

Let's consider public administrations' economic methods of land relations in agriculture. Municipalities define a rate of land tax. The rate can't exceed 0.3% of the cadastral cost of soil for agricultural lands and for

lands of a housing estate. (Tax Code of the Russian Federation, art. 394) On other lands, for instance, for building of industry facilities the local government can establish higher rate of tax. In the same time, the Federal law d.d.10/4/2014 N 284-FL establishes since 2016 new rules of taxation for unified residential development where an accommodation unit or a residential building is included. For these types of real estate tax rate wouldn't exceed 0.3% of cadastral cost if cadastral cost doesn't exceed 300 million rubles (about 4 million USD). Thus, for small land plots, for example, of garden farms, municipalities can establish tax rate, which is less than for big plots without inhabited construction. However in practice the sizes of agricultural land plots are smaller than in theory and their cost in central regions of Russia doesn't exceed 100 million rubles (about 1.3 million USD).

The taxing system supports proper use of farmland. If a plot isn't used for farming, taxes could increase and be calculated at rate of 1.5% of cadastral cost which is established for other lands. Local authorities establish tax rate for municipality, but taxing authorities carries out collecting. Because of it local authorities can't control from what plots is levied tax at concessionary rate from what on incremental. Taxing authorities get information about using of lands from the Roseestr or the Federal agency on veterinary and phytosanitary defense. Local authorities could only receive means, but couldn't influence with taxes on usage of particular lands on its territory. They have no opportunity to use land tax for needs of agrarian policy. Also, 'land taxes are hard to obtain' (Bondaletov *et al.* 2014, 65). The tax policy at the local level is not associated with standard policy of a region on management of lands of agricultural purpose. Thus, powers of authorities at three levels have no unified coordination: federal tax authorities collect taxes, the region establishes agrarian policy, local authorities establish tax rates. However, the region can delegate powers to municipalities on forced sale of not used land. Broadening of local governments' powers could promote single policy for unused farmlands. At the same time local authorities could be interested in budget replenishment for current needs and, therefore, in increase of land tax.

The increase of land tax on farmlands happened in 2010 on the basis of Order of the Russian Ministry of Economic Development No. 445 d.d. 9/20/2010. This order has approved Methodological Instructive Regulations on state cadastral valuation of agricultural lands including possible productive efficiency and anticipated profit. The purpose of the switch to a new system of calculation was to raise tax collection rate. The cadastral valuation of land plots is carried out triennially to drive up land tax rates every three years.

Table 2. Statistics of taxes payment for the agricultural enterprise in Kostroma region, Russia

Year	2009	2010	2011	2012	2013
The sum of land tax charged, thousand ruble	1.8	11	11.3	8.5	29
Fraction of land tax in total amount of taxes and fees of an enterprise	0.24%	0.78%	0.49%	0.34%	1.12%

Source: Ivanova and Sidorkina 2014, 5.

Data from Table 2 shows that after this new technique of cadastral valuation tax increase has accrued both quantitatively and percentagewise. New substantial growth happened in 2013 after cadastral revaluation of lands had been held. The role of land tax in gross share of taxes of the agricultural enterprise is not significant. However, cadastral revaluation raises a share of a land tax at the general decrease in turns of agricultural production. The single agricultural tax connected with turnover of an enterprise decreases. The cadastral valuation considers only potential profitability, which is based on quality of soil, but considers real capacity and becomes a burden for an enterprise in conditions of financial instability.

Tikhonova A. V. gives the data about shares of land tax in tax burden in agricultural regions in 2011 on the basis of accounting reports of agricultural organizations. According to this data the average share of land tax in Russia has made 1.3%, but in regions with the high level of agricultural sector, with high productivity and profitability the share of land tax rose up to 1.4 – 1.5%. (Tikhonova 2014, 32) Thus, tax burden increases also in regions with high productivity. Expenses of land tax are minimized in low-yield regions upon condition of the average level of agricultural production. Thus, possibilities of tax policy usage for management of the land relations in agriculture are not entirely applied.

2. Discussion

The authors' conclusions differ with some modern Russian researchers about an issue. For example, Emelianova and Novikov (2015, 16) opine that the main problem is the reduction of arable land. Forecited statistics of the last ten years shows that arable land is currently not being reduced. In the authors opinion there're two major problems – downtime of lands and bankruptcy of farms. These problems are related to each other and international practices are significant for summing-up of public policy of the country's agriculture.

International practices demonstrate different development trends of the national land policy. First of all it is support of lease relations. Secondly, it's property protection.

Growth of lease is common in developed countries and is a mark of Agriculture flexibility, when the land is not idle but using. Mishina (2011, 107-117) notices large amounts of leased land in agriculture in New Zealand, Canada and France. However, international practices demonstrate that tenants prefer to take the land from private owners. Thereby, lease is associated with the protection of property support. However, the presented data shows us that a valid part of unused land in Russia is located in land redistribution funds, which belong to the state. Public policy should include mechanisms for rapid and profitable letting of land.

Agricultural land in China are state-owned, government rent them out. The problem of reduction of agricultural land also exists in China, where agricultural land is transferred for building construction. Government regulates land transfer processes. Problems of protection of tenants' interests and owners in China are quite similar to Russia. Chinese government uses growing-point, special economic areas, where agricultural enterprises are export-oriented, for development of agriculture. (Trichur 2012, 71) This experience could be useful. Lease relations in China restrict loans secured of land, but farmers can get the support of government programs.

'In land management security of land tenure brings certainty and sense of ownership, which results in more, and efficient productivity' (Somroo 2010) Protection of property in land ensures the successful development of the economy (Dale 2006, 13). Private land ownership contributes to the development of various forms of mortgage and loans for agricultural development. The land tax amount is important for owners. But for local authorities land tax becomes a source of budget but not regulatory. International practices on reducing of land tax would let consider potential benefits for local and regional authorities. Efimova (2011, 1-16) analyzes the tax incentives, including land tax for farmers in developed countries. The author gives examples of the significant reduction in land tax for farmers in Canada and the tax calculation on cadastral value based on average yields in France.

Researches about international practices of state policy in agricultural land area often focus on developed countries. But it is also necessary to compare regulation of agricultural lands in countries with similar economic growth rates for understanding of possible problems and presumable consequences of their decisions.

Conclusion

It is fair to assume that measures for protection of agricultural land use under Russian conditions are not effective enough. Regions have no incentive to withdraw unused agricultural land because of abundance of lands of that kind among regional land resources and difficulty in finding of buyer. To eliminate downtime of lands not only punishment for not using of land is needed but also support of agricultural development. The federal government and the local government should offer concessional lending, tax cuts and other economic and social measures to support agriculture. In this case, agricultural enterprises would bring income, the number of bankruptcies would be reduced and people would be interested in buying or renting a vacant agricultural land.

The broadening of self-governing authorities powers in the matter of land relations is advisable for the formation of the integration of systems and procedures and tax arrangements. However, local governments should not depend on taxes on agricultural enterprises. The strategy itself for taxes on agricultural land should be changed. Perhaps, regional authorities should regulate agricultural tax, and then it could be possible to form a single policy of land relations at a regional level.

Results of the study show that the state policy in the land resources area should be constantly adjusted to changing conditions. The land rent could be more flexible in times of economic crisis. Tax policy and promotion of agriculture should be adjusted to each other. The ownership of large area of lands doesn't guarantee efficient agriculture. The aim for government at different levels is development assistance.

References

- [1] Baynova, M. S. 2015. Land conflicts in process of urban development activities. *Conflictology*, 1: 161-181.
- [2] Bondaletov, V. et al. 2014. Local politics, business, people: issues and cooperation strategies. *Journal of Advanced Research in Law and Economics*, 2: 63-73.
- [3] Dale, P., Mahoney, R., and McLaren, R. 2006. *Land markets and the modern economy*. Rics research, London, UK.
- [4] Efimova, E. 2011. World experience of social regulation in the system of agrarian sector economic taxation. *Nauchnyy jurnal KubGAU*, 74(10): 1-16.
- [5] Emelianova, T., and Novikov, D. 2015. Planirovanie I organizacia razionalnogo ispolzovania I ohrany zemel'nyh resursov v usloviah sankzij I importozameschenia. *Mezhdunarodnyj selskohoziastvennij jurnal*, 4: 14-20.
- [6] Federal law from 04.10.2014 N 284-FL 'On Amendments to Article 12 and 85 of the first part and the second part of the Tax Code of Russian Federation and on Invalidity of the Russian Federation Law 'On taxes on property of individuals'
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=169428;fld=134;dst=100000001,0;rnd=0.8842639205977321> (accessed May, 13, 2016)
- [7] Federal law from 18.06.2001 N 78-FL 'On Land Management'
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=182888;fld=134;from=32132-6;rnd=189271.4215175563003868;;ts=01892719588684707414359> (accessed May, 13, 2016)
- [8] Federal law from 24.07.2002 N 101-FL 'On Agricultural Land Transactions'
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=182988;fld=134;from=37816-6;rnd=189271.1608116738498211;;ts=01892712949022592511028> (accessed May, 13, 2016)
- [9] Federal report. Gosudarstvennyj (nacional'nyj) doklad o sostoianii I ispolzovanii zemel v Rossijskoy Federacii. <https://rosreestr.ru/site/activity/gosudarstvennoe-upravlenie-v-sfere-ispolzovaniya-i-okhrany-zemel/gosudarstvennyy-monitoring-zemel/sostoyanie-zemel-rossii/gosudarstvennyy-natsionalnyy-doklad-o-sostoyanii-i-ispolzovanii-zemel-v-rossijskoy-federatsii/> (accessed May, 13, 2016)
- [10] Guseva, E. S. 2012. Transformacia funkzij sel'skoj mestnosti Podmoskovia za 20 let rynochnyh preobrazovanij. *Regionalnye issledovania*, 2: 47-58.
- [11] Ivanova, O., and Sidorkina, M. 2014. Methods of determining the tax burden of agricultural producers. *Naukovedenie*, 5(24): 1-13.
- [12] *Land Administration Guidelines*. 1996. United nations. New York and Geneva.
- [13] Land code of Russian Federation, from 25.10.2001 N 136-FL <http://www.consultant.ru/popular/earth/> (accessed May, 13, 2016)
- [14] Mishina, Z.A. 2011. Zarubejniy opyt v oblasti zemel'nyh otnoshenij. *Vestnik NGIEI*, 1(2): 107-117.
- [15] Prodazha zemli sel'hoznaznachenia. http://zemzag.ru/zemli_sh_naznacheniya/ (accessed May, 13, 2016)
- [16] Produkcia sel'skogo hoziajstva. Rosstat Rossii. http://www.gks.ru/free_doc/new_site/business/sx/tab-sel1.htm (accessed May, 13, 2016)
- [17] Rosstat. Federal State Statistics Service. http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/enterprise/economy/ (accessed May, 13, 2016)
- [18] Soomro, A.R. 2010. Globalisation of Land markets - its impacts on development with specific reference to Pakistan. Paper presented at the International Trade and Academic Research Conference (ITARC), November, 8-10 in London, UK.
- [19] Tax code of Russian Federation, from 05/08/2000, N 117-FL, http://www.consultant.ru/document/cons_doc_LAW_28165/ (accessed May, 13, 2016).

- [20] Tikhonova, A.V. 2014. Agricultural sector tax regulation: evaluation and problems. *Izvestiya of Irkutsk State Economics Academy*, 6(98): 25–34
- [21] Trichur, G.K. 2012. East Asian Developmental Path and Land-Use Rights in China. *American Sociological Association*, Volume XVIII, 1: 69-89
- [22] United Nations data. <http://data.un.org/Explorer.aspx?d=FAO> (accessed May, 13, 2016)
- [23] Vovlechenie v oborot selhozugodij obsudili na soveshhanii v administrazii Luhovizkogo rayona. <http://lv-news.ru/2015/02/03/vovlechenie-v-oborot-selhozugodij-obsudili-na-soveshhanii-v-administracii-luhovickogo-rajona/> (accessed May, 13, 2016)
- [24] Zemelnye uchastki Moskvy – obzor za 2015 god. <https://regionalrealty.ru/library/zemelnye-uchastki-moskvy/> (accessed May, 13, 2016)

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