A Study of the Protection of Criminal Law in Trade, Tax and Banking Secrets

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Abstract

The criminal laws of any country are applicable only in the territory of that country. In other words, each state can only make decisions about criminal behavior that occurs in its territory and apply its laws to them. Governments do not have the power to make decisions and enforce laws regarding behaviors that occur outside their borders and in other countries. The public risk of unlawful acquiring and divulgence of data comprising exchange, expense or bank still up in the air by the way that opposition in the field of business is preposterous without getting data. The objective prerequisite to keep an eye on a contender is created by the craving to get data to which access is shut. Unapproved admittance to safeguarded data, unlawful getting and divulgence of data comprising exchange, duty or bank mysteries is a prompt danger to both financial security and the public safety of the Russian League all in all. Potential criminal risk is one of the ways of safeguarding exchange, duty and bank privileged insights. The article examines exchange, expense and bank mysteries according to the perspective of the object of criminal regulation insurance, distinguishes the issues of policing, gives proposals for working on the criminal regulation of the Russian Organization.

Keywords: criminal law, Law, trade, tax or bank secrets

Introduction

Modern economic activity is inextricably linked with information technology and processes. This circumstance not only contributes to the development of business and related public relations, but also introduces additional risks to this activity, including those associated with the growing vulnerability of confidential information constituting someone's trade, «Illegal obtaining and disclosure of information constituting trade, tax or bank secrets» [1] performs the function of protection of criminal law of intangible goods.

The law consists of rules and regulations that are prepared and regulated according to the needs of the society by the discerning people, reviewed and approved by the expert legislators in the parliament and used with the purpose of regulating individual and social relations and creating order, security and justice, after It is validated through legal procedures and the government guarantees its implementation and protection of its privacy and sanctity. It is flourishing, but in its extreme form, it has caused conflict, strife, war and conflict in human life, and as a result, lawlessness. Growth and development in various economic, social, cultural and political dimensions have not been achieved, except in the shadow of creating order and security and of course compliance with the "law".

Compliance with the law and rule of law indicates the stability and cohesion of the society. Healthy relations between citizens and positive interaction will be possible in the light of compliance with the "law". Security as the main need of today's life in its various dimensions is formed only in the shadow of the law. New needs demand new rules and regulations. Social order is the blessed product of rule of law, and lawlessness is considered a kind of orientation towards social norms; A phenomenon that is seen in all societies to a degree of intensity and weakness. In some societies, accepting the law, obeying and respecting it is rooted in the behavioral culture of the people in such a way that it has become "sacred" for them to the point where "all their actions, behavior, deeds and thoughts show themselves." A society that regulates its movement according to the law, more than anything else, it helps the emergence of creativity and in the direction of prosperity within itself; Since the ultimate and ultimate goal of the law is to create order and establish justice in such an environment, the "ruler of the law" has taken steps to determine the limits and boundaries and clearly outline the relationships of individuals from the legal rights of the members of the protection society, prevent encroachment on the sanctity of people's rights, and create discrimination. And he avoids inequality and uses all his harmony to

maintain order and observe justice. In such a society, the distribution of wealth and facilities is done according to the ability, talent and merit of people, the rights and duties are necessary and necessary and before the assumption is made that people are familiar with the laws; The principle is placed on the education of rights and duties because it requires a population micro-group, when citizens evaluate the law in line with their personal and social interests, they favor its implementation. Law evasion in many societies is rooted in history and the past due to special conditions, non-compliance and compliance with the law goes back to the weakness in understanding the functions of the law; The responsibility of the government and the government: avoiding task-oriented view, moral weakness, inattention to the place of culture in the regulation, formulation and approval of laws, weakness of the legislative system, conflicts of laws with individual and group interests, diminishing the role of customs, habits and beliefs in laws, fueling the atmosphere of mistrust in the society and as a result discrediting the role and place of public participation and the government's monopoly in affairs.

Methods

The structure of the examination is shaped by Common Code of the Russian Alliance, Criminal Code of the Russian Organization, Expense Code and other regulation of Russian League. Over the review the accompanying techniques for examination have been utilized: authentic and legitimate strategy, formal and sensible technique, precise and primary strategy, explicit humanistic strategy, measurable technique and the strategy for near regulation.

Results

The current Russian legislation does not contain a definition of the concept of «secret», despite its frequent use in relation to types of confidential information. The legal literature describes two approaches to the interpretation of the concept of secrecy. The first is that secrecy determines the property of information. In scientific theory, a subjective element is highlighted - commitment, which is aimed at preserving the unknown. The second approach assumes that the secret is information itself. In the legal understanding of secrets, expressed in the current legislation, this concept is more consistent with the first approach, which defines a secret as a commitment consisting in obscurity. Uncertainty is supported by a certain system of legal norms that determine the regime of conditions restricting the provision and dissemination of information. This mode of conditions depends on the type of secret, its scope - public or private. The public sphere requires detailed regulation, while in the private legal sphere it is possible to limit itself to the legislative recognition of such secrets. In this way, the attribution of data to a particular sort of mystery prompts the rise of an exceptional system for the development and development of freedoms and commitments, their execution, the particulars of assents, techniques for their execution, as well as the activity of normal standards, general arrangements. The lawful system is characterized as a unique request of legitimate guideline, which is communicated in a specific blend of legitimate means and makes the ideal social state. In this way, we can reason that mystery comparable to relations connected with data ought to be perceived as a unique legitimate system of private data accommodated by regulation, portrayed by the methodology for its utilization, association of access, the scope of committed people and proportions of liability regarding infringement.

Proprietary advantages are managed by the Government Law of July 29, 2004 No. 98-FZ «On Exchange Secrets» [2]. The predefined regulation in Craftsmanship. 3 characterizes that a proprietary advantage is a secrecy method of data that permits its proprietor with existing or potential conditions to increment salaries, keep away from uncalled-for costs, keep a situation on the lookout for merchandise, works, benefits, or get other exchange benefits.

The substance of a proprietary advantage comprises of data of any nature (creation, specialized, financial, hierarchical, and so on), remembering the consequences of scholarly action for the logical and specialized circle, as well as data on the techniques for completing proficient exercises that have genuine or potential exchange esteem force: 1) their obscure to outsiders; 2) to which outsiders don't have free access on a lawful premise; 3) in regard of which the proprietor of such data has presented a proprietary innovation system. Data in regard of which a proprietary advantage system has not been laid out isn't viewed as classified. Likewise, proprietary advantages incorporate materials containing creation insider facts (expertise), specialized, creation, logical or monetary and financial data that can be productive and obscure to outsiders.

Be that as it may, there is a rundown of data recommended in the Government Regulation «On Exchange Secrets» to which it can't be applied for. The secrecy system isn't laid out, for instance, concerning the accompanying data contained: in the constituent records of a lawful substance, in reports giving the option to do pioneering exercises, on ecological contamination, the condition of fire security, clean epidemiological and radiation conditions, on the compensation framework , on working circumstances, including work assurance, and so on.

In current market relations, there is a possibility that unscrupulous partners or employees, having gained access to production secrets, are able to disclose them to potential competitors. Therefore, to protect trade secrets, it is necessary to take appropriate measures, such as: engineering and technical protection of know-how,

organizational (restricting employees' access to confidential information) and legal (legal) measures. For more reliable preservation of trade secrets, the organization, first of all, should start with the appropriate registration procedures. All employees must sign a nondisclosure contract. You can also include a clause stating that an employee is not allowed to create his own business with confidential information of the enterprise or cannot work in a similar competing company. However, all these methods of control have their own limitations, both in terms of time and geographic boundaries. All this must be prescribed in the employment contract when registering a new employee for work. Employees interacting with sensitive information should be notified that the information is confidential and not subject to dissemination. Also, all documents containing important information must be marked accordingly. All work with trade secrets should be performed only on the company's devices (computers, e-mail, etc.) and not go beyond its limits. The employer must carefully monitor the fulfillment of the requirements and remind leaving employees about the inadmissibility of disclosing trade secrets even after the termination of work.

Despite the fact that there is a legislative definition of the concept of «commercial secret» when qualifying an act as illegal disclosure of a trade secret, certain difficulties may arise. Thus, in the appeal ruling on the presentation of the public prosecutor against the verdict of the Sovetskiy District Court of Omsk against an employee of Russian Railways in case No. 22-4011/2015 the employee's actions did not contain corpus delicti under Article 183 of the Criminal Code of the Russian Federation, despite the fact that the reference to the list of information constituting a trade secret was enshrined in the trade documents of Russian Railways, approved by order of Russian Railways, and the employee himself gave an obligation to comply with the requirements of the regulatory documents of OJSC «Russian Railways», establishing the regime of commercial secrets. The employee had access to the automated system ETRAN, which contains information in accordance with the order of Russian Railways, which is classified as commercial. However, the court considered that this information could not be classified as a trade secret [3].

All in all, the data that is acquired by the authorities of the expense authority incorporates such data as: straightforwardly connected with the tax collection from residents; different information (not connected with duties, expenses and charges) that are classified (for instance, special kinds of mystery). In any case, there is data that doesn't fall under charge mysteries. This is data, for instance, that is openly accessible, incorporating that turned out to be such with the assent of its proprietor - the citizen (payer of insurance installments), about the citizen's ID number, about infringement of the regulation on assessments and charges (counting measures of unpaid debts and unfulfilled obligations of endlessly fines if any) and proportions of liability regarding these infringement, and so on.

Charge secret isn't dependent upon divulgence by charge specialists, inward undertakings bodies, insightful bodies, collections of state extra-monetary assets and customs specialists, their authorities and recruited trained professionals and specialists.

Divulgence of expense mysteries incorporates, specifically, the utilization or move to someone else of data comprising a proprietary innovation (mystery of creation) of a citizen, payer of insurance installments and which has become known to an authority of a duty authority, an interior undertakings body, an insightful body, a state non-monetary asset body or a traditions body, a trained professional or master engaged with the presentation of their obligations. One of the significant characteristics of tax secrets is that the information that constitutes it is only information about the taxpayer (a specific person). In the scientific literature, confidential information is classified into «strangers» and «own» secrets. «Own» secrets are data that relate to a specific person, and «strangers» are information entrusted to persons who carry out special professional activities (for example: lawyers, doctors and auditors). According to the Tax Code of the Russian Federation, only the personal information of a specific person can constitute a tax secret. Information that is available to third parties is governed by Art. 82 of the Tax Code of the Russian Federation, which states that during the execution of tax control, the dissemination by a tax authority of information about professional (i.e. lawyer's and auditor's) secrets is considered unacceptable and punishable [5]. Bank secret is information about accounts, deposits and transactions of clients. This list includes quite a few actions, for example, issuing loans, operations with deposits (investments), opening and maintaining customer accounts, making settlements on behalf of users, selling, buying, storing and managing money (securities), issuing guarantees, sureties and other operations that are within the competence of banks.

The obligation to keep bank secrets, according to the law, lies entirely with all employees of the bank, regardless of their duties and positions. Often, banks in their own local acts additionally warn all employees about this obligation. The Central Bank of the Russian Federation monitors the observance of applicable laws by banks.

As indicated by the examination of legal practice, there is an issue of a twofold methodology of the courts of the Russian Organization to the understanding of the idea of «bank secret». While thinking about cases on the legitimateness and legitimacy of bringing to criminal obligation under Craftsmanship. 183 of the Lawbreaker Code of the Russian Organization, the courts, generally speaking, continue from a tight understanding of the term «operation», significance by it just exchanges on the record, while in the wide sense the importance of this word comprises of data about the financial balance of the borrower, exchanges on this record, and data

concerning the borrower. This position is figured out in the Decision of the Preeminent Mediation Court of the Russian Alliance dated July 14, 2011 in the event that No. A37-944/2010. The assigned issue prompts vulnerability in the policing of courts and groups of fundamental examination, because of which the main sacred standards are abused - law and order and balance of all under the watchful eye of the law and the court. It would be sensible for the courts of general locale to apply a «broad» understanding of the term «bank secret», which remembers both loaning and move of assets for sake of people without opening a financial balance.

Conclusions

The legislation of the Russian Federation does not contain a definition of the concept of «secret». Secret, in relation to relations related to information, is a special legal regime of confidential information provided for by legislation, characterized by the procedure for its use, organization of access, a range of obligated persons and measures of responsibility for violation.

A trade secret does not have a specific list and is classified information that allows to make a profit, i.e. this is information of any nature, unknown to a wide range of people and having commercial value. Each enterprise, firm or organization draws up its own list of confidential data. Bank secret is information about accounts, deposits and bank transactions of customers. Tax secret is any information about a taxpayer.

Work relationship also means all the relationships between the worker and the employer and respect for the rights of the parties (relationships such as the duration of the contract, job title or profession, place of work, weekly working hours, determination of wages based on the classification of jobs, having social security insurance, working holidays, having Leave rights, overtime work conditions and overtime pay, shift work conditions, etc.) These cases should be specified in the labor law and the labor contracts should follow it. Workers and specialists in labor issues know the nature of labor relations very well. If an expert in labor relations identifies all these relations one by one and writes a legal article for each one and does not leave out any important article, the number of articles in the labor law will not exceed 30 or 40 articles and even if he includes more detailed items in the law. , will not exceed 50 or 60 articles, while the current labor law consists of 203 articles and 121 notes. By reviewing the text of the law and sifting and separating the main issues related to labor relations from sub-issues and sometimes not related to labor relations, it will be seen that the amount of material is far beyond that all work centers and activities or workshops can comply with each of these materials. and adapt However, the workshops are very different in terms of the activity sector (agricultural, industrial and service) and in terms of the type of activity (permanent, temporary, seasonal, one shift, multiple shifts, etc.) and also the size of the workshop according to the classification of the number of workers. It is obvious that the workshops, with all the diversity they have, will not be able to comply with this 203-article law, item by item. The good labor law must be applicable and compatible with all work centers and workshops and general inclusion. Therefore, it must be limited to the most basic relationship between the worker and the employer, which has concrete examples in all workshops, and the details and secondary and exceptional cases should be included in the regulations. to hand over the interior of the workshop. The detail of the labor law was eaten by all the small workshops, because they could not adapt themselves to it. Indeed, a small employer who has been able to provide job opportunities for five or six other workers in addition to himself with minimal capital and facilities, will definitely not be able to fully comply with this detailed law. The experience of several decades of law enforcement proved that such a thing is not possible, and small workshops practically could not comply with the labor law, and the government had to exclude them from the scope of the law! This means erasing the face of the problem instead of solving it. Those who deal with statistics know very well that the majority of job opportunities are provided by these small workshops, and their exclusion from the scope of the labor law means that a large number of workers are deprived of legal protection. For example, with the argument that if there is a dispute between the worker and the employer that is not provided for in the law, this law will be incomplete. The law must be specified so that the law is complete and comprehensive in every respect. The more we try to write a more complete and comprehensive law, the more we reduce the ability to adapt it to all workshops. Therefore, the position of these special and exceptional cases is not in the text of the labor law, but in the internal regulations of the workshops. Because the issue related to one or more types of workshops should be written in the regulations of the same type of workshops and not in the text of the law. Since the variety of activities and the geographical distribution of workshops are very large, the preparation and compilation of the internal regulations of each workshop according to the special conditions of that workshop and the possibility of legal supervision over them should not be left out of the control of the officials of the Ministry of Labor. For this purpose, the legal experts of the Ministry of Labor can classify the workshops in several groups or types according to their diversity and prepare a draft of the regulations for each type. This draft will contain the main features of the activity of that group of workshops. In this way, we may have a maximum of 20 types of regulations. However, it is still possible that a workshop cannot fully adapt itself to the conditions of one type of these drafts. Therefore, he should have the right to change some of its materials or replace them with materials of other types, provided that in the legal process, this draft is approved by the local labor and social affairs department so that it does not conflict with the text of the law and has a legal aspect. and find an

implementation. The proposal of summarizing the labor law and leaving the details to the internal regulations is not a new proposal, and the cooperatives have prepared standard regulations with the same approach and have provided the basis for the establishment, registration and expansion of cooperative companies. The work will be for that workshop, with the assurance that nothing else has been left out and all the main, secondary and exceptional aspects of work relations are included in this collection. This dynamism and flexibility in terms of form can solve part of the problems of applying the labor law to all workshops and work centers and there is no reason to exclude some workers from the protection of the law. Also, a compact, clean and flexible law encourages employers. and by removing unnecessary concerns, it will provide the basis for the growth of employment in the society.

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