

# Audit Responsibility as a Specific Type of Legal Responsibility

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**Abstract.** Most of the theoretical and methodological problems of audit are related to the unresolved legal aspects, in particular, the specifics of audit responsibility.

The issue of legal responsibility is well developed in the legal and economic literature, but there is no General understanding of the specifics of audit responsibility.

The purpose of this article is to determine the grounds and problems of implementation of the legal responsibility of the auditor.

Legal responsibility implies the existence of guilt, if we are talking about a concrete infringement. The article substantiates that the requirement of mandatory guilt as a result of the auditor's specific offense unreasonably narrows the range of application of audit responsibility. On the basis of the General theoretical (philosophical) method and specifically applied research methods, the author proposes to identify not only legal but also moral grounds for audit responsibility, which arise in connection with the abuse of law ("black audit"), which is considered by law as an act, socially harmful and illegal, but not always punishable.

The author's conclusion is that the basis of audit responsibility, as a specific type of legal responsibility, is the fact that it should occur both for offenses and in their absence, subject to harm in connection with a non-specific offense, and in connection with the delay, late acceptance and inefficiency of audit recommendations, erroneous audit opinion, abuse of law. All these grounds together can cause huge damage to both the state and other economic entities and individuals.

## 1. Introduction

The main purpose of the audit is, first of all, to protect the interests of owners and the company as a whole, to give confidence to users in the reliability of accounting (financial) statements due to objective and independent assessment of information about the activities of an economic entity.

Currently, a significant number of market participants are interested in obtaining objective information regarding the efficiency of capital, the use of resources, the prospects for sustainable and stable operation of organizations. Such confirmation can be obtained in the auditor's report, which assesses the reliability of the accounting (financial) statements, compliance of accounting with the current legislation. In connection with this provision, the role and responsibility of the auditor for the expressed opinion on the reliability of reporting increases

As Western experience shows, however, even over the big audit firms practicing poor audit, under the threat of ruin. An example of this is the audit firm CAO Arthur Andersen, which virtually ceased to exist in connection with the accusations of concealing the losses of the bankrupt energy giant Enron.

Development of audit in Russia is carried out taking into account the accumulated theoretical and practical world experience and has specific features, which are determined by the transience of the reforms, the existing system of state regulation of the economy and the current control system

Practical problems of modern economic development of the country are constantly faced with the most important theoretical issues in the field of audit. Most of the theoretical and methodological problems of audit are related to the unresolved legal aspects, in particular, the specifics of audit responsibility.

## 2. Literature Review

The problem of legal assessment is not new for social and legal science. Evaluation problems were developed in philosophical science in the works of E. V. Bogolyubov, Yu. D. Granin, M. V. Demin, S. I. Popov, A. A. Pens, O. E. Sokolova, V. P. Tugarinov, etc.

Features of audit and contractual relations is reflected in the writings of M. S. Malysheva, I. I. Ivanova, I. N. Rich, Udalova Z. V., S. V. Kuznetsov, Y. I. Rostovoj, D. S. Benz, and E. S. Power and others [31-35].

Certainly, the available research on the legal assessment, the legal responsibility of S. S. Alekseyev, A. N. Babai, M. I. Baru, Yu. A. Demidov, V. I. Zajickova, V. N. Kudryavtseva, T. V. Kashani-na, E. V. Kvalevog, F. A. Cherdantseva, L. D. However, The Newspaper Published, F. N. Fatkulina, etc. disclose legal categorical apparatus, leaving the legal capacity of the audit, specific audit responsibility has not been investigated fully. We understand the importance and significance of the problem and the development of legal assessment, the basis of the specifics of audit responsibility when using the General theoretical (philosophical) method and specific applied research methods .

## 3. Data and Methodology

Responsibility of the auditor is defined first of all by its duties in relation to the checked economic subjects.

It is necessary to state the fact, that the analysis of the main tendencies of audit in foreign countries shows: in most cases auditor "is responsible himself, that demands the formation of personal opinion and taking a personal decision" [26].

The responsibility of auditor determines first of all by his duties according to the checking economic subjects, their holder, according to the state and self-regulated organizations. That's why examination of these issues is viable to begin with the duties of auditor. Auditors as the subjects of professional activity are only those obligations, which are under the existing law. [17].

Besides general liability of auditor is under professional responsibility. Professional responsibility – is responsibility, connecting with fulfilling of professional duties. It is characterized for profession of doctor, lawyer, accountant in particular, for auditor. An isolated situation of professional responsibility of auditor is responsibility for "unskilled auditing".

For today such standards and methods are practically absent taking into account the specifics of the agricultural enterprise, as somewhat normative acts, containing concrete demands, concerning forms and methods of auditing, what objectively prevent to legal mark, realizing by auditor. Separate acts of normative character are exclusion [3,4].

At present time auditor has a right to determinate forms and methods of auditing themselves, assuming from demands of normative acts of the Russian Federation and also concrete conditions of agreement. The absence of methodological base for auditing aggravates the development of audit activity practically underdevelopment of normative base.

Responsibility of audit organizations and individual auditors for breach of legislation of the Russian Federation about audit is foreseen by norms of the article of laws "About audit activity", "About self-regulated organizations" and others according to which they are criminally, administratively and civilly responsible. Consideration of measures of responsibility, using to auditors and audit organizations, adduces viable to conduct in profile of provisions of documents, consisting of three subsystems of relation of audit activity: normative-legal, professional-public and internal [25].

Normative –legal subsystem includes the following documents, determining measures of responsibility of auditors and audit firms: Federal law “About audit activity”, Federal law “About self-regulated organizations”, Civil Code of the Russian Federation.

The main kind of violations [25]. and settled measures of responsibility, foreseen by enumerated above normative acts.

Documents of professional-public subsystem of regulation of audit activity can also foresees ap-pliance of measures of responsibility to auditors. Provision about membership and statutes of the most famous audit communities (Audit Chamber of Russia, collegiate organ of auditors, Moscow audit chamber, institute of professional auditors of Russia and others). SRO contains only two measures of responsibility of violations, defaulted by auditors and audit firms: abeyancy of membership in audit unity, expulsion from the membership of audit unity. In modern scientific literature measures of responsibility, using on the level of audit firm (internal subsystem of regulation of audit activity) bare rarely examined.

Just this responsibility is just to call discipline, as measures of influences uses by employer to em-ployee.

From the point of view of right, unqualified auditing must be considered as liable delict on the part of auditor.

The guilt in civil law is divided into guilt in form of dolus and carelessly. As a rule the form of guilt doesn't have the special meaning to determinate the measures of compensation of damage. The basis of civil legislation (article 24) [2,3] settles for enterprisers property responsibility for non-fulfillment or improper fulfillment of obligations in the presence of guilt.

The debtor is declared not guilty, if he proves, that he assumed all depending on him measures for proper performance of obligations.

A person, not performed or improper performed obligations, is financially liable, if doesn't prove, that proper performance was impossible in consequence of force majeure. Foreseen, that by legislation or by agreement may settled other reasons of responsibility or release of it.

As for the present day audit is one of the kinds of entrepreneurial activity according to the article 2 of Civil Code of the Russian Federation, all above to the full extent refers to it.

In this case for genesis of professional responsibility of auditor refers to the client the following conditions are necessary:

non-fulfillment or improper fulfillment of his obligation by auditor; the existence of client`s ma-terial losses;

cause and effect relationship between actions of auditor and adverse effects for the client.

However the causes of incorrect audit determination may be different. Inumerate some of them:

- 1)mistake of not enough qualification
- 2)professional incompetence;
- 3)intended misstatement of auditing results;
- 4)delivering of false information by a client;
- 5)keeping of information by a client;
- 6) the state of normative base.

In the first two cases we deal with so called negligence, in the third one – with criminal intent on the part of auditor, in the fourth and the fifth – with the direct guilt of the client, in the sixth – with the state of normative base.

We should underline, that it is internally appropriated to audit the risk of mistaken determination by force of objective circumstances, that may be by absent essentiality reduced only by auditing scientific-based methodological base in volumes, coincide or more, than the scope of work, that was taken by accounts department of client earlier.

This fact, in turn, lays under work of auditors time and cost frames: auditing must be made relative-ly limited length of time, and the cost of audit services depends on time worked.

Even the use of methods of economic statistic and the theory of chance can't reduce risk of audit mistake to zero.

As the practice shows, even very big and holding in esteem in the word transnational company can make mistakes [7].

Such presence of constant risk of mistaken determination mainstreams of correct juridical formation of contract for delivering of audit services, which demands clearly to body and fix duties and responsibility of auditor in order the parties can reliable defend the interests in case of genesis of disputable situation.

The procedure currently in effect of deciding the difference with the client concerning the quality of made auditing foresees pretrial adjudgment of client and auditor by handing in of an application by interested economic subject in organ, given licence for auditing of quality of audit opinion.

If the result of coutercheck it will discover that auditing was made unqualified, it is possible to make a claim on for collection of losses incurred in full size, spending for making countercheck and money penalty to the budget revenue oversight authority.

Conclusions of checkback about correspondence of quality of audit work to imposed requirements don't disenfranchise interest economic subject the right to file a lawsuit explicitly in court of arbitration.

By the way, property owners, debtees, bank, insurance organizations can prefer property-related claims to auditor to pay for the resulting from ignorance about financial status of the client's losses.

We should notice, that the burden to prove the fact of presence of losses and their size will rest with plaintiffs, and it is enough difficult when the example is absent.

It is necessary to notice, that practical audit in Russia is in development, and for foreign specialists, in spite of their great experience if work in audit, Russian specificity is difficult for intussusception.

Besides responsibility before checking economic subject and the third parties, auditors are responsible before the state, that means in suspension of membership in SRO or fine sanctions for these or those violations. This responsibility is not civil, but administrative.

In Russia SRO can stop the activity of member or excalate him in cases, indicated by legislation.

However it's not clear what multiple unqualified audit work or provision of auditing services are according to legislation.

To what period of time does the notion "multiple" refer to: two or more times during the year, during the period of existing of the firm or when the audit activity is carried out privately?

Many specialists consider, that in the result of financial sanctions the trust of the society to audit will increase, and repositories of law-grade will go from the market of auditing services. The losses, created to the client, auditor must undo on a full value basis, that include not only direct loss, created to the client, but also the loss of benefit.

If direct loss for client includes expenses, beared during unqualified audit work and additional expenses for recheck, but when we speak about the sum of loss of benefit, there may be some difficulties, because "Provisional guidelines of definition of size of damage (losses), created by violation of economic contract practically doesn't take in account the peculiarities of audit [1].

Besides, it is necessary to notice, that in juridical science the question of designation of acts of juridical organs to the resources of legal regulation of audit activity is debating point. For many years juridical science in Russia, as in many countries, referring to continental legal system, has given most probably negative answer for this question [9].

On the other hand, it is well-known doctrine in anglo-saxon system of law concerning this question gave the affirmative answer [29].

At the end of the 20th century the situation concerning this question in legal doctrine cardinaly changed.

There appeared many lawyers from the countries of continental system of law, admitted, that the rule of behavior, is of general obligal character, may be contained in decrees of national and international courts [8].

Many authors tend to believe, that the development of legal idea in the trend of acknowledgment of juridical precedent as the resource of law is naturally, because the creation of stratutory rules of behavior – is the property, specific of juridical power [24].

It is necessary to notice that at the present juridical practice officially is not the resource of legal regulation of audit activity, having only some characteristics of source of law and being the act of interpretation of law, although we can't deny its increasing significance and influence on legislation (especially judgment of Constitutional Court of the Russian Federation) and the practice of appliance normative-legal acts when we have the auditing activity in practice.

We should notice, that the question of legal responsibility in general is well-developed in juridical-economic literature, but at the same time we observe its fragmentarity.

General visualization about specificity of auditing responsibility as the special kind of in juridical responsibility is absent.

Everybody knows, that in the theory of state and law is traditionally intended administrative, criminal, civil-legal disciplinary and material responsibility.

To our opinion auditing activity has general characters for juridical responsibility: negative mark by the state the actions of auditor, and also measures of compulsion concerning unconscientious auditors – sanctions.

Specificity of auditing responsibility, as the kind of juridical responsibility, is connected with its complex character, secondary from definite branches of law, which determine in its base the auditing activity. Specificity of juridical responsibility manifests that it has mostly another base, than traditional kinds of juridical responsibility. In domestic legal science established opinion formed, that in the base of juridical responsibility delict underlines. In the base of juridical responsibility, as specific kind of juridical responsibility lies the fact, that it comes ( or , at least, must come) as for delicts, so if they are absent, when the harm is inflicted in connection with not concrete delict, because of standstill, out-of-time acceptance and lack of effect of auditing recommendations, mistaken audit report, abuse of right. All these business subject of law, natural persons.

Also everybody knows, that juridical responsibility supposes the presence of guilty. Absolutely, the guilty presents in auditing responsibility, as specific kind of juridical responsibility in that case, such as we speak about concrete delict. But in such case we must state, that auditing responsibility runs only public-legal aspect, setting private-legal aside.

We suppose, that such circumstances (demanding of obligal presence of guilty in the result of concrete wrongdoing by auditor) unfoundedly constricts diapason of practice of auditing responsibility. Of course, in its private-legal sphere the auditing responsibility can have pure moral basises, which are the result to our opinion from abuse in law ("black audit").

By legislation in power abuse of law is considered as the act, injurious to the public and injuridical but always foreseeable. In this connection some abuses of law can't be considered as delicts, because the characteristic of punishability was absent [23]. Of course, realizing the right to express the opinion about the reliability of retorting, auditor must constantly correlate his behavior with the demands of law and take into account the possibilities to inflict by this act social harmful consequences.

So, K. Hueber marks: "Law can be used only according to the trend of its social function" [27].

Even superficial glance allows protective functions of law in auditing activity just aren't directed to such regulation of social relations, when the possibility to use the law would be insignificant.

Besides, the problem of scientific and practical character take place the social-legal nature of that evil, which is made in the result of abuse of law by auditor is not determined.

In general-theoretical plan it is necessary to specify the following question: about the limits of what law (subjective, objective or law in audit sphere) do we speak? To answer this question let's consider the concrete example, when auditor, realizing his subjective right to express the opinion about reliability of reporting of economic subject, gave fallacy.

According to the federal law "About auditing activity in the Russian Federation", auditor or auditing organization can be annualed qualification certificate of stopped the membership in SRO. And if it did much harm to investors, who bought valuable security of "audited" subject, auditor can be nailed or charge according to the article 202 of Criminal Code.

In both cases the abuse of law by auditor was done in the limits of law. Only in the first case it will be graded in the frames of civil law (auditing), and in the second – abuse will be criminal offence.

“We can speak about abuse only in that case, when authorized, acting in the borders of subjective law belonging to him. Uses such forms of its realization, which go outside the bounds of exercise of right, established by law [15].

The subjects of injudicial abuses can be not only administrative official, but also notary officers, journalists, auditors and others, granted by special rights and enforcement powers to fulfill their functions. For example, using by notary officer or auditor his enforcement powers in violation of the tasks of his activity, to turn the advantages for himself and other persons, if this act did essential harm to the rights and legal interests of citizens or organizations, or to protected by law interests of society or state, is the crime, according to the article 202 of Criminal Code of the Russian Federation (“Abuse of enforcement powers by private notary officers and auditors”) [6].

Thus, the President, adjudicator, prosecutor, journalist, doctor, notary officer, auditor - not by a joyful enumeration of those persons, on whom the society lays the additional moral duty.

Principle of impermissibility of abuse of right and liberties is necessary to consider not only as general legal, but also as industrial principle. To disclose the content of principles of civil law E.A. Sookanov writes, that the proscription of abuse of law can be considered as general deletion from private-legal principiums.

According to it, boundless liberty to use by participants of civil legal relations of their right, is eliminated [10].

Just this sphere of auditing activity is characterized by absence of necessary normative basises.

Let's observe from the general economic positions, why normative regulation is necessary in connection with abuse of law when we speak about audit services.

Not everybody agrees with this state, and it needs in detailed substination.

The price and quality – are two main characteristics of audit service in market system, what is more the first of them doesn't need in strong regulation as a rule. It is more complicated the situation with the regulation of quality. In audit it is often that the client and auditor are interested in low-quality service, but not from the position of other users of audit and society in whole.

One of the bright examples of possibility of abundance of such a situation – when the auditor gives the positive opinion for scieneter false accounting control (or he is not interested in reliability of this control). The client is satisfied and auditor too, who realized the service without any serious thief of time. And the other users of audit, for example, creditors or potential sharers, can incur significant costs, making false decision as far as reliable accounting reports is concerned. If confirmed by such auditors unreliable financial ( accounting) reports is provided for getting of bank advance, then the bank will incur losses unsatisfactory audit, when it will meet with credit default.

Supplier can step into bank's shoes, who afterwards will meet with exceeded the time limit account receivable. It also may be the variant, when the consumer of product of auditing economic subject, who is interested in it purchase during the following years and not dawing upon, that the contractor will bankrupt soon, meets with reports.

Thus, abuse by law, restriction of rights and liberties of other persons appears there and then, where and when the measure of rational social behavior, the balance of own and alien rights is disturbed [12].

Alike access to understanding of abuse by law touches mostly subjective aspect of the problem. Wider access to investigating problem V.D. Gorobech, R. Kavachevich-Kooshtroomovich is that the abuse by law is considered as actualization of subjective law in contradiction with its assignment. In the result of abuse by law, the damage to rights and legal interests of citizens, state, society in the whole is caused [13]. In connection with such objectively existing dualism of audit activity (public-legal and private-legal principiums) arises the difference in the base of audit responsibility as specific kind of juridical responsibility.

Thus, in turn, can influence at the legal status of audit decisions (conclusions, recommendations), as based on the concrete criteria of audit responsibility.

Among the cases, accumulated for ten-years period of juridical practice [19-22], especially necessary to mention the cases, connected with bringing to responsibility the persons, realizing audit activity [19].

The analysis of juridical practice shown, that to win the cases of this category to pretendants (strangers to the litigation) is not possible because of category of essentiality, which at the present time doesn't have normative grounds.

Some specialists consider, that as the market system and audit in Russia develop and also creation of professional audit units, they must take upon themselves the most work to create audit standards, for professional training and review of specialists, to exercise control over professional activity of auditors.

Then, we can tell, the first place will take the interests of economic subjects, then auditors and audit firms, and then – the state.

As the international experience shown, control for the quality of audit service – accommodated by their members, that professional audit units realize, is enough effective.

Thus in Germany auditors incur disciplinary responsibility before their public units, expressing in four degrees of punishment: remark, admonition, ransom, exclusion from the members of auditors. Remark and admonition, issued to auditors, can be settled at the end of the days from the moment of recovery of penalty. Exclusion from the numbers of auditors is life-long [30].

As we've already noticed, the absence of methodological base for auditing embarrasses the normal development of auditorial activity more, than underdevelopment of normative base. First of all it is connected with the problems of delineation of authenticity of accounts, methodology of development and implementation of all – Russian rules (standards) of auditorial activity and also in-house standards and standards of public units of auditors.

To our opinion the main principles of methodology of development of FSAA (the rules and standards of auditorial activity) according to the category of import in audit are constructing of FSAA, consisting of obligal items (imperative norms) and orientation at interests of users of accounts (financial accounts).

Thus the problem of determination of borders of authenticity of accounts (financial accounts) is connected straight to the quality of auditorial service and is one of the most actual, key and difficult methodological problems of native audit.

Topicality of this problem increases in view of presence in our country so called "black audit", which we consider as abuse by law, when auditors for certain charge give to the audit clients the resulting part of audit report without audit work [18]. At the West such abuse by law happen to be and is named "buying opinion". Such discredit of audit is inconceivable in conditions of normal economy.

During the last years increasingly are raised points of increasing of quality of audit. Strengthening of economic mechanism of regulation of audit activity, which must be of gradual character, can promote this fact in some ways.

Notably, the combination of economic and administrative influence in this case is important.

We know the instruments of economic mechanism – penal sanctions for unsatisfactory audit (with possibility of multiplicity of their measure to the size of audit honorary, the right to lodge a lawsuit from any user of audit, perfection of procedure and realization of judgements with wide using of the West experience [14], [24]. The only real way of serious increasing of quality of audit, and consequently, the fight with abuse of right, from the point of view of E.M. Gootsait, is the wide use of economic mechanism of regulation of audit, and in particular, granting of the right to file a court complaint to audit organizations concerning unsatisfactory audit by any user [16]. E. M. Gootsait considers, that penal sanctions will the right to file a court complaint by any user of audit and also increasing of demands to qualification of auditor will be the efficient mean to combat with "black audit", which is abuse of right in audit.

A number of other investigators have the same opinion in the sphere of audit, suggesting another thing – orchestrate system of normative estates in the form of enough large penalties for damage from unsatisfactory (without separation on conscientious and unskilled) audit, and also every possible development of civilized competition on the market of auditorial service [11].

At the present day only economic subject, negotiated a contract with auditorial organization and SRO, has the named right in which sustain user must previous appeal.

The interesting fact is that the law in these questions remits us to the legislation of the Russian Federation. In practice the courts in this fact will often refuse to accept claims from the user of audit because of absence of the contact with auditorial organization.

But we should notice, if in Legislation clearly and explicitly will be fixed the right of any user of audit (to be exactly, any individual or legal body, who considers that he incurred losses from unsatisfactory audit) to present a bring to auditorial organization and get compensation from losses to the fullest extent, in this case the situation will change to the better. Of course, the user must establish the satisfaction of court as unskilled conduction of audit so its casual relationship with incurred losses. It is often difficult to estimate the size of incurred losses basically because of absence the methodology of such evaluation.

Thus, it is necessary the urgent formulation of the methodology of incurred losses, that will demand lot of force and time.

At the present in some cases we should orient at such fixed figure, as the size of received royalty and allow to the courts of justice to satisfy claims of losers in the range about 20-fold size of the service payment to the auditorial organization.

Then “black audit” in practice will be maximally penalized, and unsatisfied audit – with mitigating circumstances.

We should notice, that well-established companies will come across with such change indirectly, they will even win from the raise of prestige of home audit, strengthening of trust to it on the part of different economic agents and displacement from the market of audit service the part of their competitors.

As the West experience shows, in this case the spectre of ruin is at hand even above major auditorial companies, practicing unsatisfied audit. For example, the auditorial company (self-regulated auditorial) unit Arthur Andersen, which practically came to the end because of the charge to ambush losses of bankrupt energetic giant Enron. The auditorial company SAV Arthur Andersen, existed more than 150 years changes at bottom “top five” into “top four”.

Beyond that, for violations, introduced during the examination of financial accounts during 1997-2000 years, such major foreign auditorial companies as KPMG, LLP, Deloitte & Touche LLP [7].

The above-mentioned auditorial companies have been already working on the home market for dozens of years. In all “cracked” for the last time banks just they conducted audit. But our shareholders and investees don't present claims to them, because of imperfection of home legislative base.

Stating today conditions of modern home normative and methodological base of audit, A.S. Presnyakov underlines, that it I hardly possible to prevail legal action over auditor, if only he decides himself, what distortion essentially and what is not [28]. Further he says: “... to impugment statement is practically impossible. Because objective criterion of default in performance of obligation is absent, the court will proceed from criterion of materiality, adopted by auditor” [28].

Concluding foresaid, we can mark, that when we solve the problems to maintain the audit quality the instrument of economic mechanism of audit regulation can be penal sanctions for unsatisfactory, public indemnity insurance of auditor, rating of auditorial organizations, creations of conditions of civilize contest on the market of audit service and so on, which work at present in weaken type. In a greater degree instruments of administrative mechanism work in the form of suspense of membership in SRO, the danger such destitution, stay of attestation, demands to present in public authorities different information, introduction of obligal annual audit for wide range of private and state enterprises. However, these instruments are often fail to achieve optimum effect.

Further we should mark, that the maintain required development of Russian audit by prevail using of administrative regulation is impossible.

As we have marked, it is necessary under normative foundations disintegration of auditorial activity in “self-audit” as uncommercial activity, realizing probably on tender base and in accompany service as entrepreneurial. Strengthening of economic mechanism of audit regulation must be together with administrative.



Herewith administrative mechanism of audit regulation in prospect must become auxiliary respect to economic.

Herewith it is necessary not autonomous functioning but combination of economic and administrative mechanisms with dominate role of the first one.

The definite, but more modest in comparison with administrative mechanism, place must be given to disciplinary regulation (notification, reprimand, penalty, exclusion from profession), as is customary, for example, in auditorial practice in Germany [30].

#### **4. Results**

Therewith, to fix up with quality of audit means to pay great attentions to the questions of creation of methodology, to specify base and fundamental auditorial notions as essentiality, audit risk, professional judgment of auditor, auditing standards and so on.

From the point of view of audit as a form of scientific knowledge, methodological substantiation of these notions will promote better understanding of theoretical base of audit itself; from the point of view of law – it will rise responsibility and ensure protection of rights of auditorial organizations; and from the point of view of informative process – will give the information to users, who are interested in it.

The critical questioning, concerning authenticity of financial accounts, consequently, objective criterion of essentiality, demands the quickest settlement and unique explanation for all users of accounting reporting. Only in this case the users can protect from the unsatisfactory audit in the court, when the objective characteristic of improper performance by auditor on his obligation will take place.

In this case according to the article 401 of CC of the Russian Federation the absence of fault proves by auditor, but agree of guilt and liability are meted out by the court.

However, as we've marked earlier, the different group of users, when they make economic and administrative resolutions, have different interests concerning essential indexes of returns, which must be confirmed. According to the principle of battery limits, auditor is responsible for expressing the opinion about authenticity of returns (and it must be based on imperative norm), and directly the users are responsible for their decisions on the base of auditorial conclusions. But if audit is carried out in the interests of different groups of users and all of them have the equal chances to protect their legal interests, it is necessary such normative causes, which let to protect as the users of returns so conscientious auditors.

Thus the specificity of auditorial responsibility is that it has to a large extent the other foundation, than the traditional kinds of legal responsibility, not in the result of concrete delict, but, for example, in connection with abuse of right ("buying of opinion", or "black audit"). Some abuses of right can't consider as delicts because of absence of traditionally construction the right of guilt.

Because of such objectively existing dualism of auditing activity (public-legal and private-legal its principiums) the special foundations of auditing responsibility take place as specific kind of legal responsibility.

#### **5. Conclusion**

1. The specificity of audit activity as a type of financial control is that on the one hand, the audit performs a special function of Finance – strengthening financial discipline in the interests of the Treasury, and on the other – the function of protecting the private interests of owners and other market participants.

2. The role of audit in the system of state control and the company is specified in its institutions: imperativeness and dispositivity, audit responsibility, legal assessment, mechanism of implementation of audit legislation. Identification of institutional audit problems and their solution will optimize the process and results of audit activities.

3. An important aspect of audit activity is the responsibility of the auditor as a subject of professional activity. The specificity of audit responsibility is manifested in the fact that it has a very different basis than traditional types of legal liability – not with a specific offense. In the private law sphere,

audit responsibility may also have purely moral grounds, which arise, for example, in connection with abuse of rights ("buying an opinion" or "black audit"). In connection with such objectively existing duality of audit activity (public-legal and private-legal its beginnings) there are special bases of audit responsibility as a specific type of legal responsibility.

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