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Public and private sector entrepreneurship

Электронный учебно-методический комплекс для специальности
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Электронный учебно-методический комплекс «Public and private sector entrepreneurship» предназначен для студентов, получающих углубленное высшее образования для специальности 7-06-0421-01 «Юриспруденция». Содержание ЭУМК предполагает создание условий для получения студентами базовых знаний в области правового регулирования закономерностей и принципов индивидуального и государственного предпринимательства. ЭУМК отражает содержание учебной программы по дисциплине «Public and private sector entrepreneurship».

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ПОЯСНИТЕЛЬНАЯ ЗАПИСКА

Электронный учебно-методический комплекс (далее – ЭУМК) разработан на основании статьи 86 Кодекса Республики Беларусь об образовании, Положения об учебно-методическом комплексе на уровне высшего образования, утвержденного постановлением Министерства образования Республики Беларусь от 8 ноября 2022 г. № 427.

Учебная дисциплина «Государственное и частное предпринимательство / Public and private sector entrepreneurship» предназначена для изучения магистрантами БГУ по специальности 7-06-0421-01 «Jurisprudence».

Изучение учебной дисциплины «Public and private sector entrepreneurship / Государственное и частное предпринимательство» обусловлено необходимостью формирования у специалиста с высшим образованием совокупности знаний о правовой природе, правовой и организационной конструкции государственного и частного предпринимательства.

Учебная дисциплина «Public and private sector entrepreneurship / Государственное и частное предпринимательство» тесно взаимосвязан с целым рядом учебных дисциплин, посвященных изучению экономики и правовому регулированию ее функционирования, включая правовое регулирование хозяйственной деятельности.

Целью изучения учебной дисциплины «Public and private sector entrepreneurship / Государственное и частное предпринимательство» является формирование целостного представления о правовой природе, правовой и организационной конструкции государственного и частного предпринимательства.

Задачи учебной дисциплины «Public and private sector entrepreneurship / Государственное и частное предпринимательство»:

1. Изучение предпринимательства как объекта правового регулирования.
2. Формирование представления о предпринимателе как социальной функции и субъекте общественных отношений.
3. Изучение публичного и частного интереса как правовых категорий.
4. Изучение первичного и вторичного предпринимательства, а также особенностей правового регулирования первичного предпринимательства.
5. Изучение вторичного предпринимательства, а также самозанятости как типа вторичного предпринимательства.
6. Изучение социального предпринимательства.
7. Формирование представления о казне и публичной монополии.
8. Изучение фискальной хозяйственной деятельности (государственное предпринимательство), а также особенностей правового регулирования фискальной хозяйственной деятельности (государственного предпринимательства).

ЭУМК будет способствовать усвоению магистрантами содержания учебной

дисциплины «Public and private sector entrepreneurship / Государственное и частное предпринимательство», призвано обеспечить формирование у обучающегося специализированной компетенции:

SC-2. Possess knowledge that allows you to distinguish between the legal and organizational structure of entrepreneurship and entrepreneurial activity, to determine the specifics of the implementation of private entrepreneurial activity and fiscal economic activity (state entrepreneurship).

СК-2. Обладать знаниями, позволяющими разграничивать правовую и организационную конструкцию предпринимательства и предпринимательской деятельности, определять специфику осуществления частной предпринимательской деятельности и фискальной хозяйственной деятельности (государственного предпринимательства).

В результате освоения учебной дисциплины обучающийся на II-й ступени высшего образования должен:

знать:

- содержание правового регулирования предпринимательства;
- особенности правового регулирования первичного предпринимательства;
- понятие, признаки, формы и содержание вторичного предпринимательства;
- понятие, признаки, формы и содержание социального предпринимательства, а также особенности легальных барьеров для осуществления социального предпринимательства;
- понятие, правовую природу и классификацию публичной монополии;
- особенности правового регулирования фискальной хозяйственной деятельности (государственного предпринимательства).

уметь:

- анализировать предпринимательство как институциональное явление и форма выражения волевого, активного и социально значимого поведения;
- соотносить категории «предприниматель», «субъект права», «субъект общественных отношений», «субъект хозяйственной деятельности» и «субъект предпринимательской деятельности»;
- характеризовать правовой режим предпринимательской деятельности индивидуального предпринимателя, организаций со статусом и без статуса юридического лица;
- анализировать вторичное предпринимательство как элемент хозяйственной деятельности некоммерческих организаций, а также вторичное предпринимательство физических лиц;
- анализировать публично-частное партнерство и концессии как элемент правовой конструкции социального предпринимательства;
- характеризовать объекты прав, составляющие казну, а также имущественные права в системе фискальных отношений – характеризовать предпринимательскую деятельность в системе фискальной хозяйственной деятельности (государственного

предпринимательства).

владеть:

- навыками анализа норм права Республики Беларусь, регулирующими изучаемые правоотношения и эффективное применение норм права на практике;
- познаниями в области разрешения споров в сфере государственного и частного предпринимательства и уметь применять соответствующие нормы права при анализе спорных ситуаций, возникающих в процессе осуществления государственного и частного предпринимательства;
- методами, приемами и средствами регулирования общественных отношений в области государственного и частного предпринимательства;
- понятийным аппаратом государственного и частного предпринимательства.

ЭУМК будет способствовать усвоению магистрантами содержания учебной дисциплины «Public and private sector entrepreneurship / Государственное и частное предпринимательство», получению ими системных знаний, формированию целостного понимания изучаемого предмета и профессиональных компетенций обучаемых. ЭУМК дает возможность дистанционно ознакомиться с основными положениями курса, а также с рекомендуемой литературой.

Таким образом, целью ЭУМК является создание условий для получения студентами базовых знаний в области правового регулирования государственного и частного предпринимательства.

ЭУМК *содержит* теоретический, практический разделы, раздел контроля знаний и вспомогательный раздел. Теоретический раздел предлагает учебный материал, раскрывающий значение электронного обучения в современной образовательной среде. Он включает краткий конспект лекций по дисциплине. Практический раздел состоит из учебных материалов, которые направлены на формирование у студентов необходимых компетенций, комплекс тематических заданий и методические разработки по их выполнению.

Ссылки на источники даются во вспомогательном разделе, который содержит список основной литературы и дополнительной литературы.

Рекомендации по организации работы с ЭУМК. Для углубленного изучения дисциплины «Public and private sector entrepreneurship / Государственное и частное предпринимательство» магистрантам рекомендуется не ограничиваться конспектом лекций, а также изучать соответствующие нормативные правовые акты, обращаться к отечественной и зарубежной литературе, общий перечень которой приведен во вспомогательном разделе настоящего ЭУМК.

При подготовке к семинарскому занятию студенту необходимо, вначале ознакомиться с нормативными правовыми актами, прочитать соответствующие теоретические вопросы в учебной литературе, ознакомиться с правоприменительной и судебной практикой, самостоятельно ответить на предлагаемые по соответствующей теме вопросы для самоконтроля и выполнить задания.

1. TEORETICAL SECTION

1.1. LECTURES NOTES

1.1.1. Entrepreneurship as an object of legal regulation

1. Volitional behavior of a person and volitional behavior of a subject of legal relations.
2. Human economic behavior as a legal institution.
3. Entrepreneurship as an institutional phenomenon and a form of expression of volitional, active and socially significant behavior.
4. Commerce and its correlation with entrepreneurship.
5. Correlation of the institutions of entrepreneurship, entrepreneurial activity and self-employment.
6. Legal regime of entrepreneurship.

1. Volitional behavior of a person and volitional behavior of a subject of legal relations.

In philosophy, the reality surrounding a person is divided into two dimensions:

- the real world, conditioned by a set of laws of physics, chemistry and biology (laws of nature), functioning independently of the will of subjects of social relations (objective reality);
- an ideal world conditioned by a combination of a set of laws of nature, social laws, collective and individual perception of the surrounding reality (subjective reality).

By now, several scientific directions have been formed in psychology that interpret the concept of "will" in different ways:

- 1) will as voluntarism;
- 2) will as freedom of choice;
- 3) will as an arbitrary control of behavior;
- 4) will as motivation, will as volitional regulation.

In sociobiology, the manifestation of the will of social animals as a whole (and not just humans) is considered as the ability to adapt to the conditions of existence.

In legal science, the will is considered in the context of the legal nature and legal structure of legal behavior, expressed in the form of lawful or unlawful behavior of a capable person.

Among all known subjects of law and subjects of legal relations, it is precisely and exclusively living beings that have volitional action (individual or collective) that determines the legal nature and content of their legal behavior and all other subjects.

And if the volitional action of other animals (besides humans) is considered to be unconscious, then the volitional action of a capable person is generally considered conscious. At the same time, the initiative of volitional actions of social animals (including humans) generates the phenomenon of entrepreneurship (as a property of all living things aimed at survival).

But it is human nature that entrepreneurship develops into a systemic phenomenon

– entrepreneurship.

A person's volitional action is an action based on the inner motivating force of a personality, predetermined not only by psychological and biological inclinations, but also as a result of self-persuasion and self-control. The totality of a person's volitional actions generates volitional human behavior, which turns into legal behavior of a lawful or unlawful nature, if such behavior is regulated by law.

The volitional behavior of a person, which is the result of a certain set of his volitional actions, consists of the following structural elements:

- setting goals;
- defining the tasks that follow from the goal;
- striving to achieve a goal;
- awareness and development of ways to achieve the goal;
- the emergence of motives that motivate or inhibit opportunities and abilities;
- the struggle of motives in choosing solutions;
- Accepting one of the possibilities when choosing a solution;
- Implementation of the adopted decision.

And at the moment when such strong-willed human behavior transcends the boundaries of personal and personal, thereby generating a result in the form of a social, economic or political effect, entrepreneurship is transformed into entrepreneurship as an institutional phenomenon that is always the object of state and legal influence.

Volitional behavior of a person can be classified into:

1. Socially significant volitional behavior of a person, allowing him to solve personal, family or other everyday tasks.
2. Economically significant volitional behavior, always involving the production of tangible and intangible goods.
3. Politically significant volitional behavior that allows a person or a social group to influence the mechanism of government and civil society.

The legal entity has the following characteristics:

1. Always has full or fragmented legal personality.
2. Has personal characteristics (individuals and organizations, including international organizations recognized as legal entities) or the characteristics of a sovereign (states, quasi-states and supranational integration associations).
3. Performs the functions of a primary entity (individual / state) or a secondary (derivative) entity (intra-jurisdictional, inter-jurisdictional and international organizations).
4. Acts as an active legal entity (that is, determines the content of public relations) or a legal entity performing a passive function (enters into, changes or terminates public relations within the established rules).

Subjects of legal relations have the following characteristics:

1. They may be legal entities, or they may not have legal personality, acting as a "continuation" of the subject of law (for example, separate divisions of organizations).
2. They may be a subject of public or private interest (individuals, organizations, states), or they may be the object of such interest (households that do not have the status of an organization).

3. They may be active participants in a legal relationship or passive participants in a legal relationship.

The institutional features of the volitional behavior of the subject of legal relations (as opposed to a person) are determined by the following factors:

1. A person is always a living being, while a subject of legal relations is a living being (a person) / a legally-subject social collective of many people (a state or an ATHEIST) / an organization / sometimes a social phenomenon that is not an organization.

2. A person individually can be a citizen (subject) / non-citizen / stateless person with a certain amount of legal personality, and a set of people can form a collective personality in the form of a state.

But only man and the state possess the property of entrepreneurship, being a source of entrepreneurial initiative. Other subjects of public relations can only implement an entrepreneurial initiative of a person or the state (for example, legal entities) or be an instrument for the implementation of such an initiative (for example, a household).

3. A person is able to implement an entrepreneurial initiative personally or through the creation of organizations and participation in them. The state has a similar ability (personalizing itself through government agencies).

4. A person is personally capable of being a business entity only if he acquires the legal status of an individual entrepreneur or self-employed person. A State cannot be a business entity because it has the attribute of a sovereign.

The social significance of the legality of the volitional, active and socially significant behavior of the subject of legal relations is that its result:

- 1) has legal and economic significance;
- 2) involves the creation of tangible and intangible benefits;
- 3) provides a balance of public and private interest.

The legal significance of the legality of the volitional, active and socially significant behavior of the subject of legal relations is that:

- 1) legal relations arise, change or terminate;
- 2) legally significant consequences arise, the nature of which determines the substantive characteristics of the resulting social, economic and political effect.;
- 3) there is a causal relationship between actions and a socially significant result.

The economic significance of the legality of the volitional, active and socially significant behavior of the subject of legal relations is what happens:

- 1) creation or maintenance of a mechanism for the production of tangible and intangible goods;
- 2) production of tangible and intangible goods for own consumption (subsistence farming) or for exchange with other entities (expanded (commodity) production);
- 3) creation of added product (value) in the form of produced tangible and intangible goods.

2.Human economic behavior as a legal institution

Economics should be understood as an institutional phenomenon and a social institution, which is a system of production of tangible and intangible goods inherent in an institutional unit, intended for on-farm consumption and for sale on a reimbursable or gratuitous basis to other subjects of public relations.

An institutional unit should be understood as a legal entity, a fragmented legal entity, or a non-legal entity that is, by virtue of an established legal or economic tradition, or institutionalized by the State, a producer of tangible and intangible goods of an economic and other social nature that are of legal importance for achieving the result of a legal relationship determined by the legal structure of this legal institution.

When determining the legal nature of the economy, it is necessary to follow the following rule: the economy (as macroeconomics) is a property of the country, but the economic system is a property and an object.

The national economy is a set of institutional units operating within the framework of the institutional environment of economic relations, using a set of means of production peculiar to the whole society, ensuring the purposeful, systematic and continuous production of tangible and intangible goods necessary for the realization of public and private interests.

The economic system is derived from the economy. And the economic (economic) system should be understood as a legal and political structure that is formed within the framework of an objectively existing economy (economy), performing the function of managing its own economy (economy) and protecting it from negative internal and external factors.

The fundamental feature of the national economy is that it forms around itself one of three spheres – the economic sphere of public relations, which develops in relation to the production of tangible and intangible goods of economic importance.

Along with the economic sphere (economics), the system of public relations is also represented by:

- the social sphere;
- the political sphere.

At the same time, the ratio of these three spheres of public relations can be characterized using the following "formula":

- the social sphere is the natural habitat of a person, allowing him to ensure a normal existence, development and reproduction of human resources;
- the economic sphere (economics) is the institutional environment for the production of the volume of tangible and intangible goods necessary for society and the state, with cost characteristics;
- the political sphere is a superstructure over the social sphere and the economy, which performs the function of managing social and economic processes.

For the purposes of regulating economic relations, it is relevant to study four categories of activities:

- 1) as a universal category peculiar to both man and nature;
- 2) as properties of living organisms;
- 3) as properties of human society;
- 4) economic activity as a category derived from the category of activity.

Activity as a property of human society should be understood as a set of operations of a different nature performed by a subject of public relations consciously, systematically, consistently and with a certain frequency of repetition, the purpose of which is to create (produce) tangible and intangible benefits that ensure the spiritual, material and social well-being of the individual and society as a whole and the expansion of human habitation in nature.

Human activity has the following characteristics:

- 1) it is always a set of operations performed by the subject of public relations;
- 2) awareness, consistency, consistency, frequency of repetitions of operations;
- 3) goal setting of the totality of operations performed – creation of tangible and intangible benefits;
- 4) the intended purpose of the goods produced is their ability to ensure the subsequent creation (production) of tangible and intangible goods that ensure the spiritual, material and social well-being of the individual and society as a whole and the expansion of human habitation space in nature.

Activities should be classified according to the following criteria:

1. By type of activity – into: public activity and private activity.
2. By type of activity – for:
 - household activities – activities of individuals aimed at satisfying personal, family, and other household needs, carried out in the mode of economic and (or) creative activities. In some cases, the State delegates to households the right to carry out economic and labor activities (for example, handicraft activities);
 - professional activity – the activity of individuals (for example, advocacy) and organizations (professional activity in the securities market), carried out on an ongoing basis, based on the use of a set of knowledge, skills, skills and technologies of professional influence on a specific area of public relations, on subjects of public relations, as well as on objects of civil rights;
 - institutional activity – the activities of the state, its administrative-territorial units, civil society institutions (political parties, religious organizations, trade unions, etc.), and other organizations operating in the field of political communication and political communication activities aimed at shaping and implementing the internal and foreign policy of the state, ensuring national security and protecting national interests, impact on public consciousness and worldview.
3. According to the form of activity – on:
 - economic activity – a set of economic operations carried out for the purpose of producing tangible and intangible goods for personal, family or other household consumption, to satisfy public interest, as well as for the purposes of expanded production and sale of goods on commodity markets;
 - labor activity – carried out exclusively by individuals (an employee on the basis of an employment contract with an employer) in accordance with the procedure established by the Labor Code, the legal structure of which is determined by the formula "hiring an employee under an employment contract + instructing an employee to perform business operations on behalf of the employer + creative activity (if this involves a labor function and stimulating the creative component of labor relations)";

- economic and labor activity – a set of economic operations carried out by individuals and households, combining simultaneously elements of labor and economic activity;
- creative activity – carried out exclusively by individuals at the domestic or professional level, aimed at managing processes (managerial activities), public communication (political and socio-political activities), creating works of science, literature and art, other objects of intellectual property, introducing innovations into civil circulation, carrying out educational and educational functions.

The ratio of different types, types and forms of activity is determined based on the following rules:

- economic activity is a category derived from the category of activity;
- creative activity is a category derived both from the category of activity in general and from economic activity;
- economic and labor activity is simultaneously related to the category of activity as a whole, as well as to economic and labor activities, and is also primarily domestic. However, if it requires compliance with qualification requirements (for example, tutoring), it can be carried out in a professional mode.;
- creative activity is derived from the category of activity. At the same time, economic, labor, and labor-related activities can be derived from creative activities in various combinations of operations that make up creative activities.;
- depending on the level and methodology of organization and the characteristics of functionality, economic and creative activities can be domestic, professional and institutional.

Business activities – a set of economically and legally significant actions resulting from the actual actions necessary for their implementation, formalized in the relevant business operations performed by organizations and individuals for the production of tangible and intangible goods of an economic, social, political and personal nature intended for personal consumption by individuals, on-farm consumption by business entities, consumption by the state and other public collectives for the purpose of satisfying public interest and for sale on commodity markets.

Economic activity can be public or private (based on the typology of activities), domestic, professional or institutional (based on the division into types).

Economic activity is the most common form of activity and is carried out by all subjects of public relations without exception (starting with households and ending with the United Nations).

According to the criterion of typologization, economic activity can be divided into:

- 1) entrepreneurial activity;
- 2) non-entrepreneurial economic activity, subdivided into non-entrepreneurial economic activity.

3. Entrepreneurship as an institutional phenomenon and a form of expression of volitional, active and socially significant behavior.

The categories of "entrepreneurship" and "entrepreneurial activity" should be considered as general and particular. The differentiation of the categories "entrepreneurship", "entrepreneurship" and "entrepreneurial activity" should be based on the following criteria:

1. Entrepreneurial spirit:

- is a characteristic of the volitional behavior of any living being (not just humans);
 - involves active behavior aimed at ensuring the vital activity and safety of one's own body or a group of living beings;
 - unlike non-enterprising individuals, an enterprising individual has the ability and motivation to overcome obstacles on the way to achieving the good and to develop innovations in the methodology of achievement.

2. Entrepreneurship:

- it is an exceptional property of a person (expressed in individual or collective forms (when an entrepreneurial initiative comes from such a collective entity as the state));
 - it is expressed in active and motivated behavior aimed at solving social problems of any kind;
 - always involves the production of tangible and intangible goods that generate a social and/or economic effect;
 - accordingly, it implies the satisfaction of public and (or) private interests.

3. Entrepreneurial activity:

- a type of entrepreneurship involving the purposeful production of tangible and intangible goods for exchange with other subjects of legal relations, the ideal result of which is profit;
 - it always assumes an economic effect;
 - it is always subject to regulation and control by the state to ensure a balance of public and private interests.

Entrepreneurship is an independent proactive behavior of the state, organizations and individuals aimed at solving tasks relevant to the state and society in order to obtain an economic, social or political effect, carried out in the form of entrepreneurial activity, secondary entrepreneurship and social entrepreneurship, as well as in the form of state entrepreneurship.

Thus, entrepreneurship as a whole is characterized by the fact that: – its purpose is to obtain an economic, social or political effect as a result of the implementation of its constituent types and forms of activity (and not just systematic profit); – his task is to solve problems relevant to the state and society.; – the motive is the implementation of an entrepreneurial initiative.

Entrepreneurship should be classified:

1. According to the criterion of motivation in the implementation of an entrepreneurial initiative on:
 - primary entrepreneurship (the external form of expression of which is entrepreneurial activity);
 - secondary entrepreneurship (which does not involve entrepreneurial activity,

but allows for the possibility of generating income from proactive, strong-willed economic behavior).

2. According to the criterion of importance for the state and society:

1) Socially significant entrepreneurship: secondary entrepreneurship, social entrepreneurship and state entrepreneurship.

2) Economically significant entrepreneurship:

– legal economically significant entrepreneurship – primary entrepreneurship (the external form of which is entrepreneurial activity);

– illegal economically significant entrepreneurship is criminal entrepreneurship.

Business entities are a set of entities with public and (or) civil legal personality in full or in fragments, capable of independent proactive behavior aimed at solving tasks relevant to the state and society in order to obtain economic, social or political effect.

The category of business entities includes:

1. Entities with the ability to act as a source of entrepreneurial initiative:

– individuals;

– the State and its administrative-territorial units;

– other public collectives that have the characteristics of a subject of international law (nation, quasi-state).

2. Entities with the ability to implement an entrepreneurial initiative:

– individuals;

– organizations with or without the status of a legal entity.

All business entities are divided into two groups:

1) subjects of private entrepreneurial initiative;

2) subjects of public entrepreneurial initiative. Risk is the probability of negative circumstances leading to adverse consequences of a diverse nature for the subject of public relations, his possessions and other goods, which have an objective and (or) subjective nature, capable of developing into real negative circumstances for reasons of internal and external, objective and subjective nature.

Economic risk is a specific type of social risk that is always objective in nature, but arises due to objective and (or) subjective reasons due to the laws inherent in the economy (the state of the relevant economy), the economic system formed on its basis, the content of regulatory and regulatory impact on the economy and methodology management of the economy (economy)) and a combination of random factors of a natural, social, economic or political nature. In the general range of risks inherent in business activities (both entrepreneurial and non-entrepreneurial business activities), economic risks are the most common.

4. Commerce and its correlation with entrepreneurship

Within the framework of the Soviet legal system, there was a unique situation in which entrepreneurship and commerce were considered only as the exclusive prerogatives of the socialist state. In the 90s of the twentieth century, the post-Soviet states rediscovered the phenomenon of private entrepreneurship.

Accordingly, it became necessary to use certain terminology to denote its nature

and subjects. And to designate an individual engaged in entrepreneurial activity, they began to use the old word «entrepreneur» (thereby narrowing its original meaning to merchant / merchant). But to designate legal entities that are inherently entrepreneurial organizations, terminology borrowed from German law began to be used: they began to be called «commercial organizations», and legal entities that are inherently non-entrepreneurial organizations – «non-profit organizations». From the point of view of linguistics, there was a serious contradiction in the terminology used. The resolution of this contradiction lies in understanding the true meaning of the terms in modern foreign practice. We will continue to analyze the meaning of the concept of understanding the word «commercial» based on the analysis of the German language and German legislation.

Thus, commerce is by no means a sphere of social relations that develop in relation to the implementation of retail or wholesale trade, which may take the form of entrepreneurial activity and non-entrepreneurial economic activity (for example, church trade or fairs).

Commerce, in its essence, is the most qualified form of entrepreneurship as such, involving transactions for systematic profit. Commerce is an element of primary entrepreneurship as an institutional phenomenon and a generalized characteristic of the process of entrepreneurial activity. In the organizational and legal structure of entrepreneurship, commerce is:

- a special case of entrepreneurial legal relations inherent in the legal structure of primary entrepreneurship;
- a qualified form of entrepreneurial activity in any possible field, not only in the wholesale and retail trade.

5. Correlation of the institutions of entrepreneurship, entrepreneurial activity and self-employment

The legal definition of employment is fixed in the Law of the Republic of Belarus dated June 15, 2006 No. 125-Z «On Employment of the Population of the Republic of Belarus» (hereinafter referred to as the Employment Law). Employment is the activity of citizens of the Republic of Belarus, foreign citizens and stateless persons permanently residing in the Republic of Belarus, foreign citizens and stateless persons who have been granted refugee status or asylum in the Republic of Belarus, related to the satisfaction of personal and social needs that do not contradict legislation and bring them wages and remuneration for their work (rendered service, creation of intellectual property objects), other income (art. 1).

A literal interpretation of this definition allows us to assert that employment is precisely an activity.:

1) a system of economic relations managed by the state, aimed at creating conditions for the fulfillment of a person's labor function within the framework of labor relations or for self-employment of citizens);

2) the identification of which is based on two criteria:

– the goal setting of such activities is the satisfaction of personal and public needs

(while meeting the personal needs of citizens is, among other things, an element of the process of meeting public needs, which is conditioned, firstly, by the principle of ensuring a balance of public and private interests, and secondly, by the principle of prohibiting arbitrary coercion to work and limiting forced labor when realization of public interest);

– the result of such activity is that a citizen receives a legal income.

Studying employment only in the context and within the scope of the subject of labor law is not only a one-sided approach that does not take into account its most important economic function – the creation of tangible and intangible benefits, but also ignores the objectively existing fact: employment is not a relationship between a conditional employee and an employer (and even within the framework of labor relations), but a methodology organizing the production of such goods to ensure a balance of public and private interest. Accordingly, labor relations are derived from economic relations, since in the absence of an economic and legal element, the employee simply will not have an employer. Employment should be considered as a methodology and mechanism for the realization of the production function of an individual, realized through self-employment or work in his own private interest within the framework of self-employment.

From the point of view of economic and legal science, employment should be understood as a set of social relations that develop regarding the functioning of a state-controlled system of economic (economic) relations aimed at creating conditions for fulfilling a person's labor function within the framework of labor relations or for self-employment of citizens, allowing citizens to carry out labor activities on the basis of an employment contract, economic and labor or creative activity within the framework of self-employment, carried out in order to meet personal needs (including as part of the process of satisfying the public interest) and ensuring a balance of public and private interests.

The first well-known and widespread type of employment in modern conditions is self-employment, which is at the same time:

- the only sphere in which economic and labor activity is carried out, which is transformed if a public legal element (namely, a public monopoly) appears in its legal structure into a public economic activity of an individual;

– a methodology that ensures the receipt of social and economic benefits by creating conditions for employment of the population in an independent mode, which does not involve additional costs incurred by the state for the employment of a citizen, ensuring the participation of individuals in financing state expenditures and self-sufficiency of an individual with necessary material and non-material benefits at the expense of economic and labor activities and public economic activities created by a self-employed person funds.

Currently, the legislation of the Republic of Belarus does not contain a definition and classification of self-employment, although self-employment is properly institutionalized in the national legal system and in the science of economic law. The legal structure of the institution of self-employment is actually embodied in the category of «non-entrepreneurial activities», established by paragraph 1 of art. 1 of the

Civil Code, although it is not limited to it (for example, an innovator has all the signs of a self-employed person, whose legal status is determined by Resolution of the Council of Ministers of the Republic of Belarus dated February 17, 2010 No. 209 «On Approval of the Regulations on Innovation in the Republic of Belarus»).

It should not be classified as self-employed individuals who are founders (participants, members) of legal entities and persons registered as sole proprietors in accordance with the procedure established by law (although they are classified by Article 2 of the Law of the Republic of Belarus dated June 15, 2006 No. 125-Z "On Employment of the Population of the Republic of Belarus" as employed persons).

From the point of view of economic and legal science, self-employment should be understood as a set of social relations that develop regarding the implementation of economic and labor and certain types and forms of creative activity, allowing citizens to ensure the satisfaction of personal, family, and other household needs (including as part of the process of satisfying public interest) and ensuring a balance of public and private interests.

The Institute of self-employment consists of two arrays of public relations:

1. Self-employment that does not contain an element of entrepreneurial initiative (in this mode, self-employment is realized by citizens who run personal subsidiary farms, citizens who work for a legal entity and sole proprietors under civil law contracts, the subject of which is the performance of work (provision of services, creation of intellectual property objects), etc.).

2. Self-employment, which contains an element of entrepreneurial initiative (hereinafter referred to as self-employment with an element of entrepreneurial initiative), which is an element of the legal structure of secondary entrepreneurship.

As a general rule, self-employment does not imply personification of the legal regime of its implementation. At the same time, self-employment is one of the few legal institutions within which it is possible to establish an individual legal regime for the conduct of public economic activities peculiar to a single individual, subject to the conditions provided for in paragraph 3 of Article 10 of the Law on State Monopoly. This feature of self-employment is due to the legal nature of the institution of state monopoly, the delegation of which often involves the individualization of the legal status of the subject of the state monopoly and the legal regime for the implementation of legally and economically significant actions.

The features of the institute of self-employment are that:

- it is one of the types of employment based on the principle of independent proactive economic behavior of an individual;

– this is the sphere of economic and labor activity and certain types and forms of creative activity;

– self-employment can be an element of the legal structure of secondary entrepreneurship if there is an element of entrepreneurial initiative in self-employment;

– self-employment does not contain signs of primary entrepreneurship (and is not expressed in the form of entrepreneurial activity), therefore, sole proprietors and founders (participants, members) of legal entities cannot be classified as self-employed.

6. Legal regime of entrepreneurship

The legal regime is an institution of law that follows from the content of the legal capacity and delictability of the relevant subject(s) of legal relations, characterizing:

- the regime for the exercise of rights and obligations, and the realization of legitimate interests of subjects of legal relations, as well as the legal regime of their responsibility;
- the regime of the implementation of legal relations in general, the realization of public and private interests as an object of legal relations, the exercise of rights in relation to the relevant objects of rights, the functioning of civil turnover and commodity markets, as well as the regime of legal facts.

In other words, a legal regime is an order of public relations determined by the legal capacity and delictability of subjects of legal relations, possible or permissible due to the peculiarities of the legal structure of a certain legal institution.

In correlation with the levels of legal status, the entire set of legal regimes in economic law should be divided into five levels of their institutionalization (i.e., their embodiment into certain institutions peculiar to the system of public relations):

1. Legal regimes peculiar to complex legal institutions, as institutional phenomena, the existence of which (complex legal institutions) is not conditioned by anyone's will or even by the very fact of the existence of the state and law (for example, the family, subsistence farming, entrepreneurship and economic activity can exist both within the framework of the state structure and in the absence of the last one). Such legal regimes are determined by the generic features of the institutional phenomenon underlying the complex legal institution, in fact, they answer the question: "What exactly is regulated?" (respectively, they are an exceptional property of complex legal institutions) and can be classified as a generic legal regime.

2. Legal regimes of an institutional nature that answer the question: "What is the form of legal behavior within the framework of what is regulated", which can be classified as an institutional legal regime.

3. Legal regimes with a functional purpose that provide an answer to the question: "How to act or not act in certain conditions?", which should be classified as a functional legal regime.

4. Legal regimes determined by the specific features of a particular legal institution within its own functional legal regime, which should be classified as a special legal regime.

5. Legal regimes of an individualized nature arising from the personalized legal status of a certain subject of public relations or a personalized group of such subjects (for example, delegation of a state monopoly within the framework of a public-private partnership, always involving the personification of the subject performing the agency function, or delegation of a state monopoly in another form in accordance with paragraph 3 of art. monopolies), which should be classified as an individual legal regime.

Based on this, the legal regime of entrepreneurship should be defined as the

procedure for initiating and implementing an entrepreneurial initiative determined by the legal capacity and delicateness of business entities.

The legal regime of entrepreneurship is classified as follows:

1. According to the criterion of typologization, the following generic legal regimes of entrepreneurship can be distinguished:

1.1. Generic legal regimes that determine the nature of entrepreneurial initiative (that is, these are legal regimes determined by the boundaries of what is possible in objective reality; in other words, no one else can accomplish what they have planned, because it is impossible):

- primary entrepreneurship (as an institutional phenomenon based on the idea and principles of entrepreneurial activity);

– secondary entrepreneurship.

1.2. Generic legal regimes that determine the social orientation of an entrepreneurial initiative (that is, these are legal regimes that «propose», within the limits of what is possible in objective reality, to accomplish something in a certain way; in other words, if primary and secondary entrepreneurship are «the essence of what is happening», then these legal regimes are «how to accomplish what is happening for the common good»):

– social entrepreneurship;

– State entrepreneurship (fiscal economic activity);

– entrepreneurship of secondary subjects of international law (for example, financing and investments by international organizations recognized by international financial institutions), as entrepreneurship designed to ensure the functioning of the international world order and the triumph of international law;

– criminal entrepreneurship (as an objectively existing type of economic behavior that is illegal and punishable).

2. According to the criterion of species affiliation, it is possible to distinguish:

2.1. To determine the form of legal conduct, the following institutional legal regimes of entrepreneurship are used:

– entrepreneurship in the form of economic activity (both entrepreneurial and non-entrepreneurial economic activity);

– entrepreneurship in the form of self-employment;

– entrepreneurship in the form of participation in investment legal relations that do not form part of entrepreneurial activity (individual investment process of an individual).

2.2. To determine the functional content of legal behavior – the following functional legal regimes of entrepreneurship (applicable by analogy to any other forms of human behavior, objects of ownership and phenomena of various nature):

– the general (standard) legal regime of entrepreneurship is a legal regime that presupposes the establishment of uniform, completely impersonal and unchangeable rules of conduct under various circumstances for an indefinite range of subjects;

– a special (special) institutional regime of entrepreneurship is a legal regime that presupposes the establishment of special rules of conduct for certain categories of entities in order to create conditions for their functioning in the system of public

relations (for example, a special legal regime for the economic activities of agricultural producers; a special legal regime for the self-employed, ensuring the implementation of employment policies), the possibility of them performing a specific economic or social function (for example, a special legal regime for the economic activities of scientific organizations or educational institutions) or providing the state and society with the ability to control the economic activities of such entities (for example, a special legal regime for the economic activities of gambling entities business (business));

– preferential legal regime of entrepreneurship – a legal regime involving the establishment of simplifications, benefits and incentives for certain categories of subjects or types of subjects within certain categories in order to create, expand and (or) develop certain industries, sectors and spheres of public relations (for example, to create new branches of the national economy (national economy), a striking example of this in the Republic of Belarus was the creation of a High-tech Park; for the development of scientific and innovative infrastructure of the state, etc.);

– repressive legal regime of entrepreneurship – a legal regime that involves the establishment of restrictions, encumbrances and prohibitions for certain categories of subjects or types of subjects within certain categories in order to ensure social welfare and national security (for example, the object of a repressive legal regime of entrepreneurship is always subjects of public monopoly, subjects of economic activity engaged in types and forms of economic activity containing an element of public danger (for example, the legal regime for subjects of gambling (business), for subjects of economic activity, owners of facilities of the first type of danger – hazardous industrial facilities of extremely high danger), etc.);

– experimental legal regime of entrepreneurship – a legal regime that presupposes the individually defined establishment of rules of conduct of an experimental nature in order to determine the possibility, expediency and content of legal regulation of public relations in cases where the nature of such public relations or the idea of the content of their legal regulation does not allow the introduction of legal norms without prior testing (for example, an experimental legal regime for the operation of unmanned or maximally autonomous vehicles the driver of vehicles that are carriers of artificial intelligence).

3. According to the criterion of formalization (that is, the embodiment in a certain form of the procedure for initiating and implementing an entrepreneurial initiative), a huge number of special legal regimes can be identified (for example, primary entrepreneurship of financial and credit-financial organizations; secondary entrepreneurship of non-profit microfinance organizations; secondary entrepreneurship of institutions, etc.) and individual entrepreneurs (for example, primary entrepreneurship of a concessionaire or a public-private partnership entity, etc.), which are also the result of various manifestations of entrepreneurial initiative.

In this regard, it can be concluded that the legal regime of entrepreneurship and the legal regime of entrepreneurial activity relate to each other as general and private.

1.1.2. Entrepreneur as a social function and a subject of social relations

1. The concept, social and legal nature of entrepreneur.
2. Classification of entrepreneurs.
3. Entrepreneur as a subject initiating entrepreneurial initiative and a subject realizing entrepreneurial initiative.
4. Correlation of the categories «entrepreneur», «subject of law», «subject of social relations», «subject of economic activity» and «subject of entrepreneurial activity».

1. The concept, social and legal nature of entrepreneur

Entrepreneurship plays an important role in the development of the economy and society, because it creates new goods, services and jobs. In the Republic of Belarus, the development of entrepreneurial activity takes place under conditions of active government regulation, which helps maintain stability and order in the economy. In recent years, the number of individual entrepreneurs in the country has been increasing, which contributes to the formation of a more flexible and mobile economic environment. Small businesses also create a significant portion of new jobs, especially in trade and services.

These examples show that entrepreneurship has a significant impact on the development of society. The social function of entrepreneurship is manifested in the fact that business satisfies people's needs, improves the quality of life and introduces new ideas. Entrepreneurship as a social function The social function of entrepreneurship is related to the fact that business performs important tasks for society. First, entrepreneurs create jobs and provide employment for the population, especially in small and medium-sized companies. Secondly, entrepreneurship helps meet people's needs by offering new products and services that make life more convenient. In addition, entrepreneurship contributes to an overall improvement in the quality of life, as new projects and initiatives develop infrastructure and improve access to modern services.

The growth of delivery services in Belarus improves people's access to the necessary goods. Due to this, entrepreneurship plays a significant role not only in the economy, but also in the social sphere. Entrepreneurship as an object of public relations Entrepreneurship is an object of public relations, because in the course of its activities, business interacts with the state, society and other market participants. First, the relationship between the state and entrepreneurs includes a system of laws, licensing, inspections, and support measures. The government regulates businesses to ensure fair competition and protect the interests of citizens. Secondly, entrepreneurs enter into relations with society: they work with consumers, hire employees, participate in social projects and influence the standard of living. Thirdly, competition and cooperation between different companies arise within the business environment, which stimulates the improvement of the quality of goods and services. In Belarus, the government actively cooperates with small businesses through SME support programs. Thus, entrepreneurship is an important element of the system of public relations and has an impact on the social and economic sphere. State support of entrepreneurship in the

Republic of Belarus In the Republic of Belarus, state support for entrepreneurship is aimed at creating favorable conditions for the development of small and medium-sized businesses. One of the important directions is the provision of various benefits, including simplified tax conditions and the possibility of registering an individual entrepreneur as soon as possible.

The government is also developing support infrastructure: business incubators, entrepreneurship support centers, and educational programs for beginners. In addition, small businesses are provided with opportunities to receive financial assistance, including preferential loans and development subsidies. For example, the SME support program provides preferential loans for new projects in the regions. Such measures promote the development of initiative and help entrepreneurs to develop more sustainably in a competitive environment.

Thus, entrepreneurship plays a significant role in the economy and society, performing both economic and social functions. It creates jobs, helps meet the needs of the population and develops the service sector. By interacting with the government, society, and other entrepreneurs, businesses become part of a system of public relations. Entrepreneurship performs a stable and significant function in the life of society.

The existence and development of a human community is impossible without social regulation, which in its most general form is the order of interaction between people and their associations, which develops naturally, is fixed consciously and becomes part of the very structure of social relations.

It is no coincidence that in sociology it is customary to understand a social relationship as "... a stable system encompassing two partners (whether individuals or communities), a connecting link, that is, an object, interest, attitude, common value ..., as well as a certain system of duties and duties or normalized functions that partners must necessarily perform according to in relation to each other ."

Social regulation is necessary because social relations are always strong-willed. The will is an important element of the consciousness of the individual and society, it directs behavior and connects needs, interests and actions.

To participate in public relations means necessarily to show one's own will, to identify and, one way or another, to take into account someone else's will. People's activities are carried out within the framework of stable social structures (society, labor collective, family, etc.). At the same time, they are forced to coordinate their behavior with the norms characteristic of specific communities.

Each type of social regulator — be it law, morality, customs, traditions, or religious precepts — has its own characteristics, thanks to which it is able to exert a regulatory influence on public relations.

Social regulation is the impact on people's behavior by setting certain limits for it through norms and rules in order to ensure order in society.

The purpose of social regulation is to ensure order in society, to regulate social relations, and to resolve disputes and conflicts. Social regulation determines the directions of further development and formation of social relations.

To regulate means to determine people's behavior, to put it within a certain

framework with the help of a measure, scale, order. The determining role in this process is played by power, property, ideology, and distribution.

In the modern world, the development of entrepreneurship is the key to a country's economic growth at the national and global levels.

Entrepreneurship is exclusively a human trait. It is expressed in active and motivated behavior aimed at solving social problems of any kind. It always involves the production of tangible and intangible goods that generate social and (or) economic benefits.

Accordingly, it assumes satisfaction of public and (or) private interest.

Entrepreneurship is an institutional phenomenon that represents strong-willed, active proactive behavior of a formalized nature, the purpose of which is to solve socially significant tasks and obtain a result in the form of a social and (or) economic effect (this definition is doctrinal and is not established by law).

It is based on the continuous search for changes in the needs of consumers, meeting their needs through the organization of modern production, the introduction of innovations that bring maximum productivity and profit. That is why the government should pay great attention to the development of entrepreneurship.

In a generalized form, entrepreneurship as a phenomenon reflects the totality of relations (economic, social, organizational, personal, and others) related to the organization by entrepreneurs of their business, with the production of goods (performance of work, provision of services) and obtaining the desired result in the form of profit (income). Entrepreneurship as a phenomenon reflects the entire system of relations (financial, economic, social) that objectively arise among entrepreneurs (as business entities) with each other, with consumers, with suppliers of all factors of production (raw materials, equipment, fuel, energy, etc.), with banks and with other market entities, with employees (employees) and, finally, with the State represented by the relevant authorities.

The social impact on the relations that arise between different groups of society in a market economy is radically transformed and modified every year, but it is mainly aimed at creating conditions for the effective functioning of the social sphere. This is explained by the fact that social regulation as a special mechanism of social development is aimed at increasing the level of social stability, equity and quality of life of the population in a national and international context.

Throughout the entire period of market development, social regulation interferes in one way or another with the economic and social relations that form between business entities. The company has always influenced the process of development of economic entities in market conditions through the formation of norms and values governing their activities, and has never remained passive in protecting its interests. The market environment itself provokes social institutions not only to protect the market mechanism, but also to protect the social well-being of citizens in the domestic market and create the best conditions for them to participate in foreign economic activity.

The directions of social regulation of entrepreneurship are determined by the goal formulated within the framework of the socio-economic development strategy of the

country, the result of which is to ensure stability in society and increase the well-being of citizens through economic modernization, building social capital, creating comfortable conditions for life, work and self-realization of a person. The purpose of social regulation of entrepreneurship should be to create conditions for the stable functioning of the business environment and its social integration.

Since entrepreneurial activity is an integral part of the economy and society, the task of social regulation is to create optimal conditions for the functioning of all types of businesses in accordance with the interests of citizens. For the successful development of entrepreneurship, it is necessary to form people's need for independent economic and social activities. The successful development of entrepreneurship depends on a complex of external and internal factors, with external factors giving rise to internal ones. This is due to the fact that external factors are the conditions for starting your own business (the amount of start-up capital, competitive conditions in the selected segment, social support, regulatory framework), which in turn affect the emergence of an internal need for a person to independently engage in economic and socially useful activities.

Entrepreneurship is an object of social regulation for several important reasons that follow from the essence of social regulation.

Firstly, entrepreneurial activity arises and develops within the framework of society, that is, in stable social structures where the behavior of participants must be consistent with social norms and rules. Since entrepreneurs are a part of society, their actions affect other participants in the social space and economic relations.

Secondly, entrepreneurship is a form of volitional activity aimed at achieving specific goals (making a profit, developing a business, etc.). The will is manifested by both the business entity and other social partners interacting with it (consumers, employees, the state). Therefore, regulation is needed that balances the interests of all parties and ensures order in economic and social relations.

Thirdly, entrepreneurial activity generates a variety of social relations (labor, economic, legal, consumer), which, without regulation, can lead to conflicts or injustice. Social regulation through the norms of law, morality, traditions and other regulators establishes the framework of acceptable behavior, rules of competition, protection of the rights of market participants and consumers.

Thus, entrepreneurship requires social regulation in order to:

- to ensure the order and predictability of economic relations;
- coordinate the will and interests of entrepreneurs with society;
- to prevent and resolve conflicts arising in the business environment;
- ensure compliance with rules and regulations that protect public and private interests.

As a result, social regulation of entrepreneurship contributes to the formation of a stable, fair and effective system of public relations in the economic sphere.

2. Classification of entrepreneurs

An entrepreneur is a person or organization engaged in activities aimed at making

a profit through the production of goods, the provision of services, or the implementation of innovative ideas. An entrepreneur is a person engaged in entrepreneurial activity, i.e. an independent activity carried out at his own risk, aimed at systematically making a profit from owning property, selling goods, performing work or providing services.

Classification according to the legal status of entrepreneurs:

- Individual entrepreneurs (IE) are individuals registered to conduct business without forming a legal entity. They most often work in the field of trade, services and small-scale production. An example is video and photography services, repair of household appliances, computer
- Legal entities are commercial and non-profit organizations established for systematic entrepreneurial activity. These include, for example, limited liability companies (LLC), joint-stock companies (JSC), cooperatives.
- The self-employed is a special category that allows citizens to work independently, without hiring employees, in limited fields of activity. Examples are tutoring, hairdressing and beauty services, handicrafts (making handmade products), cultural and artistic services.

This form is especially popular among freelancers, craftsmen, and creative professionals, as it allows you to work without hiring employees and pay taxes in a simplified manner. Professor Glazova A. E. classifies entrepreneurs by the number of those participating and appropriating profits in entrepreneurial activities into: a) individual business entities; b) collective business entities.

The most widespread group of subjects of entrepreneurial law are individual entrepreneurs (art. 22 of the Civil Code) An individual entrepreneur is a citizen who has the right to engage in entrepreneurial activity from the moment of state registration. Collective entrepreneurs are recognized as entrepreneurs who carry out entrepreneurial activities by a group of persons based on the individual interests of each of the participants. At the same time, each interested participant unites common efforts to conduct a common business (production cooperative, limited liability company, limited liability company; joint-stock company)

Classification by business scale (activity): Microbusiness (entrepreneur of microorganisms) – commercial organizations registered in the Republic of Belarus with an average number of employees per calendar year up to and including 15 people; Small business (entrepreneur of small organizations) – commercial organizations registered in the Republic of Belarus with an average number of employees for a calendar year from 16 to 100 people inclusive. Medium-sized business (entrepreneur of a medium-sized organization) - enterprises with up to 250 employees. Big business (entrepreneur of big business) – corporations and holdings that unite thousands of employees and have significant turnover.

The minimum and maximum number of people established for microorganisms, small organizations, etc. was determined by Decree of the President of the Republic of Belarus dated May 21, 2009 No. 255 "On certain measures of state support for small businesses." However, this Decree became invalid by Decree of the President of the Republic of Belarus dated August 21, 2024 No. 328 "On the implementation of

handicraft activities by individuals". Therefore, for the correct classification of entrepreneurs by the scale of business (activity), it is necessary to refer to the Law of the Republic of Belarus of July 1, 2010. No. 148-Z "On support of small and medium-sized enterprises". This decree, in Article 3, establishes that entrepreneurs of small organizations will be entrepreneurs whose commercial organizations registered in the Republic of Belarus have an average number of employees per calendar year up to and including 100 people. And medium-sized entrepreneurs include entrepreneurs whose commercial organizations registered in the Republic of Belarus have an average number of employees for a calendar year from 101 to 250 people inclusive. In addition to this, it can be noted that N. V. Lesnyakov, Doctor of Economics, classifies entrepreneurs in a similar way, but uses the criterion of economic indicators as a criterion. Thus, according to economic indicators, entrepreneurs are divided into:

a) Small business entities — organizations with an average number of employees who did not exceed one hundred employees in the previous calendar year and revenue for the previous reporting year in the amount of up to eight hundred million rubles (Russian ruble)

b) Medium—sized business entities - organizations with an average number of employees for the previous calendar year ranging from one hundred one to two hundred fifty employees and whose revenue for the previous reporting year in the amount of not more than two billion rubles.

c) Large business entities. The law does not provide a clear definition of the concept of "large organization". Using the exclusion method, a large organization can be defined as an organization with an average number of employees, which for the previous calendar year amounted to more than two hundred and fifty employees and revenue for the previous reporting year in the amount of more than two billion rubles.;

d) Microenterprises are a type of small enterprise, the number of employees for the previous calendar year does not exceed fifteen employees and revenue for the previous reporting year in the amount of not more than one hundred and twenty million rubles.

Classifications based on the nature of competence:

1. entrepreneurs directly engaged in entrepreneurial activity (individual entrepreneurs, organizations)

2. entrepreneurs who carry out state regulation of entrepreneurial activity (the Russian Federation, subjects of the Russian Federation, municipalities, represented by state bodies).

Classification by field of activity:

- Manufacturing entrepreneurs – create tangible goods (factories).
- Commercial entrepreneurs – engaged in trade and mediation.
- Financial entrepreneurs – banks, insurance companies, investment funds.
- Innovative entrepreneurs – startups, IT companies, scientific developments.
- Social entrepreneurs – focused on solving social problems: education, medicine, ecology.

Classification by form of ownership:

- State-owned enterprises - owned by the state and perform strategically

important functions.

- Private entrepreneurs are the property of individuals or legal entities.
- Mixed forms – joint ventures, joint-stock companies with the participation of the state and private investors. Classification by motivation and type of activity
 - Traditional entrepreneurs – work in established industries such as trade or consumer services.
 - Innovative entrepreneurs – create new products and technologies, implement non-standard solutions.
 - Social entrepreneurs – prioritize public benefit, not just profit.
 - Freelancers and the self-employed - individual work without hiring employees, often in the service and creative industries.

Classification by source of financing:

- self-financed entrepreneurs (existing with their own or borrowed funds);
- entrepreneurs who are on mixed financing (financing by the owner according to estimates and at the expense of these incomes, which the institutions use). Entrepreneurs are not a homogeneous group, but a variety of forms and areas of activity.

Their classification allows for a better understanding of the role of entrepreneurial activity in the economy and society. The classification of subjects of business law is diverse. Any classification systematizes a specific subject area and is a vector for the future purposeful study of law. Small and large, innovative and traditional, public and private – all of them together form the basis of the country's sustainable development.

3. Entrepreneur as a subject initiating entrepreneurial initiative and a subject realizing entrepreneurial initiative

In a modern market economy, the entrepreneur is the key driver of development, innovation and the creation of new values. His role goes beyond just managing a business; he is the central actor who identifies opportunities, takes risks, and transforms ideas into real commercial results. It is entrepreneurial initiative – the ability and willingness to take such actions – that underlies the creation and growth of any enterprise. The purpose of this paper is to analyze the essence of an entrepreneur as an active actor initiating and implementing an entrepreneurial initiative based on existing theoretical approaches.

1. The theoretical definition of an entrepreneur and entrepreneurial initiative

There is no single definition of an entrepreneur in economic theory, but classical and modern approaches converge in highlighting its key functions. Joseph Schumpeter, one of the most influential business theorists, defined an entrepreneur as an "agent of change" who implements "new combinations" of factors of production. It is the main source of innovation and the "creative destruction" of established markets and technologies. At the same time, Schumpeter clearly separated the functions of an entrepreneur and a capitalist owner, focusing on innovation. Peter Drucker, developing these ideas, viewed entrepreneurship as "behavior, not a personality trait." In his opinion, an entrepreneur purposefully and systematically seeks changes, reacts to them

and uses them as an opportunity.

This underlines that an initiative is not a spontaneous impulse, but a controlled process. Thus, an entrepreneur is a subject of economic activity who, by assuming risks, initiates changes by creating new or improving existing goods, services, markets and processes. Entrepreneurial initiative in this context is a complex characteristic, including willingness to search for new opportunities, generation of innovative ideas and making a strong-willed decision to start their practical implementation.

2. The functions of an entrepreneur as an initiator of a new activity At the initiation stage, the entrepreneur acts as a "pioneer". Its key functions at this stage include: Identifying opportunities. As Israeli scientist Yitzhak Adizes notes, entrepreneurial interest arises where there is "a problem that needs to be solved or an opportunity that can be exploited." An entrepreneur has a special perception that allows them to see unmet demand, a technological breakthrough, or a new market trend. Generating ideas and creating innovations. This function is directly related to Schumpeter's theory. An entrepreneur doesn't just capture an opportunity, but offers a new, more effective solution – whether it's a new product, a new production method, or a new organizational structure. Risk analysis and assessment.

The initiative is not limited to pure creativity. Before acting, an entrepreneur conducts an initial risk and resource analysis. According to A.N. Asaul, an entrepreneurial decision is always made in conditions of incomplete information, which generates economic risk.

3. The role of the entrepreneur in the implementation of the initiative It is not enough to initiate an idea; the key stage is its practical implementation. Here, the entrepreneur performs the functions of an organizer and leader. Resource mobilization. Capital, labor, information, and technology are needed to bring an idea to life. The entrepreneur's task is to attract these disparate resources and integrate them into a single working system. Creation and management of an organization. As a rule, the implementation of an initiative requires the formation of a team and building business processes.

The entrepreneur lays the foundations of the organizational structure, corporate culture and management system, which allows the transition from individual activity to collective work. Taking responsibility and leadership. Implementation is accompanied by constant overcoming of obstacles. An entrepreneur is responsible for the end result, makes strategic and tactical decisions, and motivates the team to achieve goals, especially in conditions of uncertainty. This function emphasizes the leadership, not just the administrative, component of his role.

4. Personal qualities that define entrepreneurial initiative The ability to initiate and implement projects is closely related to a set of personal qualities. The researchers identify the following key features: Innovation and creativity – the ability to think outside the box. Risk-taking is not reckless, but calculated, based on analysis and self-confidence. Proactivity and perseverance is the ability not just to react to events, but to actively form an environment and persevere in the face of setbacks.

Responsibility and leadership skills – willingness to lead a team and be responsible for the consequences of decisions. The conducted analysis allows us to

conclude that the entrepreneur is the central and active subject of the economic process, the essence of which lies in the initiation and implementation of entrepreneurial initiatives. At the initiation stage, he acts as an innovator and "opportunity hunter", generating ideas and evaluating their potential. At the implementation stage, he transforms into an organizer and leader who mobilizes resources, manages risks, and translates an idea into a successful business project.

Thus, an entrepreneurial initiative is an integral cycle driven by the personality of an entrepreneur, his unique abilities and willingness to act in conditions of uncertainty, which ultimately serves as a source of economic development and social progress.

4. Correlation of the categories «entrepreneur», «subject of law», «subject of social relations», «subject of economic activity» and «subject of entrepreneurial activity»

Modern legal science and economic and legal practice operate with a variety of categories describing participants in the legal, economic and social life of society. These concepts often overlap, but are not identical. Their differentiation is necessary for a proper understanding of the legal status of participants in public relations, as well as for effective regulation of economic and entrepreneurial activities. The purpose of this report is to identify the relationship and differences between the listed categories.

1. The subject of law A legal entity is a legal entity.

These include individuals, organizations, the State, and international associations.

Signs:

- the presence of complete or fragmented legal personality;
- Acts as an active legal entity (that is, determines the content of public relations) or a legal entity performing a passive function (enters into, changes or terminates public relations within the established rules).
- performing the functions of a primary (individual, state) or secondary entity (intra-jurisdictional, inter-jurisdictional and international organizations). Thus, the subject of law is a fundamental legal category, without which a legal system is impossible.

2. The subject of public relations This category is broader than the subject of law. It includes both legal entities and non-legal entities, for example, separate subdivisions of legal entities without the rights of legal entities; households without legal personality, and other agro-economic estates). Features:

- can be both a subject and an object of interest;
- can be an active "actor" or a passive "user of benefits". The subject of public relations reflects the social nature of interactions that go beyond purely legal constructions.

3. The subject of economic activity The subject of economic activity is an institutional unit, a producer of tangible and intangible goods, conducting economic or labor activity. Examples: business entities, non-profit organizations, households, international organizations, and separate entities. Special feature: it does not always have legal personality (for example, personal subsidiary farms, households, separate

divisions).

Thus, the key criterion here is participation in the business process, rather than having a legal status.

4. Business entity. A business entity is always a legal entity that implements an entrepreneurial initiative. Signs:

- Legal personality;
- the ability to be entrepreneurial (the ability to initiate and implement an entrepreneurial initiative.) and the implementation of the initiative;
- The activity is aimed at making a profit. Composition: individuals (including sole proprietors), organizations (commercial and in some cases public), and other legal entities.

5. Entrepreneur. An entrepreneur is a specific type of business entity. Definition: an individual or an organization that carries out activities at its own risk and responsibility in order to make a profit. Difference: unlike the subject of economic activity, an entrepreneur always has a legal personality.

The analysis showed that the categories of legal entity, subject of public relations, subject of economic activity, business entity, entrepreneur and business entities form an interconnected system in which each performs its own function. The subject of law is the starting point, the subject of public relations covers a wider range of participants, the subject of economic activity is an economic producer defined through the production of tangible and intangible goods, and the business entity and the entrepreneur are active carriers of the initiative. The category of subjects of public relations unites all these elements, forming a comprehensive view of entrepreneurial activity in the legal and economic system.

1.1.3. Public and private interest as legal categories

1. Problems of identification of interest in the system of public relations.
2. Genesis of the categories "public" and "private".
3. The ratio of the categories "public interest" and "state interests".
4. Classification of public interest.
5. Classification of private interest.
6. The importance of identifying the nature of public and private interest for legal science.

1. Problems of identification of interest in the system of public relations

In a number of areas of scientific knowledge, the categories «public» and «private» are widespread and are used to denote phenomena and institutions of various nature and order. In legal science, the division of institutions, actions, and legal phenomena into public and private is widespread. Even the system of law is conditionally divided into private law and public law. Political science and sociology also widely use the categories «public» and «private». At the same time, the identification of public and private is carried out on the basis of abstract and often subjective criteria of a doctrinal nature. It can be stated that to a certain extent, the

division of everything into private and public is carried out mainly intuitively. Belarusian legal science has not developed clear and unambiguous criteria for dividing public relations into public and private ones, and moreover it is not contained in national legislation.

An objective statement would be that the identification of private and public is based on two institutions (and at the same time – socio-psychological phenomena) – public and private interest. As in the case of understanding the nature and essential characteristics of public and private legal relations, public law and private law norms, there are no clear, unambiguous and understandable criteria in legislation and in legal science to determine where and why an interest is private or public.

Thus, the objective is the need of legal science to develop a doctrinal understanding of the nature and essential characteristics of the four categories:

- public interest;
- private interest;
- subjects of public and private interest.

Let's try to understand the nature and essential characteristics of institutions of public and private interest, their relationship with related categories and categories that are private in relation to them.

In the legal literature, the attention of scientists traditionally focuses on the study of various types, types and forms of public or private public relations, but not on the essence of the categories «private / public», «private interest / public interest». Of course, additional justification of publicity for such branches of law as criminal or administrative law is not required, although a full understanding of the picture of public interest and its relationship with private interest is also not formed when studying them. Some foreign authors have addressed this issue, in particular, the Russian scientist V.P. Ivanov in his work «The organizational and legal mechanism for ensuring the state interests of the Russian Federation». However, in our opinion, the author has not given a comprehensive answer to the question of what should be understood by public and private interest (and what is their relationship).

It seems relevant to fill the legal gap in science and generalize the available knowledge to develop a uniform understanding of the nature of public and private interest, since the achievement of their balance should be assessed as a guarantee of the normal functioning of society and the state.

2. Genesis of the categories "public" and "private"

The categories «public» and «private» are a natural and integral element of human existence, since they reflect the objective state of the system of public relations, within which there has always been, is and will be an individual interest and a general interest. The difficulty of understanding the nature of individual and general interest lies primarily in the fact that it is often quite difficult to draw a clear line where the interest of an individual ends and the interest of a group of individuals begins.

The answers to the question about the nature of individual and general interest were formulated during the existence of the Roman Empire and embodied in the categories of «public interest» and «private interest».

The term "public" comes from Latin (publicum – society, people, people, population); although in some dictionaries you can find a version that this word is translated as «state», which is not true, since terms such as «civitas» were used to designate the state as a sovereign (the state, as an association of citizens; civil society); respublica (the state, as a public thing); regnum (kingdom, kingdom); imperium (the state, as possessions)." Accordingly, «publicum» is society as a whole. To designate a part of society in Latin, the categories "communitas" (community, community) and «universitas» (community, totality) were used.

If we interpret these terms in the context of the modern worldview (and, accordingly, transform them into a meaning relevant to modern science), we can state that:

- the state in the modern sense is «respublica»;
- society (people, population) in the modern sense is a «publicum» (which acts as the "employer" of the state within the framework of such a theory of the origin of the state as the theory of the social contract);
- civil society, personifying the social sphere of the state, in the modern sense is «civitas»;
- part of society and civil society (community, social collective) in the modern sense is «communitas», as one of the varieties of which is a separate community «universitas» (in fact – in Ancient Rome – the prototype of modern non-profit organizations);
- a set of communities united on a certain territorial basis (that is, an administrative-territorial unit of the state) is, in the modern sense, a «municipium» (in Latin – a free (free) city or settlement), which has its own interest within the state – «municipalis» (in Latin – petty-bourgeois, urban).

Accordingly, when using the term «public interest», we are talking about a complex structured and multilevel institution present in all spheres of public life without exception.

3. The ratio of the categories «public interest» and «state interests»

Due to the tradition that developed back in Soviet times, the legislation, scientific and educational literature, professional and everyday vocabulary mainly uses the category «state interests», replacing the broader and more correct for society, as the «employer» of the state, the category «public», and also simultaneously pushes public interests into the background, giving the state a certain set of supernatural qualities: the State is unreasonably declared as a source of tangible and intangible benefits and is endowed with exclusive rights to appropriate and distribute these tangible and intangible benefits.

It would seem that the substitution of the category of «public interest» by the category of «state interests» has no special meaning and is nothing more than a play on

words. It is formally declared that the State acts on behalf of society and for the benefit of society. From the point of view of political science, the category of «state interests» is much more convenient to use, since in this case it turns out to simplify approaches to the implementation of the function of public administration. The use of this category also simplifies the rule-making process by the absence of the need to structure approaches to the legal regulation of each individual level of public interest that objectively exists alongside the public interest of the central government (incorrectly referred to as «state interests»).

However, from the point of view of legal science, sociology and economics, as well as from the point of view of evaluating the effectiveness of the public administration system as a whole and being an integral element of its legal regulation, the category of «state interests» does not properly form a holistic view of the complex of methods, techniques and means necessary for the implementation of high-quality legal, humanitarian and economic regulation of the system of public relations. In support of this statement, the following arguments can be given:

1. The category of «state interests» closes the fundamental levers of the mechanism of influence on social and economic processes on the central government of the state, leaving local government and self-government on the periphery of this mechanism.

2. The category of «state interests» will allow to a certain extent to ignore and in a peculiar way «oppress» the mechanism of public self-regulation of social and economic processes, including the mechanism of self-regulating organizations, whose activities in most areas of humanitarian and economic regulation can be incomparably more effective than the regulatory mechanism of the government for objective reasons.

3. The actual monopolization by the central government of the regulatory mechanism in economic and social life and the maximum restriction of the subjectivity of other subjects of public interest, carried out under the auspices of the institute of «state interests», leads to atrophy of the mechanism of local government and self-government and the mechanism of public self-government in terms of the ability to solve social and economic problems without the direct participation of the central government. The reason is purely psychological in nature: the rejection of independent actions and making independent decisions in the hope of solving the problem from above and confidence in it.

In order to clearly distinguish the nature of the institution of «state interests» and the institution of «public interest», it is necessary to determine what is interest in general and public interest.

The French philosopher Claude Adrian Helvetius wrote: «If the physical world is subject to the law of motion, then the spiritual world is no less subject to the law of interest. On earth, interest is an all-powerful magician who changes the appearance of every object in the eyes of all beings.» In other words, when using the category «interest», a certain subjective (objectified or not objectified externally) need of a person or another subject is implied. Soviet sociologist A. G. Zdravomyslov noted that «the category of interest has been developed in the history of social thought to denote the real causes of social or individual actions,» and interest is a unity of objective and

subjective, since, on the one hand, it has material foundations (objectively existing needs), and on the other – always one way or another, more or less deeply, is correctly or incorrectly reflected in consciousness and is framed in it in the form of certain goals.

In the context of legal science, interest should be considered as the need of an individual or a certain community of individuals to satisfy material and non-material needs. Consequently, public interest can be defined as an impersonal need of society (as a single entity) and individual social collectives conditioned by goals and motives to achieve the common good for all members of society, realized and provided on behalf of society by the state as its representative. At the same time, it is necessary to make a special emphasis that it is correct to use the term "public interest", and not "public interests", since public or private interest is always the same: in fact, interest (public or private) is the conditional purpose of the existence of something or someone.

4. Classification of public interest

We believe that for the purposes of determining the nature and essential characteristics of public interest, its classical division into spheres, types, types and forms should be used. Accordingly, the public interest should be classified as follows:

1. By type of public interest:

- the impersonal interest of society in meeting the needs of society and the individual in safe conditions of existence, as well as in the appropriate level of their well-being and provision with intangible benefits;
- the interest of the State, as a sovereign and the primary subject of international law, in ensuring that the state can perform the functions assigned to it by virtue of a social contract to meet public needs in safe conditions of existence of society and an individual, as well as in an appropriate level of well-being and provision with intangible benefits of society and an individual

2. By areas of public interest:

2.1. State public interest, representing the subjective need of the state, as a sovereign and subject of international law, to meet its needs due to the functions assigned to the state. At the same time, it should be understood that the category of "state public interest" (which is the basic one) is not identical to the category of "state interests" (which is derived in relation to the state public interest). Let us repeat: the public interest of the state is one. But its constituent interest groups (state interests) are nothing more than an institution of national interests (paragraph 4 of the National Security Concept of the Republic of Belarus dated November 9, 2010 No. 575 "On approval of the National Security Concept of the Republic of Belarus"). The state public interest should be divided into the following levels:

- the public interest of the central government, characteristic of all states and quasi-states without exception;
- public interest of a subject of the federation in federal states

2.2. The public interest of the administrative-territorial units of the state (municipal public interest), which is a subjective need arising from the state public interest of the administrative-territorial unit of the state, which does not have signs of

sovereignty, to satisfy its needs due to the functions of the subject endowed with the rights of autonomous management of part of the territory of the state. At the same time, it should be noted that the phrase "municipal interest" is not a mistake and is used precisely to characterize the Belarusian reality: firstly, the legality of using the category "municipal" in the meaning of a general characteristic of the system of local government and self-government is officially confirmed by the scientific community and the state in the person of the Higher Attestation Commission, which established a list of passports of specialties for conducting scientific research, among which there is a Passport of the specialty 12.00.02 – "Constitutional law; constitutional process; municipal law"; secondly, the category municipal is used not as a designation of the legal status of local government and self-government, but as a legal and political characteristic of the system of local government and self-government. In addition, it should be noted that in many foreign jurisdictions (for example, in the states of Northern Europe, the USA, Canada, etc.), there are essentially four forms of ownership – state and municipal ownership (which is a property of the state as such), communal (communal / cooperative; although in most sources in the post-Soviet space, for some reason it is called "public") and private forms of ownership.

Moreover, the communal (communal / cooperative) form of ownership there means something different than in the Republic of Belarus. In unitary states, the forms of ownership that are a property of the state are divided into state property – the property of the central government (in the Republic of Belarus – the republican form of ownership) and municipal property – the property of administrative-territorial units (municipal form of ownership, called communal in the Republic of Belarus).

The communal (communal) form of ownership (from the word "communitas" – community) in such states is the property of a community – a part of society allocated on a territorial basis or on the basis of association in other public collectives (for example, in public organizations). Such a communal (communal/cooperative) form of ownership does not belong to the state form of ownership and is not a property of the state at all. It is a property of public collectives (communes), on behalf of which the bodies of territorial public administration and self-government, as well as non-profit organizations act.

The legislation of the Republic of Belarus on local self-government declares the presence in the system of local government and self-government of such a variety of subjects of legal relations as bodies of territorial public.

At the same time, the present communal (communal / cooperative) form of ownership in the Republic of Belarus is not established by civil legislation. In this regard, it can be stated that the legislation of the Republic of Belarus contains not just a terminological, but a conceptual error in dividing the state form of ownership into republican and communal: in fact, the "communal form of ownership" known to the Belarusian legal system is by its nature a "municipal form of ownership", since municipalities in any case act on behalf of the entire state, representing only a part of society formed within a certain administrative-territorial unit.

2.3. Public interest of individual public collectives (communities) – communal public interest, which should be divided into the following types:

- communal public interest of public collectives (communities) formed on a territorial basis in a certain locality (territorial communal public interest), on behalf of which the territorial public self-government body acts;
- communal public interest of public collectives (communities) formed according to the criterion of professional, political, spiritual interest, interest in achieving a certain social effect (for example, public organizations – trade unions, religious organizations, political parties, associations, etc.), based on a single goal providing for the satisfaction of material or other needs (for example, consumer cooperatives, property owners' partnerships, consumer cooperative organizations, etc.). A striking example of the recognition of communal ownership and subjectivization of communal interest of this type are the countries of Northern Europe, in which the cooperative movement is widely developed, and housing and communal services are actually represented by a system of organizations similar in their economic, organizational and legal nature to the partnerships of owners of real estate objects known to the Republic of Belarus and such organizations as the housing and communal services "Housing and communal services of a certain administrative-territorial unit".

Thus, the developed definition of the category "public interest" and the above classification of public interest allows us to draw the following conclusions:

- public interest is a category whose nature covers not only the state, it is a property of various public collectives (communities) of different levels and forms of organization;
- the state public interest is only one of the areas of public interest;
- state interests are derived in relation to the state public interest, are conditioned and are the content of national interests;
- the public interest is nothing more than a single public interest, in which the totality of private interests and the interests of the totality of communities that make up a given society are represented in a generalized form.

5. Classification of private interest

If the public interest is the general (generalized) interest of a certain set of individuals and (or) organizations, then the private interest is a certain individualized interest represented by the following areas:

1. As a general rule, this is the most well-known and studied by science individualized interest of a certain part of society, which can be conditionally divided into the following areas:
 - individual - individual;
 - or a certain set of individuals embodied in an organization in the form of a legal entity, an organization without the status of a legal entity, an organization that has the status of a structural or separate subdivision (for example, organizational structures of public organizations, such as primary organizations of trade unions, etc.);
 - in some cases, another community of individuals (for example, a labor collective, a student group, a secret society, etc., interested in holding a corporate party,

purchasing a gift for congratulating one of the members of such a community on the anniversary, etc.).

2. At the same time, individualized interest is also inherent in the state, its administrative-territorial units, as well as public collectives – subjects of territorial communal public interest (hereinafter referred to as subjects of public interest). Such a state of affairs becomes possible if the content of such a private interest is the implementation of economic activities (both entrepreneurial and non-entrepreneurial taxable economic activities) for the purpose of producing certain tangible and (or) intangible benefits. At the same time, the private interest of the state as a whole and its administrative-territorial units is realized through the mechanism of state entrepreneurship (fiscal economic activity) or the mechanism of taxable non-entrepreneurial economic activity

At the same time, it should be borne in mind that, like public interest, private interest is also focused on obtaining and possessing tangible and intangible benefits. However, unlike public interest, the form of expression of private interest is a specific object of civil, political or socio-economic rights (for example, property; honor; dignity; business reputation; personal security; method or mechanism of political communication in the implementation of political and communicative activities; public goods or public services produced by subjects of public economic activity

Private interest should be divided into the following types:

1. Property interest:

- personal property interest of an individual/ organization with or without the status of a legal entity;
- the property interest of the state in obtaining an economic effect.

2. Non-property interest:

- personal non-property interest of an individual / organization with or without the status of a legal entity that is not related to property relations (interest in personal security, personal data security, protection of honor and dignity, health protection, education, business reputation, etc.);

- personal non–property interest of an individual / organization with or without the status of a legal entity related to property relations (interest in receiving remuneration when using exclusive rights to intellectual property, information, etc.);

- non-property interest of the state in obtaining a social effect due to private interest (involving additional income from the activities of non-profit organizations (economic effect)).

6. The importance of identifying the nature of public and private interest for legal science

Based on the above, the following preliminary conclusions can be drawn:

1. Public interest and private interest are two interrelated types of interest that combine the objective and subjective side of the system of public relations.

2. The form of expression of both public and private interest is a set of tangible and intangible benefits.

3. The categories «public interest» and "state interests" are not synonymous and are not even equivalent, but relate to each other as general (public interest) and private (state interests, as a substantive element of state and municipal public interest (first of all) and other subjects of public interest (optional))

The primacy of economic characteristics in determining the state and dynamics of public and private interest, the balance of public and private interest allows us to state the following:

1. It is public and private interest and their balance that are the categories that determine and determine the nature and state of property relations in society. At the same time, the thesis is objective that property relations in the system of property relations most depend on the nature of public interest in a certain period of the historical development of an individual society or the world community as a whole.

2. The nature and essential characteristics of state property, understanding of the nature and specific features of the state form of ownership are determined by three factors:

– the ability of the state to satisfy the public need for a certain level and condition of tangible and intangible goods in a certain period of time;

– the ability of the state to rationally manage the balance of public and private interest, including the use of a mechanism for delegating functions and rights belonging to the state to the sphere of private interest;

– the ability of subjects of private interest to carry out economic activities in such a mode that would allow them to satisfy their own needs and the generalized need of a state-controlled society by producing a certain set of tangible and intangible goods with certain conditioned characteristics, in which the state, as a representative of society, would not be interested in initiating and expanding the scope of public interest.

Accordingly, the property complex owned by the state and its characteristics are primarily determined by the economic situation, which is formed under the influence of social and political factors. As a consequence, the system of objects of civil rights that make up such a property complex, their classification, legal regime, as well as the range of subjects authorized to use them for the realization of public interest by the state, is determined by the state of the means of production and the technological structure inherent in this state. This means that it is in the plane of the model and mechanism of legal regulation of economic activity used in the state, and as a consequence – the model and mechanism of public and private economic activity formed in the state, that the answer lies to the question of what the institution of state property means for the state and society in a certain historical period.

3. It is the understanding of the nature and essential characteristics of public and private interest that makes it possible to identify the legal status of the activity and the legal regime of its implementation, since its identification as institutional, creative, economic, labor, economic and labor carried out in the mode of private and public activity, the differentiation of the nature of private and public economic activity.

4. The definition of the «boundaries» of public and private interests, clearly and unambiguously enshrined in legislation, makes it possible to maximize the

effectiveness of the implementation of national interests within the framework of national security.

As can be seen from the above argumentation, the categories of "public interest" and "private interest" are important not only for legal science, but are also decisive in the framework of the implementation of the rule-making process and law enforcement activities

PART 2. PRIVATE ENTREPRENEURSHIP AS AN EMBODIMENT OF PRIVATE ENTREPRENEURIAL INITIATIVE

1.1.4. Private entrepreneurship

- 1.The concept, attributes, forms and content of primary entrepreneurship.
- 2.Subjects of entrepreneurial activity.
- 3.Legal regime of entrepreneurial activity of an individual entrepreneur.
- 4.Legal regime of entrepreneurial activity of organizations with and without the status of a legal entity.
- 5.Entrepreneurial activity of subjects of economic activity that do not have the features of an organization.

1.The concept, attributes, forms and content of primary entrepreneurship

«The highest» form of external manifestation of entrepreneurship is primary entrepreneurship. In the process of development of human society, man had to overcome various kinds of obstacles to obtain goods for life support and create safe and comfortable conditions of his existence, while showing the will and initiative. Man has always endeavored to create (produce) as much as possible of the goods for the proper functioning of the individual and society and to stockpile as much as possible the means capable of acting as an equivalent for their exchange for other goods with other individuals and other societies.

Accordingly, the fundamental idea of initiation and realization of entrepreneurial initiative is to obtain exactly the economic effect, the presence of which allows first to obtain the social effect (i.e. to gain social status and importance), and later - the political effect, which allows to participate in public administration and exercise power due to the availability of the necessary resource base at the disposal of a person or a particular society. And so the most interesting and "ideal" substance in the "body" of economic effect is profit, which is the most desirable, necessary and useful for human civilization. And only after an individual and human society have acquired the necessary "material and technical" base and the source of continuous and acceptable income caused by it, a person acquires the propensity for optional (secondary) manifestations of entrepreneurial initiative, involving the idea of creating benefits of non-economic nature (i.e. aimed at generating a social effect).

Primary entrepreneurship in fact by its generic characteristics can be subdivided into legal primary entrepreneurship and illegal primary entrepreneurship - criminal entrepreneurship.

The conceptual differences between them are due to:

- ideological basis (criminal entrepreneurship is based on the idea of production of tangible and intangible goods in a socially opposed and socially dangerous mode);
- principled basis (criminal entrepreneurship is based on the principles of unpunished unlawful behavior, the key element in the design of which is an unfair attitude to others, opposition to the state).

In this regard, it can be stated that primary entrepreneurship and entrepreneurial activity are not equal and equivalent categories, because:

1. Entrepreneurial activity is an external form of embodiment of legal entrepreneurship (as an institutional phenomenon and a generic legal regime of entrepreneurship) caused by the primary entrepreneurial initiative, since it is assumed that entrepreneurial activity is always legal in nature and content. Naturally, entrepreneurial activity can be carried out in an illegal legal regime, which entails administrative and (or) criminal liability. However, the very fact of carrying out illegal entrepreneurial activity in the criminal legal regime does not form the methodology of criminal entrepreneurship, which may contain such a means as illegal entrepreneurial activity, and may even exclude such a means. Moreover, in the design of the criminal entrepreneurship methodology, even lawful entrepreneurial activity may be used as a means to achieve criminal intent, which, however, does not change the nature of lawful entrepreneurial activity and does not make it unlawful.

Accordingly, entrepreneurial activity cannot be an external form of expression of criminal entrepreneurship.

2. Entrepreneurial activity is one type of economic activity, along with non-entrepreneurial economic activity. The legal regime of primary entrepreneurship allows its subject not to limit itself exclusively to the methodology of entrepreneurial activity and to widely use the methodology of non-entrepreneurial economic activity in internal economic activity.

Accordingly, the scope and content of the legal and organizational design of primary entrepreneurship and entrepreneurial activity do not coincide. A vivid example is the formation and development of the transnational corporation "Ford Motors", which paid great attention to the social protection of its own employees and widely practiced various manifestations of the methodology of non-entrepreneurial economic activity.

3. The essence of entrepreneurial activity consists in the production of tangible and intangible goods by its subject using the methodology of expanded (commodity) production and making transactions on commodity markets in order to obtain an economic effect (the most qualified form of which is profit), while the essence of primary entrepreneurship consists in the "production" of entrepreneurial initiative and the development of strategy and tactics for the implementation of such initiative through the use of both the methodology of primary entrepreneurship and the methodology of entrepreneurship.

Thus, primary entrepreneurship should be considered simultaneously as a philosophical category, an institutional phenomenon, a complex legal institute, one of the generic legal regimes and methodology of entrepreneurship (and the methodology of economic activity realization caused by it).

Entrepreneurial activity is an independent activity of legal entities and individuals, carried out by them in civil turnover on their own behalf, at their own risk and under their own property responsibility and aimed at systematic profit making from the use of property, sale of things produced, processed or acquired by the said persons for sale, as well as from the performance of work or rendering services, if these works or services are intended for sale to other persons and are not used for their own consumption (Article 1 of the Law on Entrepreneurship).

The actual definition of entrepreneurial activity allows to designate the following legal signs of this institution:

1. legal signs by virtue of which entrepreneurial activity is:
 - 1) activity, the nature of which the legislator does not define in the definition;
 - 2) activity of legal entities and individuals;
 - 3) activity carried out by individuals and legal entities precisely in civil turnover (although the sphere of economic legal relations in general and entrepreneurial activity, in particular, goes beyond the limits of civil turnover, an example of which is the state defense order);
 - 4) activities carried out by individuals and legal entities in civil turnover on their own behalf (thereby personalizing not only a set of legally and economically significant actions inherent to the named subjects, which constitute entrepreneurial activity, but also a set of objects of rights inherent to such subjects, including the brand as an object of public identification);
 - 5) activity carried out at one's own risk and under one's own property responsibility;
 - 6) the subjective side of entrepreneurial activity is formed around the goal - systematic profit making;
 - 7) the source of profit from entrepreneurial activity is: the use of property; sale of things produced, processed or acquired by the said persons for sale; performance of works or rendering of services, if these works or services are intended for sale to other persons and are not used for own consumption.
2. Signs of doctrinal nature (developed by the Belarusian science of economic law):
 - 1) entrepreneurial activity is a type of economic activity;
 - 2) entrepreneurial activity is of an independent nature, although in some cases such independence has limitations due to the peculiarities of the legal structure of the organizational-legal form of a legal entity or an organization without the status of a legal entity, as well as the system of corporate governance in an organization with the corresponding organizational-legal form (e.g., a state enterprise);
 - 3) entrepreneurial risk as the basis of strategy and a consequence of the independent nature of entrepreneurial activity;

- 4) independent economic, legal and moral responsibility of the subject of entrepreneurial activity for the results of economic activity, although not excluding subsidiary responsibility of persons affiliated to the subject of entrepreneurial activity;
- 5) realization of entrepreneurial activity in a competitive environment;
- 6) exclusive use of the methodology of expanded (commodity) production;
- 7) special social and political significance of entrepreneurial activity due to the ability of entrepreneurial activity and primary entrepreneurship as a whole to have a determining effect on the content of social and political effect due to the characteristics of the resulting economic effect;
- 8) the predetermined fiscal significance of entrepreneurial activity for the state.

Thus: objectively existing in the norms of economic legislation and in law enforcement practice legal and organizational design of entrepreneurial activity is wider than its legal and organizational design established in Article 1 of the Civil Code of the Republic of Belarus.

The legal regime of entrepreneurial activity is not limited only by the limits of private entrepreneurial activity, but is also conditioned by the legal construct of public economic activity, evidenced, in particular, by the presence in the national legal system of the institute of state entrepreneurship.

From a scientific point of view, under entrepreneurial activity should be understood a set of legally significant and actual actions, formed into economic operations, expressed in:

- the implementation of commercial activity, that is, the implementation on the principles of entrepreneurial risk by commercial organizations, state corporations and individuals on their own behalf and under their own property responsibility (for state corporations - also under the responsibility of the state) production of tangible and intangible goods intended for sale on commodity markets for the purpose of systematically obtaining an economic effect;

- participation in entrepreneurial activity (identified as secondary entrepreneurial activity), i.e. creation of state corporations by the state, creation of a commercial organization by an organization, an individual or the state and participation in the management of such organizations with the purpose of receiving, within the framework of the dividend policy, income from the commercial organization's or state corporation's commercial activity, as well as participation in a group of persons with the purpose of direct or indirect receipt of passive income,

Accordingly, we can conclude that entrepreneurial activity is a heterogeneous phenomenon and institution. In its legal construction there are two methodologies of realization of entrepreneurial initiative:

- 1) methodology of realization of entrepreneurial activity - commercial activity;
- 2) methodology of participation in entrepreneurial activity (secondary entrepreneurial activity).

The content of public relations in the sphere of primary entrepreneurship consists of the following groups of legal relations:

1. social relations formed in relation to the production of such a resource (factor of production) as entrepreneurial initiative (which is one of the elements of human capital, along with labor resources).

2. social relations formed in relation to the formation of conditions for the possibility of initiating entrepreneurial initiative. These legal relations include:

- relations formed in relation to the support of entrepreneurial initiative;
- relations formed in relation to the functioning of infrastructure to support small and medium-sized enterprises;

- relations formed in relation to the functioning of scientific and innovation infrastructure;

- relations formed in relation to the implementation of venture investments, etc.

3. social relations formed in the process of overcoming legal barriers to the acquisition of the legal status of a subject of entrepreneurial activity.

4. social relations formed in relation to the implementation of entrepreneurial activity, consisting of two groups of legal relations:

- 1) social relations formed in relation to the implementation of commercial activity (primary entrepreneurial activity);

- 2) social relations formed in relation to participation in entrepreneurial activity (secondary entrepreneurial activity).

In this case, the content of primary entrepreneurship should be understood as a set of legally significant and actual actions aimed at the initiation and realization of entrepreneurial initiative. And by the content of entrepreneurial activity - a set of economically and legally significant actions that are the consequence of the necessary for their implementation of actual actions formalized in the relevant economic transactions performed by the subjects of entrepreneurial activity.

There are the following types of entrepreneurial activity:

1. Commercial activity in one of two forms: with or without the formation of a legal entity.

2. Secondary entrepreneurial activity (i.e. participation in entrepreneurial activity) in the form of:

- founding a non-profit organization having the nature of a state corporation or in a commercial organization;

- participation in a non-profit organization having the nature of a state corporation or in a commercial organization.

Entrepreneurial law is a sub-branch of economic law, which is a set of legal norms regulating social relations that arise in relation to the realization of the right to freedom of economic activity in the form of primary entrepreneurship, the formation and functioning of the organizational and legal basis of entrepreneurial activity and the provision by the state of conditions for the implementation of entrepreneurial activity.

The subject matter of entrepreneurial law consists of public relations arising in relation to:

- realization of the right to freedom to carry out economic activity in the form of primary entrepreneurship;

- Formation of the organizational and legal basis for entrepreneurial activity;

- state support and state economic repression of subjects of entrepreneurial activity;
- protection of economic interests of subjects of entrepreneurial activity;
- termination of entrepreneurial activity on general grounds.

2. Subjects of entrepreneurial activity

Subjects of entrepreneurial activity - subjects who are granted the right to carry out entrepreneurial activity by the norms of national, supranational or international law.

In the absolute majority of cases, the range of subjects of entrepreneurial activity is determined by the norms of national law. The norms of supranational law or international law may recognize subjects of entrepreneurial activity as subjects with a transjurisdictional feature:

1. Interstate corporations.
2. Subjects of entrepreneurial activity - residents of foreign jurisdictions of member states of a supranational integration association, whose legal personality is recognized within the jurisdiction of another member state of such supranational integration association without state registration in such state on the terms of mutual recognition.

Subjects of entrepreneurial activity in the Republic of Belarus include:

1. Subjects of commercial activity:
 - 1.1. Engaging in entrepreneurial activity in the form of formation of a legal entity:
 - a legal entity - a commercial organization;
 - A legal entity - a non-commercial organization, which has the legal nature of a state corporation, the specificity of which is the combination of the regulatory function in a certain branch of public relations and the function of state entrepreneurship, which implies the necessity of systematic profit making from economic activities of such an organization.
 - 1.2 Without formation of a legal entity:
 - in the form of formation of a commercial organization without the status of a legal entity;
 - in the form of individual entrepreneurial activity carried out by an individual;
 - in the form of participation in a group of persons that is not an organization.

Business entities are just one of the categories of subjects of economic activity. Unlike the category of "subjects of economic activity", the legal nature and classification of business entities is set forth in the Antimonopoly Law:

1. Subjects of entrepreneurial activity.
2. Non-profit organizations engaged in income-generating activities.
3. Individuals who are not registered as individual entrepreneurs, but who carry out professional income-generating activities, which are subject to licensing in accordance with the legislation.

3. Legal regime of entrepreneurial activity of an individual entrepreneur

Individual entrepreneur is an economic entity - a natural person registered as a subject of entrepreneurial activity.

Individual entrepreneur is a legal status with an unusual legal construction, the features of which determine not only the specific legal position of an individual in the system of social relations, but also the peculiarities of the legal regime of entrepreneurial activity carried out by an individual entrepreneur, as well as the combination of such entrepreneurial activity with other forms of activity - labor, economic-labor and creative.

The legal status of an individual entrepreneur:

1. Generic legal status: a natural person.

2. Institutional legal status:

2.1. Citizen of the Republic of Belarus.

2.2. Foreign citizen / stateless person:

- permanently residing in the Republic of Belarus has the right to engage in labor and entrepreneurial activity on an equal footing with citizens of the Republic of Belarus in accordance with the procedure established by legislative acts, taking into account;

- temporarily staying and temporarily residing in the Republic of Belarus has no right to carry out entrepreneurial activities in the Republic of Belarus without forming a legal entity, unless otherwise specified by legislative acts and international treaties of the Republic of Belarus

3. Functional legal status combines the following elements:

- a natural person employed in the economy;

- an economic entity - a subject of entrepreneurial activity;

- a subject of entrepreneurial activity that carries out entrepreneurial activity in a form that does not provide for the formation of a legal entity - a commercial organization;

- an employer or other employer

- owner of a property complex belonging to him as a mere natural person and a natural person - a subject of entrepreneurial activity.

4. Individual legal status is determined on the basis of a combination of three factors:

4.1 The nature of the economic activity carried out by the individual entrepreneur, determined on the basis of typologization of the activity, i.e. whether the economic activity is:

- private economic activity;

- public economic activity.

4.2 The type of economic activity carried out by the individual entrepreneur.

4.3 The place of realization of economic activity, i.e. residence:

- in territories of a special utilization regime;

- in settlements of a certain category;

- in the territories subjected to radioactive contamination as a result of the Chernobyl NPP catastrophe;

- in the border zone, etc.

Property complex - a set of property, obligatory and exclusive rights, intangible benefits having a monetary value, which is in the ownership of the subject of civil legal relations or belongs to him on the right of economic management or operational management".

Despite the absence of classification of property complexes in the legislation, the national system of law establishes the legal regime of the following types of property complexes:

- treasury of the Republic of Belarus and its administrative and territorial units;
- enterprise - a single property complex of a legal entity - a commercial organization intended for entrepreneurial activity;
- Property complex of a legal entity - a non-commercial organization;
- property complex of an organization without the status of a legal entity;
- household.

Household - a group of persons who live together in a dwelling, provide themselves with everything necessary for life, maintain a common household, fully or partially combining and spending their funds, or one person living independently and providing themselves with everything necessary for life.

The property complex of an individual entrepreneur belongs to an individual entrepreneur on the right of ownership. At the same time, with respect to the objects constituting this property complex, the individual entrepreneur may have the following property rights:

1. Ownership rights (ownership and limited proprietary rights).
2. Exclusive rights (which are not limited only to exclusive rights to intellectual property objects, but also include exclusive rights to information, to objects of public monopoly, etc.).
3. Obligatory rights, the total array of which can be divided into:
 - Obligatory rights not conditioned by the legal construction of entrepreneurial activity carried out directly by the individual entrepreneur himself;
 - Obligatory rights conditioned by the institution of founding, which constitute the legal structure of the entrepreneur's entrepreneurial activity;
 - Obligatory rights of contractual nature, conditioned by the legal structure of entrepreneurial activity carried out by an individual entrepreneur.

4. Legal regime of entrepreneurial activity of organizations with and without the status of a legal entity

The whole array of legal entities - commercial organizations can be classified as follows:

1. According to the criterion of the legal nature of the legal entity and the interest realized by them:
 - public-law legal entities;
 - private-law legal entities of private and state form of ownership.
2. According to the criterion of mechanism and methodology of organization:

2.1 Organizations of corporate type:

- corporations (e.g., economic societies);
- quasi-corporations (e.g., business partnerships);

2.2. Organizations of unitary type (unitary enterprise).

3. According to the criterion of the nature of the rights of the founders (participants) in respect of the property complex of a legal entity - commercial organization:

- organizations in respect of which their participants have obligatory rights;
- organizations in respect of the property of which the founders have ownership rights or limited proprietary rights.

4. According to the criterion of the nature of proprietary rights in respect of the property complex of a legal entity - commercial organization:

- legal entities - owners of the property complex (e.g., business companies);
- legal entities, in respect of the property complex of which the right of economic management is established for them (unitary enterprise);
- legal entities in respect of the property complex of which the right of operational management is established for them (state enterprise).

5. According to the criterion of the nature of power and subordination in the system of corporate governance, the content of affiliation and the legal structure of the economic group of persons:

- parent (parent) organizations;
- interdependent organizations;
- dependent organizations;
- subsidiary organizations.

6. According to the criterion of categorization of legal entities - commercial organizations depending on the peculiarities of their special legal personality and the nature of certain types of economic activity:

- financial and credit-financial organizations;
- organizations - institutional investors;
- agricultural organizations;
- paramilitary organizations;
- organizations - subjects of natural monopoly, etc.

Legal status of a legal entity - commercial organization:

1. Generic legal status: intra-jurisdictional organization (in cases established by the norms of supranational or international law - inter-jurisdictional organization - interstate corporation).

2. Institutional legal status for an intra-jurisdictional organization - the status of a public-law organization and the status of a private-law organization.

3. Functional legal status for an intra-jurisdictional organization - the status of a legal entity of unitary (individual), corporate type (corporation or quasi-corporation) in the form of a commercial organization.

4. Individual legal status is determined on the basis of the organizational and legal form peculiar to a legal entity - commercial organization.

"Universal formula" for determining the legal status of a legal entity - commercial organization does not exist. Its definition will always be carried out individually on the basis of taking into account all possible factors affecting the content of legal personality of a legal entity - commercial organization.

In general, the non-personalized (universal) legal regime of entrepreneurial activity of a legal entity - commercial organization can be defined as follows:

1. Generic legal regime of entrepreneurial activity:

- legal regime of private economic activity;
- legal regime of public economic activity.

2. institutional legal regime:

2.1. Allowing to determine the form of legal behavior: entrepreneurial activity in the form of formation of a legal entity - commercial organization.

2.2 Allowing to determine the functional content of the legal conduct of a legal entity - commercial organization.

Property complex is a property of all organizations without exception with or without the status of a legal entity. The property complex includes all types of property intended for its activity, including land plots, capital structures (buildings, constructions), unfinished capital structures, isolated premises, machine spaces, equipment, inventory, raw materials, products, rights of claim, debts, as well as rights to designations individualizing the enterprise, its products, works and services (firm name, trademarks, service marks), and other exclusive rights, unless otherwise provided by law

The property complex of any legal entity, including all legal entities - commercial organizations, has the following characteristics:

1. legally and actually isolated from the property complex of other subjects of social relations;

2. It is an integral element of the legal structure of a legal entity;

3. The legal nature of the property complex of a legal entity predetermines the legal status of the legal entity, its legal personality, legal position and legal regime of economic activity carried out by it.

4. The legal and organizational structure of the property complex of a legal entity predetermines the nature and character of management of the organization as a whole.

Organizations are legal entities of the Republic of Belarus; representative offices of foreign and international organizations; simple partnerships (parties to a joint activity agreement).

The norms of accounting and fiscal legislation (as a general rule) refer to the category of organizations without the status of a legal entity:

1) simple partnership (Chapter 54 of the Civil Code) as an organizational-legal form of organization without the status of a legal entity;

2) representative offices of foreign and international organizations;

3) international and foreign organizations that are not legal entities.

Organizations without the status of a legal entity include:

1. holdings.

2. Organizational structures of non-profit organizations with the rights of a legal entity:

- trade unions;
- public associations;
- republican state-public associations.

3. Structural subdivisions of sectoral and functional bodies of state administration.

4. Volunteer squad, etc.

Organizations without the status of a legal entity:

1. May have the nature of corporate-type organizations.
2. May have the nature of unitary (individual) type organizations.

It should be noted that a state association in the Republic of Belarus is an organizational-legal form of a legal entity, being at the same time an association of subjects of economic activity.

Accordingly, "associations of subjects of economic activity" and "organizations without the status of a legal entity" are not equivalent categories.

The peculiarities of the legal status of an organization without the status of a legal entity:

1. possess truncated (fragmentary) legal personality:

- possess full legal capacity;
- possess full legal capacity or truncated (fragmentary) legal capacity;
- have no legal personality, as the responsibility for the results of economic activity of an organization without the status of a legal entity is borne by the participants of such organizations.

2 Organizations without the status of a legal entity may:

- possess their own property complex accounted on the balance sheet of such organization

- not have their own property complex, but manage the totality of material and technical means and financial resources transferred to them for the implementation of economic activities (an example of which is a voluntary squad);

- not to possess its own property complex, but to form a mechanism and methodology of mutual use by the participants of the holding of the objects of rights owned by any of its participants.

Accordingly, it can be stated that among the entire array of organizations without the status of a legal entity there are:

1. organizations that use their own property complex to carry out economic activities.

2. Organizations that do not have their own property complex and use for economic activities the objects that constitute the property complex of the participants of the organization without the status of a legal entity.

3. Organizations using the objects of civil and political rights of the state of a property nature delegated to them for the performance of their functions.

Legal status of a commercial organization without the status of a legal entity:

1. Generic legal status: intra-jurisdictional organization.

2. Institutional legal status for intra-jurisdictional organization - status of public-law organization and status of private-law organization.

3. Functional legal status for intra-jurisdictional organization - the status of organizations without legal personality unitary (individual), corporate type (corporation or quasi-corporation) in the form of commercial or non-commercial organization.

4. Individual legal status is determined on the basis of the inherent organizational and legal form of a commercial organization without the status of a legal entity.

"Universal formula" for determining the legal status of a commercial organization without the status of a legal entity does not exist. Its determination will always be carried out individually on the basis of taking into account all possible factors affecting the content of legal status of such an organization.

5. Entrepreneurial activity of subjects of economic activity that do not have the features of an organization

The category of subjects of economic activity functioning under the legal regime of an economic group of persons includes:

1. an economic group of persons possessing the attributes of an organization (e.g. simple partnership, consortium, holding, cartel, etc.).

2. an economic group of persons that is not an organization (e.g. transnational corporation, strategic alliance, etc.).

Accordingly, economic entities that do not possess the signs of an organization should be identified as economic groups of persons operating in the commodity market in accordance with a single internal economic policy, representing a set of individuals and organizations, not formed into a single organizational structure, possessing the signs of an organization with and without the status of a legal entity.

In other words, a subject of economic activity, which does not have the signs of an organization, is a set of legal, economic, financial and technological ties that simultaneously allow:

1. To carry out entrepreneurial activity and optionally - non-entrepreneurial economic activity of different kinds in accordance with a unified intra-economic policy.

2. to influence the state of competition on commodity markets.

3. to carry out tax planning (optimization) of the fiscal burden on the participants of the economic group of persons, including the use of the Treaty Shopping methodology.

4. use the methodology of asset splitting and multi-jurisdictional asset management in order to:

- convenient structuring of economic flows and more convenient revenue management;

- tax planning (optimization);

- influencing the state of commodity markets;

- placement of funds in the most convenient for their "storage" jurisdictions of the world.

The peculiarities of the legal regime of entrepreneurial activity (and economic activity in general) by economic entities that do not have the features of an organization are the following:

1. Within the framework of such an economic group of persons, commercial organizations with the status of a legal entity, commercial organizations without the status of a legal entity, individual entrepreneurs, entities capable of providing support to the above-mentioned subjects of entrepreneurial activity, subjects interested in maximizing the economic effect from the functioning of the economic group of persons, but as if "being on the sidelines" of it (investors, affiliated persons in the system of corporate and departmental management, etc.) are united simultaneously.

2. Such a merger implies mandatory splitting of interests and assets of its participants due to both tax planning (optimization) considerations and increase of economic effect due to "individualization" of economic flows.

3. unfavorable impact on the state of competition on commodity markets.

Classical examples of an economic group of persons that is not an organization include:

1. a transnational corporation as an economic entity that is not an organization, owning on the basis of a formed set of ties of legal, economic, financial and technological nature assets within two or more jurisdictions, managing assets and controlling revenues in the territory of all jurisdictions of its presence, as well as carrying out domestic economic activities in the territory of all jurisdictions of its presence.

2. Strategic alliance - a group of legally interrelated economic entities, not forming a legal entity or an organization without the status of a legal entity, representing an agreement on production and (or) financial cooperation, the purpose of which is to create on the basis of unification of the technological component of the capacity for the production of goods, works and services used by each of the participants of the strategic alliance for the purposes of its own production policy.

3. A conglomerate is an organizationally formalized set of commercial organizations and (or) individual entrepreneurs that do not have common production ties (hypothetically, a conglomerate may include non-profit organizations - institutions and non-profit microfinance organizations).

The purpose of creating a conglomerate is a unified financial and investment private legal regulation of their activities.

1.1.5. Peculiarities of legal regulation of private entrepreneurship

- 1.Legal barriers to entrepreneurial activity.
- 2.Investing in entrepreneurial activity and financing entrepreneurial activity.
- 3.Measures of state support and state economic repression of business entities.
- 4.Forecasting and planning of entrepreneurial activity.
- 5.Competition as a characteristic of entrepreneurial activity.

1. Legal barriers to entrepreneurial activity

Since entrepreneurial activity is an object of state-legal influence, the very possibility of its realization presupposes overcoming the legal barriers established for this purpose.

It should be noted that legal barriers are established not only for the implementation of entrepreneurial activity, but also affect the element of non-entrepreneurial economic activity inherent to the subject of entrepreneurial activity.

The totality of barriers to the realization of any economic activity (including entrepreneurial activity) can be divided into two types:

1. restrictions of objective nature - restrictions conditioned by the laws of nature or certain types of social laws, the content of which does not depend on the will of the subjects of social relations, the result of their application is always predetermined by the objective course of events and the processes resulting from them (which include the laws of nature, laws of economics and other social laws of objective nature).

2. subjective restrictions - restrictions conditioned by legal laws, moral and canonical norms, psychological perception, etc., the content of which depends on the will of the subjects of social relations, the result of their application is predetermined by the peculiarities of the behavior of such subjects within the objectively occurring course of events and is a consequence of a combination of factors of objective and subjective nature.

Legal barriers to the implementation of economic activity - a restriction for the implementation of public and (or) private economic activity within the national jurisdiction and (or) in the transjurisdictional regime enshrined in the norms of law, predetermining the nature and content of restrictions for the implementation of labor, economic, labor and creative activity, conditioned by the state of the system of social relations, national economy, social and political spheres, as well as the content of the state internal and external policy.

As a general rule, legal barriers are a property of national jurisdiction (national legal barriers). However, when a foreign element appears in the legal construction of a social relation, legal barriers may have the nature of:

1. Supranational legal barriers (union legal barriers) - established by the law of the relevant supranational integration association (e.g. EU, EAEU), extending its effect to the national jurisdictions of all member states of such an association. In this case, in the member states of the supranational integration association, union legal barriers may have direct effect, or may be mediated by national legal barriers, formed in accordance with the minimum standards established within the framework of the union legal barrier.

2. International legal barriers - established by the norms of international law (except for the norms constituting the law of the supranational integration union), subdivided into the following types:

- bilateral international legal barriers;

- multilateral international legal barriers (including those of regional and non-regional nature);
- universal legal barriers (for example, those established by the norms of the law of the World Trade Organization).

The totality of existing legal barriers forms a three-level system of legal barriers, consisting of national, supranational and international systems of legal barriers.

The following types of legal barriers can be distinguished (based on their generic nature):

1. basic (primary) legal barriers - restrictions established by the norms of national, supranational or international law, predetermining the possibility of starting economic activities, subdivided into three main groups of barriers:

- national basic (primary);
- supranational (basic (primary) legal barriers predetermining the possibility of starting economic activities by certain categories of organizations (the possibility of mutual recognition of licenses in the banking and insurance sectors in accordance with Article 70 of the EAEU Treaty), etc.);
- international (basic (primary) legal barriers that predetermine the possibility of starting economic activities by international organizations and their bodies, or by an interstate corporation).

The listed groups of legal barriers include the following categories:

1.1 Barriers predetermining residency, which include:

- registration and registration as a business entity of an organization with and without the status of a legal entity, sole proprietorship, self-employed person;
- registration as a resident of a territorial unit (free economic zone, technological park, etc.);

1.2 The authorization mechanism, including:

- licensing of economic activities (Law of the Republic of Belarus No. 213-3 of October 14, 2022 "On Licensing"; subpar.

1.14, paragraph 1, Article 1 of the Law of the Republic of Belarus No. 347-Z of November 25, 2004 "On State Regulation of Foreign Trade Activities");

- licensing of business operations (subparagraph 1.14 of paragraph 1 of Article 1, Articles 17 and 18 of the Law of the Republic of Belarus of November 25, 2004, No. 347-Z "On State Regulation of Foreign Trade Activities"; Article 1 of the Law of the Republic of Belarus of May 11, 2016, No. 363-Z "On Export Control");

- licensing of the right to import goods when conducting an investigation to determine the possibility of applying special protective, anti-dumping and countervailing measures (Clause 8, Article 3 of the Law of the Republic of Belarus of November 25, 2004, No. 346-Z "On Measures to Protect the Economic Interests of the Republic of Belarus in Foreign Trade in Goods");

- accreditation of economic entities and their officials (e.g. accreditation of mass media journalists, state accreditation of educational institutions, etc.);

- certification of economic entities and their officials (e.g., certification of auditors, etc.), etc.

1.3 Mandatory formation of reserve or guarantee parafiscal funds:

- Formation of parafiscal funds of reserve or guarantee nature for financial and credit-financial organizations (e.g., for banks (Article 109 of the BC), etc.);

- formation of reserve or guarantee parafiscal funds for economic entities whose operation is associated with a high degree of risks of harm to the environment, organizations and natural persons (e.g., a fund for decommissioning of a nuclear facility and/or a storage facility). (Article 21 of the Law of the Republic of Belarus No. 426-Z of July 30, 2008 "On the Use of Atomic Energy"), etc.).

1.4 Barriers determining the content of economic activity and characteristics of goods produced (e.g., as a general rule, motor carriers are obliged to perform intra-republican road transportation using vehicles that have passed state registration in the territory of the Republic of Belarus (part 3 of article 19 of the Law of the Republic of Belarus of August 14, 2007 No. 278-3 "On Road Transport and Road Transportation").

1.5. Special basic (primary) legal barriers that provide access to procedures that allow obtaining special legal personality - prejudice of performance of legally significant actions and economic transactions until the moment of obtaining a special permit (license), accreditation, certification or the moment of overcoming another legal barrier (e.g., for banks - the need to perform banking operations required to obtain a license (part 3 of Article 83 of the BC), etc.).

1.6. Special basic (primary) legal barriers that do not stipulate additional conditions for acquiring special legal personality (for example, inclusion in the relevant registers of subjects of customs affairs of legal entities for obtaining the right to carry out activities in the field of customs affairs as a customs representative, customs carrier, owner of a temporary storage warehouse, owner of a customs warehouse, owner of a free warehouse, owner of a duty-free store (Articles 298 and 299 of the Law of the Republic of Belarus).

2. Additional (secondary) legal barriers - barriers, the overcoming of which is necessary to ensure the legality of the economic activity being carried out or separate economic operations constituting it, as well as barriers, the overcoming of which is necessary for the recognition of a legal fact (including legal facts that testify to the overcoming of basic (primary) legal barriers), subdivided into barriers of tariff and non-tariff nature.

Additional (secondary) legal barriers include:

2.1 Additional (secondary) legal barriers of tariff nature, subdivided into the following types:

- barriers caused by fiscal policy (e.g., provision of tariff quotas on payments of customs nature; paid administrative procedures; payments for the right to conclude economic and legal contracts; insurance parafiscalites - compulsory insurance of civil liability of temporary (anti-crisis) managers in insolvency or bankruptcy proceedings, etc.).

- barriers caused by the regulation of pricing (for example, caused by the legal position of a natural monopoly subject), etc.

2.2 Additional (secondary) legal barriers of non-tariff nature are divided into the following types:

- Inclusion in registers (registers) and other forms of accounting, which is not an additional condition for acquiring special legal personality (e.g., inclusion in the State Register of Distributors of Print Media Products and the State Register of Distributors of Television and Radio Broadcast Media Products);
- quotas for economic transactions;
- quotas on the participation of subjects in foundation relations;
- export control measures;
- legal barriers caused by the content of currency regulation and currency control;
- legal barriers caused by measures to prevent legalization of proceeds of crime, financing of terrorist activities and financing of proliferation of weapons of mass destruction provided for by the Law on Prevention of Legalization of Illegal Proceeds;
- compliance of economic activities with the requirements established by the legislation on national security and military organization of the state.

3. Organizational legal barriers due to the requirements established by the norms of national, supranational and international law regarding the organization of the process of implementation and management of economic activities, subdivided into the following types:

- requirements for corporate or departmental management;
- requirements for the organization of document flow and record keeping;
- requirements for the organization of work with information, the distribution and (or) provision of which is restricted;
- barriers arising from the special status of territories that are not under the jurisdiction of states that have exclusive rights over them (e.g., continental shelf), etc.
- barriers related to the development of outer space for peaceful purposes, etc.

4. Non-standard legal barriers, conditioned by the specifics of a certain group or type of intra-jurisdictional economic legal relations, foreign economic and (or) foreign political relations, which can be subdivided into three groups:

- non-standard legal barriers conditioned by the specifics of a certain type of economic activity;
- non-standard legal barriers caused by the specifics of the sphere of economic activity, sector, economic complex or branch of the national economy;
- counter-barriers - legal barriers of extraordinary protective nature caused by unfriendly actions of political and (or) economic nature of foreign states, groups of states, supranational integration associations and residents of such subjects of international law (caused by the norms of the Law of the Republic of Belarus No. 239-3 of January 3, 2023 "On Issues of Transfer under Temporary External Management").

5. Barriers due to the norms of international law or arising from international obligations - legal barriers that are mandatory for application within the national jurisdiction as a result of an international treaty or international obligations assumed by the state: international embargo; international and country sanctions of other nature; measures to protect the internal market of the Eurasian Economic Union, mandatory for member states of the Union (Articles 48-50 of the EAEU Treaty).

6. Fiscal barriers are legal barriers caused by the need to redistribute public fiscal burden or are a mandatory element of a certain taxation regime. Fiscal barriers should include:

- barriers conditioned by the content of the institute of fiscal burden (conditioned by the institution of state social insurance; conditioned by the legal position of the tax payer when granting tax benefits; barriers conditioned by the legal position of a US tax resident in accordance with the FATCA (Foreign Account Tax Compliance Act), etc.).

- barriers caused by the content of the institution of taxation regimes (general, special, preferential, experimental regime).

2. Investing in entrepreneurial activity and financing entrepreneurial activity

Financing and investment are inherently different legal institutions.

The nature of financing is understood in terms of what objects of rights are used for its realization. This can always be exclusively money or financial instruments. At the same time, understanding of the nature of financing is in the plane of understanding of two key categories, which are at the heart of Article 1 of the Law on Prevention of Legalization of Illegal Proceeds, which contains a number of definitions that allow to find an answer to this question:

- financial transaction - a transaction with funds regardless of the form and method of its implementation; in banking operations, a financial transaction means opening a bank account, a one-time payment, transfer, receipt, issuance, exchange, deposit of funds; in depository operations, a financial transaction means opening of "depo" accounts, depository transfer of securities;

- funds - monetary funds, securities, electronic money, other property, including property rights, as well as exclusive rights to the results of intellectual activity;

- financial transaction amount - the amount of cash or cash equivalent of non-monetary funds of the financial transaction, including the amount established by agreement of the participants of the financial transaction providing for the transfer of rights to the funds.

A financial transaction is a value expression of a transaction with any objects of rights, involving the "transfer" of the value of funds from one fund of financial resources to another.

The way of expression of such value expression is always two instruments necessary for this purpose:

1. A universal equivalent (i.e. money; and not currency as a "name of money", but money itself as a means of measuring all things).

2. A certain legal and economic structure that allows concerting in it a certain totality of money (i.e. financial instruments).

Thus, we can conclude that financing is always and exclusively the provision of money or financial instruments (instead of money).

Thus, financing is understood as a gratuitous (not providing for payment of interest for use or providing for payment of interest at the rate of the refinancing rate

for the purposes of anti-inflationary impact on the economy) irrevocable (not providing for the need to return the amount of provision) or refundable (providing for the return of such amount) provision of money or certain types of primary financial instruments by the entity that carries out financing to the manager or the entity that uses financing.

A financial instrument is a transaction involving the creation of a certain amount of money, concentrated into a single asset, one party to which is obliged to transfer such amount of money to the other party under certain circumstances.

Financing of economic activity of a business entity can have two forms:

1. External financing.

2. Intra-economic financing (self-financing) - financing by the subject of entrepreneurial activity of its own current expenses for its own existence (functioning), or for targeted compensation of expenses and losses, as well as capital expenditures for similar purposes not related to the creation of new objects of civil and political rights of property nature.

Domestic (national) investments (the source of which is always the state or its residents), foreign investments (the source of which is foreign states and their residents) and international investments (the source of which is always international organizations - international financial institutions, and the basis for their implementation is an international treaty between such international organization and the Republic of Belarus) may be used for entrepreneurial activity.

There are two generic legal regimes of national investments:

1. National investments carried out within the limits of civil turnover (defined in accordance with Articles 1-4 of the Law on Investments and Articles 7, 10 of the Law on State Monopoly), which means:

- any objects of civil rights, not withdrawn from civil turnover, having an estimate of value (including movable and immovable property, including shares, shares in the authorized fund, shares in the property of a commercial organization established in the territory of the Republic of Belarus, monetary funds, including borrowed funds, including loans, credits; rights of claim having an estimate of their value; etc.);

- objects of rights belonging to the investor on the right of ownership or other legal basis (by virtue of other property rights of civil and (or) political nature); the rights allow the investor to dispose of the said objects of rights, and the existence of the right of disposal allows the investor to invest such objects in the territory of the Republic of Belarus;

- objects of rights, the investment of which is carried out by the methods stipulated by the Law on Investments;

- objects of rights, the purpose of investment of which is to receive profit (income) (i.e. the primary purpose is to receive economic effect); and/or to achieve other significant social and economic result (optional purpose is to receive social effect based on economic effect); other purposes (hidden purpose is to receive social and political effect based on economic effect); all the above purposes are not related to personal, family, household and other similar use).

2. National investments carried out in commodity markets outside the limits of civil turnover (for example, investments carried out in accordance with the procedure established by the Law on State Defense Order).

The use of international investments in entrepreneurial activity is possible only if it is provided for by an international treaty, and in fulfillment of such a regulatory treaty the state delegates to a certain business entity (or other subjects of economic activity) the right to act as a manager or user of international investment funds.

Thus, in contrast to financing, the realization of investments implies: always compensatory (providing for the payment of interest for use or other remuneration) repayable (always providing for the return of invested funds) provision by the investor to the manager or the entity using the investment, any objects of civil or political rights of a property nature with the purpose of creating new, previously non-existent benefits, ensuring the receipt of economic and mediated by it social and political effect.

There are two forms of making investments:

1. Unorganized form of investment implementation, which implies one-time investment implementation not conditioned by entrepreneurial activity (for example, one-time acquisition of real estate object not related to personal, family, household and other similar use), or non-systematic, but repeated investment implementation by a natural person or organization (when such is provided by the norms of national, supranational or international law), which does not form the signs of entrepreneurial activity.

Examples of the use of the unorganized form are investments made by a natural person in the foreign exchange market (e.g., FOREX transactions) and other segments of the financial market, mining of crypto-assets by a natural person in accordance with Decree No. 8, one-time acquisition of exclusive rights to an intellectual property object by a non-profit organization, etc. The following are examples of the use of the unorganized form.

2) Organized form of investment implementation, which implies systematic organized implementation of investments by a subject of entrepreneurial activity or non-entrepreneurial economic activity, made for the purpose of obtaining economic, social or political effect. The use of an organized form of making investments is referred to as "investment activity".

3. Measures of state support and state economic repression of business entities.

State support measures are financial and non-financial measures, conditioned by the content of economic and social policy, which allow increasing the efficiency of economic activity of national producers or leveling the negative consequences of certain events that affect the nature, content and performance of economic activity of national producers.

There are two types of state support measures:

1. State financial support measures:

- Industrial and agricultural subsidies, other subsidies, the legal regime of which should take into account the peculiarities of national and supranational antimonopoly regulation and international obligations of the state to ensure the realization of the principle of freedom of international trade and protection of competition;

- reimbursement from the republican and (or) local budgets under tender conditions of a part of expenses for the purchase of technological equipment and spare parts;

- budget loan;

- tax credit;

- normative distribution of proceeds;

- preferential regime of access to public investments, etc.

2. Measures of state non-financial support:

- Formation of specialized infrastructure to support subjects of economic activity (innovation, scientific infrastructure, infrastructure to support small and medium-sized enterprises, industrial infrastructure, etc.);

- reduction and simplification of the legal structure of legal barriers;

- establishment of special and preferential taxation regimes for entrepreneurial activity and non-entrepreneurial economic activity;

- formation and implementation of state programs;

- formation and development of a system of information support for business entities;

- assistance in training, retraining and advanced training of personnel for economic entities;

- support and protection of the interests of national producers in the course of foreign economic activity, etc.

Measures of state economic repression - measures of financial and non-financial nature, conditioned by the content of economic and social policy, implying the establishment of legal barriers to economic activity, limitation of the efficiency of economic activity, restrictions or encumbrances in the access of economic entities to certain benefits or to certain infrastructure of the state.

There are two types of measures of state economic repression:

1. Measures of state financial repression:

- Directive lending;

- subsidized lending;

- cross-subsidization;

- compulsory sale of foreign currency earnings to the state, etc.

2. Measures of state economic repression of non-financial nature, consisting in the establishment of:

- repressive legal regime of economic activities (for example, such legal regime is mandatory for subjects of public monopoly (regulation of pricing for subjects of natural monopoly; restrictions on types of economic activities for financial and credit-financial organizations, etc.));

- "golden share" in the authorized capital of a commercial organization;

- external management of organizations within the framework of anti-sanctions policy, etc.

4. Forecasting and planning of entrepreneurial activity

Forecasting of entrepreneurial activity - formation of an idea about the possibility, expediency, content and potential efficiency of entrepreneurial activity, conditioned by the content and direction of socio-economic processes and organizational and legal features of the initiator(s) of entrepreneurial initiative, subject(s) implementing it.

Planning of entrepreneurial activity is the definition of a prospective direction of entrepreneurial activity, indicators of its performance or the definition of the direction, content and characteristics of the development of existing entrepreneurial activity, involving the formation of its strategy (i.e., the establishment of the goal) and tactics (i.e., the definition of tasks).

At the macroeconomic level (i.e., at the level of the entire national economy), forecasting and planning of the effectiveness of primary entrepreneurship as an institutional phenomenon is carried out, expressed in:

1. Formation of forecasts of socio-economic development of the Republic of Belarus (Art. 2 of the Law of the Republic of Belarus of May 5, 1998 No. 157-3 "On State Forecasting and Programs of Socio-Economic Development of the Republic of Belarus").

2. Forecasting and planning of fiscal burden on business entities, reflected in:

2.1 Formation of the revenue part of public budgets and extra-budgetary funds within the budgetary system of the state (regulated by the BJK) and in parafiscal funds formed at the expense of parafiscalites (e.g., public innovation funds).

2.2 Formation of an idea of the expenditure part of public budgets and extra-budgetary funds, parafiscal funds, state investment banks (JSC "Development Bank of the Republic of Belarus") and organizations that are state corporations by nature, necessary for proper functioning of the state, within the framework of:

- planned expenditures on financing the sphere of primary entrepreneurship (including in the form of state support) and financing of state entrepreneurship entities (fiscal economic activity);

- planned volumes of public investment in entrepreneurial activities carried out within the framework of state entrepreneurship, and investments, the managers or recipients of which will be subjects of private entrepreneurship.

This format of forecasting and planning can be expressed, among other things, in state programs of different duration.

3. Forecasting and planning of expenditures to ensure national economic security, as well as the volume of production and purchase on commodity markets of goods necessary for this purpose.

Two types of business forecasting and planning should be distinguished:

3.1 Public forecasting and planning of entrepreneurial activity and efficiency of functioning of the sphere of primary entrepreneurship, including the following types:

- carried out at the macroeconomic and mesoeconomic levels, regulated by macroeconomic legislation of the Republic of Belarus;
- carried out at the level of organizations that are state corporations by their legal nature;
- carried out by the subjects of state monopoly.

2. Private legal forecasting and planning, including the following types:

- forecasting and planning unencumbered by a public-law element;
- Forecasting and planning not burdened with a public-law element, which takes place in cases when a subject of private entrepreneurial activity is a manager or recipient of public investments, a recipient of public financing (including the receipt of public financial support) or a participant in investment projects with the participation of the state; such planning and forecasting involves the implementation of information and analytical work aimed at the development of various plans, forecasts and forecasts, as well as in cases when the subject of private entrepreneurial activity is a manager or recipient of public investments, a recipient of public financing (including the receipt of public financial support) or a participant in investment projects with the participation of the state.

5. Competition as a characteristic of entrepreneurial activity

Competition is a fundamental element of the legal and social structure of primary entrepreneurship in general and an integral element of the content of entrepreneurial activity.

The following are interested in competition:

1. The subject of entrepreneurial activity itself, as it ensures and guarantees its development and the opportunity to prove the integrity of its economic behavior before the state due to the transparency of the pricing system.
2. The state, because the elimination of monopolism in commodity markets and the functioning of the maximum possible number of competitors in the commodity market gives the state the opportunity to collect more taxes. This is due to the fact that in the presence of a large number of competitors in the commodity market, the state forms an idea of the true nature and content of pricing, which prevents the producers of such goods from understating the tax base.
3. society, because in competitive conditions it receives a greater assortment and better quality of goods, accompanied by minimization of expenses for their purchase.

The legislator in the Republic of Belarus defines competition as an adversarial relationship between economic entities, in which independent actions of each of them exclude or limit the possibility to unilaterally influence the general conditions of goods circulation in the relevant commodity market (Article 1 of the Antimonopoly Law).

From the scientific point of view, competition is an adversarial nature of subjects of economic (economic) relations interested in the circulation of goods on commodity markets and activities of other persons capable of influencing the general conditions of circulation of goods on the corresponding commodity market without carrying out economic activities on such commodity market, including:

- economic competition - competition between states (macroeconomic competition) and their constituent economic entities on national and foreign commodity markets (microeconomic competition), in which independent actions of each of them do not create conditions for the prevention, exclusion or limitation of the possibility of unilateral influence on the general conditions of circulation of goods in the respective commodity market, as well as do not create threats to national economic security;
- social competition for access to commodity markets;
- social responsibility for the results of economic activity and functioning of the respective commodity markets.

Competition is characterized by two generic legal regimes (i.e. competition is subdivided into two types based on generic characteristics):

1. Fair competition, the determination of the nature of which does not require a definition.
2. Unfair competition - actions of a business entity or several business entities aimed at acquiring advantages (benefits) in business activities, which contradict the Antimonopoly Law, other legislative acts and acts of antimonopoly legislation or requirements of good faith and reasonableness and may cause or have caused losses to other competitors or may cause or have caused damage to their business reputation.

1.1.6. Secondary entrepreneurship

1. The concept, signs, forms and content of secondary entrepreneurship. Peculiarities of legal barriers for realization of secondary entrepreneurship.
2. Subjects of secondary entrepreneurship and peculiarities of their activity.
3. Secondary entrepreneurship as an element of economic activity of noncommercial organizations.
4. Secondary entrepreneurship as an element of the activity of self-employed persons and households.
5. Secondary entrepreneurship as an element of investment realization.

1. The concept, signs, forms and content of secondary entrepreneurship. Peculiarities of legal barriers for realization of secondary entrepreneurship

The heterogeneity of the nature of entrepreneurial initiative and entrepreneurial behavior and the need to divide entrepreneurship into two arrays of legal relations on the criterion of motivation on:

1. Primary entrepreneurship (being economically significant, performing the task of production necessary for the existence and functioning of society and the state of tangible and intangible goods).
2. Secondary entrepreneurship (which is socially significant, originating and carried out under the condition of availability of material and technical basis -

satisfying the society and the state a set of material and non-material benefits, allowing to pass to their use not only in the "economic mode", but also in the social mode).

Secondary entrepreneurship is a type of entrepreneurship that forms a generic legal regime of initiation and realization of entrepreneurial initiative, the peculiarity of which is the production of tangible and intangible goods for the purpose of obtaining social and mediated political effect, the methodology of which (production) allows the possibility of obtaining an economic effect in the form of income, including through participation in entrepreneurial activity (i.e. implementation of secondary entrepreneurial activity)

From the point of view of the objective side of legal relations in the sphere of secondary entrepreneurship, it can be expressed in a set of legally significant and actual actions that constitute a legal construct:

1. Non-entrepreneurial economic activity of non-commercial organizations, allowing to receive income, not conditioned by the methodology of commercial activity (as a type of entrepreneurial activity).

2. economic and labor activity of self-employed persons (capable of containing, in certain cases, an element of creative activity).

3. Public economic activity of two categories of individuals:

- Self-employed persons - subjects of state monopoly as a type of public monopoly (the legal regime of which may have an exclusively individual legal regime by virtue of paragraph 3 of Article 10 of the Law on State Monopoly);

- self-employed persons - subjects of prudential monopoly as a type of public monopoly (e.g. lawyers).

4. creative activity of two categories of individuals: 1) self-employed persons; 2) natural persons making investments using an unorganized form of making investments that does not form the composition of entrepreneurial activity (e.g., transactions initiated by natural persons with non-deliverable OTC financial instruments (activities in the OTC forex market) in accordance with the Decree of the President of the Republic of Belarus of June 4, 2015 No. 231 "On carrying out activities in the OTC forex market")

5. Secondary entrepreneurial activity of non-commercial organizations (i.e. participation in entrepreneurial activity) expressed in the form of establishment and (or) participation of a non-commercial organization in a commercial organization or in a non-commercial organization having the nature of a state corporation.

Accordingly, the forms of secondary entrepreneurship are:

1) non-entrepreneurial economic activity of non-commercial organizations;

2) self-employment of individuals containing an element of entrepreneurial initiative (hereinafter - self-employment with an element of entrepreneurial initiative);

3) investment by a natural person that does not constitute entrepreneurial activity (individual investment process of a natural person).

4) secondary entrepreneurial activity of non-commercial organizations;

5) implementation of state entrepreneurship (fiscal economic activity) by the state and its ATEs in the form of participation in non-profit organizations that carry out non-entrepreneurial economic activity that generates income.

The definition of forms of secondary entrepreneurship allows us to form a complete picture of its nature and to state that secondary entrepreneurship is a set of social relations that develop in relation to the implementation of income-generating activities by an individual, the state and a non-profit organization that does not form the composition of entrepreneurial activity as a type of economic activity.

Secondary entrepreneurship is characterized by the following features:

1. It is a volitional, initiative behavior of the subject;
2. it is a legitimate socially significant and socially-oriented behavior of the subject;
3. it is lawful behavior conditioned by:

- the main goal - obtaining a social effect in any forms of its manifestation, an obligatory element of which is the development and increase in the efficiency of the functioning of the social sphere of social relations and infrastructure of the state, including allowing to expand the sphere of employment of the population without direct participation of the state in the creation of jobs;

- additional (optional) purpose - obtaining economic effect in the form of income of non-entrepreneurial nature received by the subjects of secondary entrepreneurship (including budget revenues received by the state by non-tax method within the framework of state entrepreneurship).

4) This is lawful behavior of an individual and the state, not conditioned by participation in entrepreneurial activity (i.e. not forming the composition of secondary entrepreneurial activity), because in the presence of signs of participation in entrepreneurial activity the process of realization of entrepreneurial initiative by these very subjects is transformed into primary entrepreneurship;

5. this is lawful behavior, not conditioned by the legal construction of legal relations for employment, i.e.:

- legal relations formed between the employee and the employer, regulated by the norms of the LC (labor legal relations);

- legal relations formed between other employers and an individual, arising on the basis of civil law contracts, the subject of which is the performance of work (provision of services, creation of intellectual property). Although such legal relations provide an individual with earnings, their legal nature does not contain an element of secondary entrepreneurial initiative. 6.

6. This is lawful behavior, which implies a wide range of interactions of formal and informal nature between the individual, civil society and the state, because:

- forms an independent methodology of self-regulation of social relations formed on the basis of the institute of self-employment, containing an element of entrepreneurial initiative, assuming the construction of a system of relationships expressed in the formula "self-employed person - consumer of benefits produced by him - society - state";

- assumes a broad participation of the state in the functioning of the sector of non-profit organizations (the third sector) within the framework of state entrepreneurship;

- is the basis of the process of human capital production within the framework of non-profit organizations, which implies direct interaction of different content and level

between civil society and the state (for example, when a higher education institution holds a scientific conference, it simultaneously ensures the public interest of the state in the implementation of scientific-technical and innovation policy, as well as the public interest of civil society in the expansion and development of its scientific potential);

7 This is lawful behavior based on the principles of symbiosis of state-legal influence and self-regulation of public relations (examples of which can be the functioning of the system of self-governing bodies in institutions of higher education, the legal regime of which is defined in the Code of Education of the Republic of Belarus or the system of management in a religious organization).

The main purpose of secondary entrepreneurship is to obtain a social effect, i.e. favorable changes in the social sphere of social relations caused by compensated or gratuitous consumption of tangible and (or) intangible benefits produced within the framework of secondary entrepreneurship, which are the result of implementation of non-entrepreneurial economic activity, economic, labor and creative activity by the subjects of secondary entrepreneurship.

2. Subjects of secondary entrepreneurship and peculiarities of their activity

Subjects of secondary entrepreneurship - subjects that have the ability to initiate a secondary entrepreneurial initiative and realize it through the implementation of forms of non-entrepreneurial activities that provide the accompanying effect of economic nature, in the production of tangible and intangible goods, designed to obtain a social effect.

The subjects of secondary entrepreneurship include:

1. Primary subjects: 1) an individual (citizen) as a person; 2) civil society; 3) the state.

2. Secondary subjects - subjects of relevant forms of activity, types and forms of economic activity, which are the external form of expression of secondary entrepreneurship:

2.1. The state as an entrepreneur - participant of a non-profit organization.

2.2 Subjects of non-entrepreneurial economic activity - non-profit organizations of private and state ownership.

2.3. Self-employed persons:

- performing economic and labor activity containing an element of entrepreneurial initiative;

- performing creative activity containing an element of entrepreneurial initiative;

- performing public economic activities (self-employed persons - subjects of public monopoly).

2.4 Individuals - investors making investments within the framework of individual investment process (i.e. making investments in the legal regime that does not form the structure of entrepreneurial activity, but ensures the receipt of income of non-entrepreneurial nature (hereinafter - individuals - investors not engaged in entrepreneurial activity).

3. Associated subjects - households, an element of the legal structure of which are self-employed persons and physical persons - investors not engaged in entrepreneurial activity, the economic effect from the implementation of secondary entrepreneurship of which constitutes a single construction of the economic effect from the functioning of the household as a whole.

The legal status of an individual - subject of secondary entrepreneurship and the activities carried out by him/her is determined according to the rules similar to those described for sole proprietorships, but taking into account the peculiarities inherent to the subjects of secondary entrepreneurship. In this case it is necessary to:

- take into account the legal status of each of the categories of individuals - subjects of secondary entrepreneurship (i.e., the construction of the legal status and legal regime of economic and labor activity of an artisan will be very different from the construction of the legal status and legal regime of simultaneously economic and labor and creative members of a temporary scientific collective (TSC));

- to take into account the peculiarities of the legal construction of a household, a member of which is an individual - a subject of secondary entrepreneurship.

The legal status of non-profit organizations - subjects of secondary entrepreneurship and their non-entrepreneurial economic activities is determined by the rules similar to those described for legal entities - commercial organizations.

3. Secondary entrepreneurship as an element of economic activity of noncommercial organizations

The legislator indicates that a non-profit organization is an organization that does not have profit making as the main purpose of its activity and does not distribute the profit received among its participants (Article 46 of the Civil Code). Accordingly, the legislator establishes the impossibility for a non-commercial organization to have profit making as the main purpose of its activity. Guided by the laws of formal logic, we can assume that a non-profit organization hypothetically may have an additional purpose - profit making. It is the wording of Article 46 of the Civil Code that created prerequisites for the national legal doctrine to form a position on the admissibility of the presence of profit in the legal construction of the economic effect received by a non-profit organization as a result of its non-business economic activities. However, the definition of entrepreneurial activity contained in Article 1 of the Civil Code excludes the possibility of entrepreneurial activity by non-commercial organizations, since the key feature of entrepreneurial activity - the presence of the purpose of systematic profit making, makes it impossible to combine the legal construction of entrepreneurial activity with the legal construction of a non-commercial organization.

Thus, by virtue of Article 1 of the Civil Code for a non-commercial organization the result of its non-business economic activity, expressed in the form of economic effect, may be the receipt by the non-commercial organization of income of a non-business nature, not conditioned by the sign of systematicity.

Thus, any non-commercial organization, which is not identified in the system of public relations as a state corporation or other public-law corporation, is characterized by the following features:

1. By virtue of Article 1 of the Civil Code, it is inadmissible for a non-commercial organization to systematically receive profit neither as a main nor as an additional goal, but it is permissible to receive income from certain profitable types of economic activities carried out in the legal regime of non-entrepreneurial economic activities.

2. As a general rule, a non-profit organization shall carry out non-profit non-entrepreneurial economic activities. In this case, compensation of expenses incurred by it for such activities at the expense of realization of goods produced by it on commodity markets is not a sign of entrepreneurial activity, since such realization does not mainly bring income.

Accordingly, the main and obligatory element of the legal structure of a non-profit organization is non-profit non-entrepreneurial economic activity. In other words, for any non-profit organization (except for a public-law (including state) corporation), secondary entrepreneurship is not the main idea and purpose of creation and functioning.

3 The use by a non-commercial organization of the legal regime of secondary entrepreneurship (i.e. implementation of profitable non-entrepreneurial economic activity) is admissible only as an optional legal regime of non-entrepreneurial economic activity.

Moreover, in some cases even secondary entrepreneurial activity (i.e. founding or participation of a non-commercial organization in a commercial organization) may be limited or inadmissible (for example, as in the case of political parties and unions (Article 23 of the Law of the Republic of Belarus of October 5, 1994 No. 3266-XII "On Political Parties")).

Accordingly, only a part of non-entrepreneurial economic activity of any non-commercial organization can be carried out under the legal regime of secondary entrepreneurship (provided that secondary entrepreneurship is permissible for a certain organizational-legal form of a non-commercial organization).

4. Functioning of non-profit organizations in the legal regime of secondary entrepreneurship allows their separate categories to use the methodology of profitable non-entrepreneurial economic activity as the main one. This is permissible for such kind of non-commercial organizations as institutions and their analogues, and is conditioned by the fact that institutions are created in order to carry out production of material and non-material benefits necessary for this function within the framework of performance of a certain function (this feature is enshrined in Article 120 of the Civil Code: "an institution is an organization established by the owner to perform managerial, socio-cultural or other functions of a non-commercial nature and financed by it in full or in part"), including the use of benefits, including the use of the funds of the organization. At the same time, institutions may be established as fully financed at the expense of the founder, or fully or partially self-financed.

In addition, the specifics of the legal nature of institutions is the content of the function assigned to them (moreover, this function always has a public-law nature, regardless of the form of ownership of the institution): these are either functions related to ensuring the functioning of the public administration system (as a property of public institutions), or functions related to the production of human capital or benefits for the environment (which is characteristic of both public and private institutions). And the fulfillment of such functions often requires the mandatory use of the methodological basis of secondary entrepreneurship (a vivid example of such a need is the sphere of educational services) and the creation of competitive conditions in the commodity markets where such institutions operate. That is why the vast majority of institutions in all states of the world have the legal position of an economic entity (i.e. a subject of economic activity that is a participant of competitive legal relations).

In addition, according to the established legal tradition, the wide application of the methodological basis of secondary entrepreneurship is peculiar to self-regulating organizations (such as associations and unions of employers and employees, chambers of commerce and industry, religious organizations, etc.), which is due to the specificity of public-private partnership, one of the types of which is social partnership. Accordingly, in cases when the implementation by a non-profit organization of a certain public function is possible only when it functions under the legal regime of secondary entrepreneurship, the use of the methodology of profitable non-entrepreneurial economic activity as the main purpose of the activities of a non-profit organization is not only permissible, but also necessary.

Thus, we can conclude: by its legal nature a non-profit organization is an organization with or without the status of a legal entity (which follows from the interpretation of Article 46 of the Civil Code), the main purpose of functioning of which is the implementation of non-profitable non-entrepreneurial economic activity, for which, in cases established by law (and sometimes by the norms of supranational or international law), it is allowed to use the legal regime of secondary entrepreneurship as an optional or as an optional activity.

5. An exception to the rules among the whole array of non-commercial organizations are consumer cooperation organizations, which by their nature are non-governmental public-law corporations, one of which in the Republic of Belarus simultaneously performs the functions of a state corporation ("Belcoopsoyuz"), as it is among the organizations subordinate to the Government of the Republic of Belarus. A specific feature of consumer cooperative organizations is the imperative combination of primary and secondary business methodologies (this follows from the main objectives of consumer cooperation, approved in Article 3 of the Law of the Republic of Belarus of February 25, 2002 № 93-3 "On Consumer Cooperation"), which is the result of the legal status of consumer cooperative organizations as a subject of prudential monopoly.

Accordingly, for non-profit organizations - consumer cooperation organizations, the legislation defines simultaneously three main legal regimes of public economic activity:

- legal regime of non-profit non-entrepreneurial economic activity (since consumer cooperation organizations are exactly non-profit organizations);
- the legal regime of secondary entrepreneurship (which is the main one for the majority of consumer cooperation organizations);
- the legal regime of entrepreneurial economic activity carried out as an organization, which by its nature is a public-law non-governmental or even state corporation (is an exclusive property of Belcoopsoyuz).

The organizational nature of all organizational-legal forms of non-commercial organizations presupposes the use of non-entrepreneurial economic activity as the main exclusively methodology. And one of its elements can be the economic methodology of expanded (commodity) production. However, the methodology of expanded (commodity) production cannot be used by a non-profit organization for systematic profit making, but is acceptable for the possibility of partial or full self-financing of the activities of a non-profit organization.

From the point of view of the ability to perform the function of secondary entrepreneurship, the totality of non-profit organizations can be subdivided into the following main groups:

1. public organizations, subdivided into two main groups:
 - Public organizations for which the implementation of secondary entrepreneurship is limited or prohibited (public associations, political parties, etc.);
 - Public organizations having the nature of self-regulating organizations, for which secondary entrepreneurship is permissible, and in some cases - even recommended by the legislator (for example, due to the content of the main tasks facing the Belarusian Chamber of Commerce and Industry (Article 3 of the Law of the Republic of Belarus of June 16, 2003 No. 208-3 "On the Chamber of Commerce and Industry")).
2. public cooperatives, subdivided into two groups:
 - Organizations for which the implementation of secondary entrepreneurship is mandatory or permissible (e.g. consumer cooperative organizations):
 - Consumer cooperatives and non-profit organizations of similar legal nature, for which secondary entrepreneurship is permissible but cannot act as the main legal regime of non-entrepreneurial economic activity.
3. Foundations for which participation in entrepreneurial activity (secondary entrepreneurial activity) is admissible by virtue of part 2 of Article 118 of the Civil Code.
4. Institutions.

4. Secondary entrepreneurship as an element of the activity of self-employed persons and households

A specific feature of the legal structure of a household is that it, being an institutional unit (i.e. a producer of material and non-material benefits), has a complex organizational and legal structure due to the fact that:

1. The household itself is simultaneously recognized as:
 - 1.1. a subject of economic activity, and capable of acting in two qualities:

1) to be fully legal entity in the hypostasis of a household with the status of a legal entity - a peasant (farm) household;

2) to possess only separate elements of legal capacity, being a household without the status of a legal entity.

1.2 To be an object of rights, i.e. to act as a property complex of its constituent individuals (property complex of a family, etc.).

2. The legal construction of the household as a subject of economic activity also includes a number of subjects of different forms of activity, each of which (forms of activity) ensures the production of material and non-material benefits for the needs of the household as a subject of economic activity and for the expansion of the household as a property complex. Thus, it includes:

- subjects of household economic activity - all members of the household without exception;

- subjects of labor activity - individuals in labor relations with the employer;

- self-employed persons engaged in economic and labor activity that does not contain an element of entrepreneurial initiative, i.e. hired by another employer on the basis of civil law contracts, the subject of which is the performance of work (provision of services, creation of intellectual property objects); employed in the framework of personal subsidiary farming;

- Self-employed persons engaged in economic and labor activities containing an element of entrepreneurial initiative;

- Self-employed persons engaged in creative activity containing an element of entrepreneurial initiative (such as creative activity of a member of a temporary scientific team (TST), which is at the same time economic and labor activity) and creative activity not containing an element of entrepreneurial initiative (such as creative activity of a rationalizer and inventor);

- self-employed persons engaged in public economic activity (self-employed persons - subjects of public monopoly);

- natural persons - subjects of creative activity who are investors not engaged in entrepreneurial activity (for example, members of a household who own shares in a JSC);

- natural persons - subjects of commercial activity (as a type of entrepreneurial activity);

- natural persons - subjects of secondary entrepreneurial activity (founders or participants of commercial organizations and non-commercial organizations that are state corporations by nature);

- individuals who are participants in non-profit organizations that distribute income;

- individuals who are not employed in the economy, but are subjects of household economic activities carried out within the household.

3. Having the above described characteristics of legal and organizational structure, the household, nevertheless, can be considered exclusively as a subject of economic activity, which is characterized by the following external manifestations of activity:

- household economic activity carried out by all its members;
- economic and labor activity carried out within the framework of a personal subsidiary farm;
- entrepreneurial economic activity carried out by it as a household with the status of a legal entity (i.e. as a peasant (farm) household);
- non-entrepreneurial economic activity carried out by the household as a household with the status of a legal entity (i.e. as a peasant (farm) household).

4. The result of the implementation by a household of economic, labor, economic and creative activities of private and public nature can be any of the possible effects - economic, social and political effect in the most diverse variants of their combination.

5. The nature of the result obtained from the functioning of the household allows us to identify it for the needs of economic and legal and economic sciences as a "household consortium of individuals", forming an aggregate economic effect based on the results of the implementation of all forms of activity by household members.

5. Secondary entrepreneurship as an element of investment realization

Secondary entrepreneurship as an element of investment realization is a phenomenon little studied in scientific and educational literature, but widely spread in the system of social relations.

As noted earlier, the implementation of investment is possible in two forms: organized and unorganized form. Within the framework of the unorganized form of investment implementation there is a group of social relations, formed in relation to participation of a natural person in investment legal relations of non-entrepreneurial nature, which do not contain signs of self-employment of a natural person, but allow the subject of such social relations to receive legal income from the possession of objects of civil rights and performance of various operations of investment nature.

Such social relations should be identified as an individual investment process of a natural person.

This manifestation of secondary entrepreneurship is related to entrepreneurial activity by two elements of legal construction:

- performance of legally significant actions in the process of using the unorganized form of making investments at one's own risk;
- performance of legally significant actions in the process of using the unorganized form of investment under its property responsibility, the nature and content of which is conditioned by the specifics of the investment object.

It is possible to distinguish the following types of individual investment process of a physical person:

1. Self-investments in human capital.

2. Founding and participation:

- in commercial organizations that do not form the composition of entrepreneurial activity (founding (participation) in a joint-stock company (Article 2 of the Law of the Republic of June 15, 2006, No. 125-Z "On Employment of the Population of the Republic of Belarus"));

- participation (membership) in non-commercial organizations that distribute income.

4. Production of civil rights objects that do not constitute entrepreneurial activity in accordance with special legislation (e.g. token mining in accordance with Decree No. 8)).

5. Transfer of money and financial instruments to financial and credit-financial organizations for trust management (e.g., trust management of money in accordance with Chapter 23 of the BC), as well as transfer of other objects of rights to specialized organizations that carry out trust management of property.

1.1.7. Self-employment as a type of secondary entrepreneurship

1. Concept, legal nature, legal and organizational structure of employment and self-employment.
2. Self-employed person as a subject of economic activity and a subject of secondary entrepreneurship. Classification of self-employed persons.
3. Household as an element of the legal and organizational construction of self-employment.
4. Self-employment not containing the element of entrepreneurial initiative.

1. Concept, legal nature, legal and organizational structure of employment and self-employment.

The legal definition of employment is enshrined in the Law of the Republic of Belarus of 15.06.2006 No. 125-3 "On Employment of the Population of the Republic of Belarus" (hereinafter - the Employment Law), according to Article 1 of which employment is an activity of citizens of the Republic of Belarus, foreign citizens and stateless persons permanently residing in the Republic of Belarus, foreign citizens and stateless persons who have been granted refugee status or asylum in the Republic of Belarus, related to the satisfaction of personal and social needs, which does not contradict the legislation and which is not contradictory to the law and which is not contrary to the legislation of the Republic of Belarus.

If we use the method of literal interpretation, the current legal understanding of employment can be characterized as follows:

1. it is an activity (although an activity whose legal nature is not defined in legal doctrine; note that employment is a system of economic relations managed by the state and aimed at creating conditions for the fulfillment of a person's labor function within the framework of labor legal relations or for self-employment of citizens);

2. it is an activity, the basis of identification of which is based on two criteria:

- The purposefulness of such activity - satisfaction of personal and public needs (at the same time, satisfaction of personal needs of citizens is also an element of the process of satisfaction of public needs, which is conditioned by the principle of ensuring the balance of public and private interest and the principle of prohibition of arbitrary coercion to work and restriction of forced labor in the implementation of public interest);

- the result of such activity is the receipt of legal income by a citizen.

There is no unity of views on the understanding of employment in the humanities. Thus, legal science predominantly considers employment as a form of embodiment of socially useful labor, interpreting the category of "work" only as a methodology for the implementation of human labor function (therefore, limiting the limits of employment to the sphere of labor legal relations), and economic science and political science consider employment as a socio-economic function that allows to ensure the production of material and non-material benefits, but not as a mechanism and methodology for the implementation of social relations. This circumstance allows us to state a widely known conclusion: the state and the scientific community have an urgent need to bring the institutionalization of quite a significant number of legal and economic institutions to the meaning and content, one of which is the institute of employment.

A number of authors (T.K. Britova, M.I. Kurochkina, G.A. Vasilevich, etc.) agree that the legal regulation of employment should be based on the idea of taking into account the economic, social and legal features of this institutional phenomenon. This indicates the need for a wide use of the principle of interdisciplinarity not only in the framework of scientific research, but also in the formation of legislation on employment. According to N.L. Bondarenko: "When using not quite a standard approach to the assessment of the essential characteristics of legal relations, based not on the traditional for legal science methods of their identification, but assuming the identification of the actual state of social relations using the tools inherent in philosophy and a set of related legal sciences (economic science, sociology, political science, etc.), it is possible to form a holistic and coinciding with the real state of affairs. Moreover, such qualification will actually coincide with the construction of legal regulation of the studied social relations, formed by the legislator".

The need to transform the conceptual apparatus of employment is confirmed by normative legal acts. Thus, paragraph 4 of the Model Provision on the permanent commission for coordination of work to promote employment, approved by the Decision of the Council of Ministers of the Republic of Belarus of 31.03.2018 № 240 as one of the main tasks of the commission is to provide advisory, methodological and legal assistance on employment and (or) self-employment. The above norm actually indicates two forms of employment - the form based on employment relations and self-

employment. This fact allows us to state: self-employment is a full-fledged form of employment, indicating the development of flexible forms of employment and the need to form the conceptual apparatus of employment as an economic and legal category.

As already noted, when studying employment, scientists and practitioners limit themselves to the definition of the exclusively economic nature of employment, or give it the form of exclusively labor legal relations.

Modern employment policy is aimed at reducing the fiscal burden of the state through substitution denationalization, i.e. substitution of the state in certain spheres and branches of economic activity and management of financial resources. This position agrees with the socio-economic policy of the state, the National Security Concept of the Republic approved by the Decree of the President of the Republic of Belarus of 09.11.2010 № 575, which is based on the production of human capital.

For legal science it means that the study of employment only in the context and within the subject of labor law is a one-sided approach that does not take into account its most important economic function - the creation of tangible and intangible benefits, and ignores the objectively existing fact: employment is not a relationship between a conditional employee and employer, but a methodology of organizing the production of such benefits to ensure the balance of public and private interest.

Consequently, employment legal relations are derivative to economic legal relations, because without the economic legal element the employee will not have an employer.

The legislator does not deny this fact. Article 2 of the Law on Employment contains a list of persons identified as employed, where, in addition to those employed under a labor contract, there are, for example, persons engaged in agro-ecotourism services, handicraft activities, etc., i.e. individuals who are participants not only in labor, but also in economic legal relations. Also, Article 2 of the Law on Employment identifies as employed persons registered as individual entrepreneurs (hereinafter - IE), which, in our opinion, contradicts the definition of entrepreneurial activity contained in Article 1 of the Civil Code of the Republic of Belarus (hereinafter - CC).

For IE cannot be identified as a subject of employment, as it is a subject of entrepreneurial activity - a type of economic activity that involves purposeful profit making within the framework of competitive legal relations, the process of which involves the management of economic processes that exclude the possibility of personal income (profit in the context of the legal status of IE has only the nature of entrepreneurial income), involving not only the purposeful production of IE mat

It is with this circumstance in mind that N.L. Bondarenko proposed to divide individuals involved in economic relations into the following categories:

1) physical persons who are economic entities carrying out entrepreneurial activity as sole proprietorships;

2) individuals who are economic entities not registered as sole proprietors, but who carry out professional income-generating activities, which are subject to licensing in accordance with the legislation (e.g., advocacy and notarial activities);

3) individuals performing financial operations on the currency market (e.g., initiation of operations with non-deliverable OTC financial instruments by individuals

in accordance with the Decree of the President of the Republic of Belarus No. 231 dated 04.06.2015 "On carrying out activities on the OTC Forex market") or performing operations with crypto-assets in accordance with the norms of the Decree of the President of the Republic of Belarus No. 8 dated 21.12.2017 "On the development of the digital economy";

4) other individuals engaged in non-entrepreneurial economic activities that are subject to taxation (e.g., craftsmen).

In turn, the necessity to distinguish the entrepreneurial regime from the self-employment regime is evidenced by court practice.

The Supreme Court of the Republic of Belarus considered a number of complaints of the inspectorates of the Ministry of Taxes and Levies of the Republic of Belarus against the rulings of economic courts on cases of administrative offenses regarding the implementation of entrepreneurial activities without state registration of IE in violation of paragraph 10 of the Regulations on liquidation (termination of activity) of economic entities, approved by the Decree of the President of the Republic of Belarus of 16.01.2009 № 1 "On state registration and liquidation (termination of activity) of economic entities". In the process of termination of IE's activity, transactions not related to the termination of activity were admitted (in all cases hairdressing services were rendered).

Introduction in the Civil Code of the list of activities not related to entrepreneurial activity indicates the orientation of legislative regulation to provide the state with greater opportunities for citizens to exercise their rights, including the constitutional right to the free use of abilities and property for any economic activity not prohibited by law. Hairdressing services do not fall within the scope of entrepreneurial activity. The Supreme Court concluded that the cases were given a correct legal assessment of the absence of administrative offenses.

The analysis of the classification developed by N.L. Bondarenko and judicial practice allows us to come to the conclusion: the methodological basis and formed doctrinal basis within the science of labor law does not take into account the presence in the employment system of subjects of economic activity (namely, self-employed persons), creates prerequisites for the identification of the place of self-employed persons and IE in the system of social relations in the context of the categorical apparatus and principled basis inherent in labor law.

Accordingly, it can be stated that:

1. Employment is not an institute that constitutes exclusively the subject of labor law, which is characterized by only a part of the institute of employment - a complex legal institute of employment on the basis of a labor contract. Thus, employment is a complex institute.

2 Identification of employment as an economic and legal institute allows us to simultaneously:

- to determine the legal, economic and political nature of self-employment, its place in the system of social relations that have no interrelation with labor law;

- exclude from the legal doctrine, legislation and law enforcement practice the identification of the legal status of an individual entrepreneur as a self-employed

person, since the subject of entrepreneurial activity does not have the characteristics of an employed person and allows him to participate in the financing of public expenditures exclusively within the limits of the legal status of an individual entrepreneur.

According to Article 41 of the Constitution of the Republic of Belarus, citizens of the Republic of Belarus are guaranteed the right to work as the most dignified way of self-assertion of a person, i.e. the right to choose a profession, occupation and work in accordance with vocation, abilities, education, professional training and taking into account social needs, as well as to healthy and safe working conditions. G.A. Vasilevich comments on this article as follows: "A person can realize his abilities to work not only in the order of employment (for example, by concluding an employment contract), but also as an entrepreneur, farmer, etc.". The author further notes that the legal, economic, social and organizational basis for the regulation of employment of the population of the Republic of Belarus is regulated by the Law on Employment. It is impossible to disagree with this commentary, because it is actually noted that employment goes beyond the subject of labor law. Thus, the institute of employment is not a private-law institute, but a public-law institute of law, containing in its construction a private-law element, expressed in the satisfaction of personal needs of an individual within the framework of labor legal relations with the employer or within the framework of self-employment. Otherwise, employment is a public-law institute, which is the subject of economic law.

Employment as an economic-legal category should be considered as a methodology and mechanism of realization of the production function of an individual, realized through hired labor or labor in its own private interest within the framework of self-employment. E.R. Sarukhanov considers employment relations as the basic form of employment, although, characterizing the legal nature of employment, speaks about the practical implementation of people's activities to produce and improve material goods.

To identify the legal nature of employment it is necessary to identify the legal nature of activity, which is an external form of expression of persons employed on the basis of a labor contract, or self-employed. M. A. Drachuk believes that labor is a type of such a phenomenon as activity. Note that the following forms of activity are distinguished: economic, labor, economic-labor and creative. Consequently, it is more correct to operate with the term "labor activity". And not as a type of activity, but as its form. Not all authors use this concept when studying labor, but they imply it. For example, B.M. Genkin considers labor as a process of producing goods and resources necessary for consumption in the household, or for economic exchange, or for both. This understanding of labor is a set of operations of various nature, i.e. it is actually an activity.

However, in our opinion, it is incorrect to identify employment with activity, since employment is not a set of operations of various nature, but a set of social relations that develop in relation to the implementation of activities aimed at satisfying public and private interest, through the production of tangible and intangible benefits (and in the absence of signs of entrepreneurial activity or non-entrepreneurial economic activity

that does not contain signs of self-employment). Such activity can be carried out not only in the form of labor, but also economic, economic-labor and creative activity. Let us consider these forms.

Economic activity is a set of economic operations carried out for the purpose of production of tangible and intangible goods for personal, family or other household consumption, for the satisfaction of public interest, as well as for the purposes of expanded production and sale of goods on commodity markets. The implementation of economic activity is aimed at the realization of public interest (for example, in the form of employment, realization of production potential of the state) and, accordingly, private interest. The implementation of economic activity is always associated with the production of tangible and intangible goods, regardless of the target orientation of such production. Back in the reference commercial dictionary of 1926 interpreted economic activity as a set of all labor actions directed by people to external nature in order to use it to meet their needs. However, the above notion (in the context of its personalization for individuals) rather characterizes economic and labor, labor activity than economic activity, but its presence indicates that the considered forms of activity are not new, their separation is conditioned only by the need to establish a legal regulation differentiating them. At the same time, the absence of a properly fixed delimitation of the mentioned forms of activity leads to the identification among some authors of economic and entrepreneurial activity, which are correlated as general and private.

Economic and labor activity is a symbiosis of economic and labor activity. The isolation as a separate form of economic-labor activity is also a reason to assert that employment is an economic-legal category. Such activity involves the performance of labor functions, but within the framework of civil-law relations, the activities of households. Thus, the implementation of economic-labor activity is one of the external forms of expression of employment of an individual in the economy.

Creative activity is an activity carried out exclusively by individuals at the household or professional level, aimed at managing processes, public communication, creating works of science, literature and art, other objects of intellectual property, introducing innovations into civil turnover, implementing educational and upbringing functions. An example of creative activity can be the creative activity of cultural figures, mining of cryptoassets by individuals, carried out in a preferential legal regime established by the Decree of the President of the Republic of Belarus of December 21, 2017 № 8 "On the development of the digital economy". At the same time, social relations formed in relation to the realization of creative activity are the subject of economic law.

Accordingly, this is also an argument in favor of the fact that employment is an economic-legal institute. After all, as I.V. Zenkova rightly notes, that the results of labor of the employed population are subordinated to the economic goals of the state.

Thus, based on the conducted research, it seems possible to draw the following conclusions:

1. To study the institute of employment and the formation of its doctrinal basis, an interdisciplinary approach should be used, which is caused by the need to combine economic and legal knowledge.

2. Employment is an economic and legal institute, and it is a public-law institute containing a private-law element.

3. Employment is a set of social relations that develop in relation to the functioning of the system of economic relations managed by the state, aimed at creating conditions for the fulfillment of the labor function of a person within the framework of labor legal relations or for self-employment of citizens, allowing citizens to carry out labor activities on the basis of a labor contract, economic and labor and creative activities within the framework of self-employment, carried out to meet personal needs (including within the framework of).

2. Self-employed person as a subject of economic activity and a subject of secondary entrepreneurship. Classification of self-employed persons.

A person is personally capable of being a subject of economic activity only in the case of acquiring the legal status of an individual entrepreneur or self-employed person (in the case of acquiring the legal status of a self-employed person, economic activity is transformed into economic and labor activity, which can provide a substitute for employment under a labor contract and can optionally contain signs of creative activity (for example, self-employment in the form of membership in a temporary scientific collective)).

The first of the known and widespread in modern conditions type of employment is self-employment, which is at the same time:

- the only sphere in which economic and labor activity is carried out, transforming in case of appearance in its legal construction of a public-law element (namely, public monopoly) into public economic activity of an individual;

- the methodology of creating conditions for employment of the population in an independent mode that does not imply additional costs for employment of a citizen by the state, ensuring the participation of individuals in the financing of state expenditures and self-supply of an individual with necessary material and non-material benefits at the expense of means created in the process of economic and labor activity and public economic activity by a self-employed person.

Currently, the legislation of the Republic of Belarus does not contain a definition and classification of self-employment, although self-employment is properly institutionalized in the national system of law and in the science of economic law. The legal construction of the institute of self-employment is actually embodied in the category of "types of activities not related to entrepreneurial activity", established by para. 1 Art. 1 of the Civil Code, although it is not limited by it (for example, all the signs of a self-employed person has an innovator, the legal status of which is determined by the Decree of the Council of Ministers of the Republic of Belarus of February 17, 2010 № 209 "On Approval of the Regulations on innovations in the Republic of Belarus").

Individuals who are founders (participants, members) of legal entities and persons registered as sole proprietors (although they are referred to the category of employed persons by Article 2 of the Law of the Republic of Belarus of June 15, 2006 № 125-3

"On Employment of the Population of the Republic of Belarus") should not be referred to the category of self-employed.

From the point of view of economic and legal science, self-employment should be understood as a set of social relations that develop in relation to the implementation of economic and labor and certain types and forms of creative activity, allowing citizens to ensure the satisfaction of personal, family and other household needs (including within the process of satisfaction of public interest) and ensuring the balance of public and private interest.

The institute of self-employment consists of two arrays of social relations:

1. Self-employment, which does not contain an element of entrepreneurial initiative (in this mode, self-employment is realized by citizens engaged in personal subsidiary farming, citizens performing work for a legal entity and individual entrepreneurs under civil law contracts, the subject of which is the performance of work (provision of services, creation of intellectual property objects), etc.).

2. Self-employment containing an element of entrepreneurial initiative (hereinafter - self-employment with an element of entrepreneurial initiative), which is an element of the legal structure of secondary entrepreneurship.

As a general rule, self-employment does not imply personalization of the legal regime of its implementation. At the same time, self-employment is one of the few legal institutions, within the framework of which it is possible to establish an individual legal regime for the implementation of public economic activity, peculiar to one single individual in the presence of the conditions stipulated by p. 3 of Art. 10 of the Law on State Monopoly. 3 of Article 10 of the Law on State Monopoly. This peculiarity of self-employment is conditioned by the legal nature of the institute of state monopoly, the delegation of which often implies individualization of the legal position of the subject of state monopoly and the legal regime of its implementation of legally and economically significant actions.

The peculiarities of the institute of self-employment are that:

- it is one of the types of employment based on the principle of independent initiative economic behavior of an individual;

- it is a sphere of realization of economic and labor activity and certain types and forms of creative activity;

- self-employment can be an element of the legal structure of secondary entrepreneurship in case of presence in self-employment of an element of entrepreneurial initiative;

- self-employment does not contain signs of primary entrepreneurship (and is not expressed in the form of entrepreneurial activity), so the category of self-employed persons cannot include IEs and founders (participants, members) of legal entities.

Self-employed persons are characterized by mainly relevant basic and fiscal legal barriers. The exceptions are legal barriers for self-employed persons - subjects of public monopoly (for whom the array of legal barriers is very massive) self-employed persons, in respect of whom a repressive legal regime of economic and labor activity is established (for example, owners of agro-eco-estates).

Self-employed persons:

- Carrying out economic and labor activity containing an element of entrepreneurial initiative;
- performing creative activity containing an element of entrepreneurial initiative;
- performing public economic activities (self-employed persons - subjects of public monopoly).

In this case, self-employed persons should be considered as subjects of economic and labor, creative and public economic activity. At the same time, they are also an element of the legal construction of one of the types of subjects of economic activity - a household without the status of a legal entity with an element of self-employment, on behalf and in favor of which the self-employed person acts in civil turnover.

3. Household as an element of the legal and organizational construction of self-employment

A specific feature of the legal structure of the household is that it, being an institutional unit (i.e. a producer of tangible and intangible benefits), has a complex organizational and legal structure due to the fact that:

1. The household itself is simultaneously recognized as:
 - 1.1. a subject of economic activity, and capable of acting in two qualities:
 - 1) to be a fully legal entity in the hypostasis of a household with the status of a legal entity - a peasant (farm) household;
 - 2) to possess only separate elements of legal capacity, being a household without the status of a legal entity.
 - 1.2 To be an object of rights, i.e. to act as a property complex of its constituent individuals (property complex of a family, etc.).
2. The legal construction of the household as a subject of economic activity also includes a number of subjects of different forms of activity, each of which (forms of activity) ensures the production of material and non-material benefits for the needs of the household as a subject of economic activity and for the expansion of the household as a property complex. Thus, it includes:
 - subjects of household economic activity - all members of the household without exception;
 - subjects of labor activity - individuals in labor relations with the employer;
 - self-employed persons engaged in economic and labor activity that does not contain an element of entrepreneurial initiative, i.e. hired by another employer on the basis of civil law contracts, the subject of which is the performance of work (provision of services, creation of intellectual property objects); employed in the framework of personal subsidiary farming;
 - Self-employed persons engaged in economic and labor activities containing an element of entrepreneurial initiative;
 - Self-employed persons engaged in creative activity containing an element of entrepreneurial initiative (such as creative activity of a member of a temporary scientific team (TST), which is at the same time economic and labor activity) and

creative activity not containing an element of entrepreneurial initiative (such as creative activity of a rationalizer and inventor);

- self-employed persons engaged in public economic activity (self-employed persons - subjects of public monopoly);

- natural persons - subjects of creative activity who are investors not engaged in entrepreneurial activity (for example, members of a household who own shares in a JSC);

- natural persons - subjects of commercial activity (as a type of entrepreneurial activity);

- natural persons - subjects of secondary entrepreneurial activity (founders or participants of commercial organizations and non-commercial organizations that are state corporations by nature);

- individuals who are participants in non-profit organizations that distribute income;

- individuals who are not employed in the economy, but are subjects of household economic activities carried out within the household.

3. Having the above described characteristics of the legal and organizational structure, the household, however, can be considered exclusively as a subject of economic activity, which is characterized by the following external manifestations of activity:

- household economic activities carried out by all its members;

- economic and labor activity carried out within the framework of a personal subsidiary farm;

- entrepreneurial economic activity carried out by it as a household with the status of a legal entity (i.e. as a peasant (farm) household);

- non-entrepreneurial economic activity carried out by a household as a household with the status of a legal entity (i.e. as a peasant (farm) household).

4. The result of economic-labor, economic and creative activities of private and public nature carried out by a household can be any of the possible effects - economic, social and political effect in the most diverse variants of their combination.

5. The nature of the result obtained from the functioning of the household allows us to identify it for the needs of economic and legal and economic sciences as a "household consortium of individuals", forming an aggregate economic effect based on the results of the implementation of all forms of activity by household members.

In the context of secondary entrepreneurship, the described features of the legal and organizational design allow us to formulate the following conclusions:

1. The household itself does not have the ability to carry out the production of tangible and intangible goods using the methodology of secondary entrepreneurship. Accordingly, the household cannot be recognized as a "direct subject" of secondary entrepreneurship.

(2) Being a household consortium of individuals, the household is used by its members as a resource base to realize the function of self-employment and to perform the function of an investor who does not carry out entrepreneurial activity.

Accordingly, the household acts as an "indirect subject" of secondary entrepreneurship, which gives grounds to recognize it as an associated subject of secondary entrepreneurship, and along with the ability of the household to act as an object of civil rights - property complex - endows it with a unique legal nature that is not peculiar to any other subject of legal relations.

3. As "direct subjects" of secondary entrepreneurship are the members of the household performing three functions: 1) a self-employed person; 2) an investor who does not carry out entrepreneurial activity 3) a participant in a non-profit organization that distributes income.

Accordingly, the above three categories of individuals who are members of the household, acting as subjects of secondary entrepreneurship, thereby ensure the participation of the household in social relations formed in relation to the initiation and realization of secondary entrepreneurial initiative.

Thus, self-employment of an individual is an obligatory element of the legal structure of the household, and the household acts within the framework of secondary entrepreneurship simultaneously as a specific subject of relations in the sphere of employment of the population.

4. Self-employment not containing the element of entrepreneurial initiative.

A person is personally able to be a business entity only if they acquire the legal status of an individual entrepreneur or self-employed person (in the case of acquiring the legal status of a self-employed person, economic activity is transformed into economic and labor activity capable of providing a substitute for employment under an employment contract, capable of optionally containing signs of creative activity (for example, self-employment in the form of membership in a temporary scientific team)).

Creative activity is an activity carried out exclusively by individuals at the domestic or professional level, aimed at managing processes (managerial activities), public communication (political and socio-political activities).

The features of the institute of self-employment are that: - it is one of the types of employment based on the principle of independent proactive economic behavior of an individual; – this is the sphere of economic and labor activity and certain types and forms of creative activity. A person may or may not have the ability to show entrepreneurial initiative, because otherwise everyone would be exceptionally enterprising people.

The nature and scope of entrepreneurial initiative, if any, is also determined by a number of natural, social, and psychological factors.

These circumstances have created the need for the emergence of institutions in social reality that are not conditioned by the social, psychological, and organizational-legal structure of entrepreneurship.:

- labor activity and labor relations based on the idea and principles of hiring labor;
- creative activity that is not conditioned by entrepreneurial initiative and does not constitute the legal structure of self-employment;

- self-employment, which does not contain an element of entrepreneurial initiative;
- social security and social services as social phenomena and methodologies for the support, rehabilitation and protection of persons who are unable to temporarily or permanently implement an entrepreneurial initiative or be otherwise employed in society and the economy.

1.1.8. Social entrepreneurship Concept, features, forms and content of social entrepreneurship

- 1.Peculiarities of legal barriers to the realization of social entrepreneurship.
- 2.Place of entrepreneurial activity in the mechanism of social entrepreneurship.
- 3.Subjects of social entrepreneurship.
- 4.Public-private partnership and concessions as an element of the legal structure of social entrepreneurship.
- 5.Result and efficiency of social entrepreneurship.

1. Peculiarities of legal barriers to the realization of social entrepreneurship

The social sphere is both an objective reality (conditional environment) within which human society exists and a source of a significant amount of intangible and even material benefits, as well as an object of state-legal and political influence.

As a rule, the national legislation of various states does not contain a definition of the social sphere (in particular, the legislation of the Republic of Belarus). At the same time, a relatively unified understanding of this institution can be found in the norms of international law.

The Resolution of the Interparliamentary Committee of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan No. 12-15 "On the Model Law "On the Fundamentals of Social Policy" (adopted in St. Petersburg on April 19, 2001) defines the social sphere as "a system of relations regulated by the state in the process of realization of social rights of citizens", and social rights of citizens are understood as "basic material goods and services guaranteed by the state, necessary for preservation of health and provision of social security".

An idea of the legal and organizational structure of the social sphere can be formed on the basis of the content of such legal acts of different nature as

1. The International Covenant on Economic, Social and Cultural Rights of 1966;
2. the Basic Directions of Domestic and Foreign Policy of the Republic of Belarus approved by the Law of the Republic of Belarus No. 60-Z of November 14, 2005;
3. Resolution of the Interparliamentary Assembly of the Eurasian Economic Community of May 28, 2004 No. 5-16 "On the Concept of the Eurasian Social Charter";

4. Resolution of the Interparliamentary Assembly of the CIS Member States of October 29, 1994 "On the Charter of Social Rights and Guarantees"; 4. "On the Charter of Social Rights and Guarantees of Citizens of Independent States",

5. etc.

These acts allow us to conclude that the social sphere is much broader. The most detailed construction of the social sphere is defined in the Concept of the Eurasian Social Charter, approved by the Resolution of the Interparliamentary Assembly of the Eurasian Economic Community of May 28, 2004 № 5-16 "On the Concept of the Eurasian Social Charter".

When determining the legal nature of the social sphere, its legal and organizational structure, the following aspects should be taken into account:

1. It should be understood that the social sphere is simultaneously a social, economic and political institution, which concentrates the institutional environment that ensures the achievement of the fundamental idea of the functioning of the state and human society as a whole - the idea of reproduction of human resources, preservation, development and multiplication of human capital as an integral object of state-legal, political and socio-economic impact.

Accordingly, in order to define the nature and limits of the social sphere, to determine the nature and content of the institution of social effect, it is necessary to designate that the fundamental "unit of measurement" and simultaneously identifying feature of the social sphere as an institution and institutional environment is the category of "human capital".

2. It is necessary to identify the nature of the institutional environment that constitutes the social sphere, for which purpose we should refer to the content of the Model Law "On the Fundamentals of Social Policy", which contains the term "socio-demographic groups of the population", which are understood as categories of citizens united by age and gender, social status and level of material security.

Accordingly, based on the criterion of dividing the population into socio-demographic groups, it is possible to form an idea of the nature and legal structure of human capital, and additionally - an idea of the approximate functional structure of the social sphere.

3 It is also necessary to understand that the content and state of the social sphere of the state is determined on the basis of a conventional formula: qualitative and quantitative characteristics of the institution of human capital, plus the social effect from the implementation of economic policy (i.e., the totality of tangible and intangible benefits that the economy as a whole and its constituent entities were able to produce). The external expression of this formula is the standard of living (under which the Model Law "On the Fundamentals of Social Policy" understands "the totality of material and spiritual goods and services that ensure the satisfaction of people's vital needs").

Accordingly, for human capital the standard of living is an external expression of the state, and for institutions of social and economic effect (as an indicator of the current state of social relations) - a conditional minimum standard (a kind of zero mark on the thermometer), which they should provide.

Thus, the social sphere should be understood as an element of the system of social relations, structured in accordance with the objectively formed due to historical, demographic, political and economic factors division of society into socio-demographic groups, in which the formation and reproduction of human resources is carried out, as well as the production of human capital, ensuring the existence of society, the realization of national interests of the state and the functioning of the national economy.

The social sphere is characterized by the following features:

- the social sphere is a complex legal and political institution, the fundamental task of which is the reproduction of human resource and the production of human capital, which is subsequently embodied in the economic category of "factors of production";

- the social sphere is an independent element of the system of social relations from the national economy, connected with the economy only by the fact that the social sphere serves both the economy as a whole and a number of specific branches of the national economy and economic complexes (health care, education system, culture and entertainment industry, etc.);

- three interrelated legal institutions act as the object of influence within the functioning of the social sphere: human capital, reproduction of human resource and production of human capital, and investments in human capital;

- the subject composition of legal relations within the functioning of the social sphere includes society (represented by institutions of civil society), the state (represented by specialized institutions responsible for the process of reproduction of human resources and production of human capital and investments in human capital, ensuring the existence of society, the realization and protection of national interests of the state, as well as the functioning of the national economy) and economic institutions.

- balancing public and private interests in the process of reproduction of human resources, production of human capital and investment in human capital.

Two categories are at the heart of the idea and goal-setting in the implementation of economic activities in the social sphere:

1. Reproduction of human resource - a function of the state and civil society that ensures a positive balance of birth rate and such a state of family and youth policy, which provides a stable number or growth of the country's population without the use of migration policy tools.

2. Production of human capital - purposeful formation and maintenance of qualitative and quantitative characteristics of the reproduced human resource, ensuring the realization of public and private interest, ensuring national security, including legal relations formed in relation to:

- formation and development of functional characteristics of human capital conditioned by the moral and psychological state of the individual (production of public morality and mental health of society as a whole);

- formation and development of functional characteristics of human capital conditioned by the physical state of an individual (production of public health);

- preservation, development and protection of the formed human capital;

- creating appropriate conditions for the proper functioning and development of human capital and ensuring the stability of such conditions;

- beneficial impact on the environment and its flora and fauna.

The system of types and substantial characteristics of economic activities in the social sphere is predetermined by its organizational structure, which consists of the following sectors

The system of types and meaningful characteristics of economic activities in the social sphere is predetermined by its organizational design consisting of the following sectors:

1. The sector of human resource reproduction, including the following complexes of social relations:

- demographic policy;
- family, maternity, paternity, childhood;
- youth policy.

2. The sector of production of mental health of society:

- education and enlightenment;
- professional training, retraining and advanced training;
- scientific activity;
- culture;

3. political communication and the state ideological mechanism, including the Olympic movement as an element of the state ideological mechanism;

- information policy.

3. Public health production sector:

- Health care;
- physical culture, sports, Olympic movement and tourism;

4. The sector of preservation, development and protection of formed human capital:

- Labor market, employment, remuneration and labor protection;
- regulation of incomes and consumption of mass demand goods;
- pension provision;
- provision of targeted social assistance;
- social insurance;
- social services, provision of housing, utilities and household services;
- ensuring the demand for the human resource potential of the society

5. Sector of creation of appropriate conditions for proper functioning and development of human capital and ensuring stability of such conditions:

- environmental safety;
- protection from natural and man-made accidents and disasters;
- protection of social rights of all categories of citizens.

Social entrepreneurship is impossible outside the social sphere and cannot exist without a methodological basis for economic activity in the social sphere.

The legal and organizational nature of social entrepreneurship can be characterized as follows:

1. Social entrepreneurship is a sphere of public legal relations that are formed in relation to the solution of acute social problems to achieve a social effect that ensures the functioning, development and expansion of the social sphere and the resulting continuous and efficient production of human capital and environmental protection. The external form of such legal relations is public economic activity of the subjects of social entrepreneurship.

2. Social entrepreneurship is a sphere of state monopoly on functions, assuming the existence of state monopoly on types of activities and objects of ownership.

3. Social entrepreneurship is simultaneously:

- sphere and methodology of initiation and independent realization by the state of primary and secondary entrepreneurial initiative within the framework of the legal construction of institutions of social service and environmental protection;

- methodology of redistribution between the state, other subjects of public interest and subjects of private interest of the burden of social services and environmental protection (a kind of specific methodology of denationalization), assuming the presence of partnership relations between subjects of public and private interest; accordingly, social entrepreneurship is one of the types (and, consequently, generic legal regimes of public-private partnership).

4. Social entrepreneurship is a specific type of fiscal legal relations - relations of lobbying nature, because the institution of public-private partnership is a methodology and mechanism of mutual lobbying of economic and social interests of subjects of public and private interest (combining the features of lobbying financing and lobbying investment process).

Social entrepreneurship is a type of entrepreneurship, one of the generic legal regimes that determine the social orientation of entrepreneurial initiative, as well as a set of social relations that develop in relation to the initiation and implementation by the state, individuals and organizations of primary and secondary entrepreneurial initiative (the external form of expression of which is public economic activity (both entrepreneurial and non-entrepreneurial economic activity)) with the purpose of solving the problem of socially important issues.

Social entrepreneurship is a public economic activity of public and private organizations, as well as individuals, carried out for the purpose of solving acute social problems, which makes it possible to receive profit or income of non-entrepreneurial nature, used (income/profit) to finance activities within the framework of social entrepreneurship, to compensate for expenses incurred independently for such activities, and for individuals - subjects of social entrepreneurship - additionally to receive personal income.

2. Place of entrepreneurial activity in the mechanism of social entrepreneurship

At present, the Republic of Belarus has not institutionalized social entrepreneurship and has not established a single generic legal regime for it. However,

the actual state of the system of social relations and the content of the norms of national law allow to state that the Republic of Belarus adheres to the third concept, i.e. maximization of the range of subjects of social entrepreneurship, which is confirmed by the following facts:

1. Social entrepreneurship is a property of subjects of entrepreneurial activity because in the Republic of Belarus labor rehabilitation of disabled persons is carried out at employers with ordinary working conditions, in organizations whose property is owned by public associations of disabled persons, as well as at specialized workplaces (Art. 24 of the Law of the Republic of Belarus of June 30, 2022, No. 183-Z "On the Rights of Disabled Persons and Their Social Integration").

2. Social entrepreneurship is a property of secondary business entities, including:

- non-profit organizations (for example, the Republic of Belarus provides for the creation of specialized organizations for the disabled - public associations of the disabled - voluntary associations of citizens, more than 50 percent of whose members are persons with disabilities (their legal representatives) and whose main statutory objectives are the implementation of measures to ensure equal opportunities for participation of persons with disabilities in all spheres of life in society, observance and protection of their rights and legitimate interests on an equal basis with other people (Art. 1 of the Law of the Republic of Belarus).

- Self-employed persons (for example, a household - subject of agroecotourism renders services on holding sports, physical culture, recreational and cultural events (paragraph 5 of the Decree of the President of the Republic of Belarus of October 4, 2022 № 351 "On the development of agroecotourism"), which can be an element of the legal structure of social services or social projects).

3. Social entrepreneurship is a property and right of a wide range of individuals (when such actions are permissible by virtue of the law). For example, in accordance with Article 7 of the Law of the Republic of Belarus of July 10, 2007 № 257-3 "On Wildlife", one of the principles of protection and use of wildlife objects and their habitat is the principle of assistance to wild animals in distress, which creates prerequisites for any natural persons to carry out permissible legally significant and actual actions necessary for such protection at their own expense or on the basis of a civil law contract with specialized organizations in the field of protection of wildlife objects and their habitat. In addition, in accordance with Article 7 of the Law on Social Services, social services may also be provided by individuals who are not individual entrepreneurs.

Thus, in the Republic of Belarus entrepreneurial activity is not the only form of realization of social entrepreneurship, as the national legislation allows a wide range of entities that do not belong to the category of subjects of entrepreneurial activity to perform this function.

However, entrepreneurial activity can be identified as primary social entrepreneurship only if:

1. The objects constituting the economic effect are used in entrepreneurial activity to obtain a social effect in the form of solving acute social problems not within

the cost of goods produced by it (i.e. the costs incurred are not compensated by the consumer of goods at the time of their purchase on the commodity market).

2. Part or the entire volume of goods produced by the subject of entrepreneurial activity at his own expense is directed to obtaining a social effect in the form of solving acute social problems.

3. A business entity partially or fully carries out economic activity in a legal and organizational regime that allows it to obtain a social effect in the form of solving acute social problems (for example, creates jobs for the disabled; provides social services within the framework of its economic activity in the form of an element of goods produced by the business entity).

3. Subjects of social entrepreneurship.

The model of social entrepreneurship that has actually developed in the Republic of Belarus, but is not enshrined in legislation, allows us to refer to its subjects:

1. Primary subjects - social entrepreneurs:

1.1. Public partner - the state, which is the owner of the exclusive right to perform the public-law function of social services and environmental protection (state monopoly in this sphere), realizing such exclusive right independently or within the framework of partnership relations with private partners.

1.2 Private partners performing the function of social entrepreneurship as an agent of the state within the framework of partnership relations between subjects of public and private interest, which include:

- private partners - subjects of public interest - non-profit organizations acting in the public interest;

- private partners - subjects of private interest (subjects of entrepreneurial activity, subjects of secondary entrepreneurship and individuals for whom it is permissible to perform the function of social entrepreneurship in accordance with the legislation of the Republic of Belarus).

2. Secondary subjects:

2.1 Secondary subjects of social entrepreneurship acting in the public interest are organizations acting in the interests of a public partner (state bodies and other state organizations that are subjects of state policy in the field of social services and environmental protection), which are consumers or disposers of material and non-material benefits produced by private partners - subjects of social entrepreneurship;

2.2 Secondary subjects of social entrepreneurship, acting in private interest:

- consumers of tangible and intangible benefits produced by private partners - subjects of social entrepreneurship;

- subjects of entrepreneurial activity and secondary entrepreneurship, as well as individuals who are not subjects of secondary entrepreneurship, performing auxiliary functions in the implementation of the function of social entrepreneurship by private partners - subjects of social entrepreneurship;

- other beneficiaries - participants of legal relations in the sphere of social entrepreneurship.

The specificity of the subject composition of social entrepreneurship allows to determine the correlation of the legal position of the primary subject of social entrepreneurship with the subjects of entrepreneurial activity and subjects of secondary entrepreneurship, guided by the following rules:

1. Subjects of entrepreneurial activity are appropriate organizational and legal forms of organizations with or without the status of a legal entity and legal entities endowed with the right to carry out commercial activity (as the main type of entrepreneurial activity) and to participate in entrepreneurial activity (as secondary entrepreneurial activity), while the primary subject of social entrepreneurship is identified as a subject of law endowed with special legal personality (i.e. possessing the right to participate in entrepreneurial activity).

2. The primary subjects of secondary entrepreneurship are recognized as non-personified subjects (physical person (citizen) as an individual, civil society, state), the legal nature of which is determined at the level of generic and institutional legal status, relations between which generate public order, the provision of which is the function of secondary entrepreneurship, while the legal nature of the primary subjects of social entrepreneurship is determined at the level of the legal status of public or private entrepreneurship.

3. The legal status of a subject of social entrepreneurship is derivative in relation to the legal status of a subject of entrepreneurial activity or a subject of secondary entrepreneurship, and cannot arise and exist without the legal status of a subject of entrepreneurial activity or a subject of secondary entrepreneurship.

4. Public-private partnership and concessions as an element of the legal structure of social entrepreneurship.

The main type of partnership relations in social entrepreneurship is public-private partnership (in fact, social entrepreneurship itself represents the methodology of such partnership, being one of the types of public-private partnership). However, there may be other methodologies of partnership relations, for example, concessions (since concession legal relations are also based on the idea and methodology of delegating a state monopoly to a subject of private interest).

Currently, public-private partnership is not fully institutionalized in the national system of law, and there is no definition of this institution in normative legal acts. There is a fragmented and fragmented institutionalization of certain types of public-private partnership (for example, public-private partnership based on the principles of investment (Law of the Republic of Belarus of December 30, 2015 No. 345-Z "On Public-Private Partnership"), consumer cooperation (Law of the Republic of Belarus of February 25, 2002 No. 93-Z "On Consumer Cooperation")). Although in the system of public relations public-private partnership is represented by a wide array of groups, types and forms of legal relations.

The legal nature of public-private partnership in general can be defined on the basis of the definition contained in Article 1 of the CIS Model Law "On Public-Private

Partnership", approved by the Resolution of the Interparliamentary Assembly of the CIS Member States of November 28, 2014 № 41-9.

Public-private partnership should be understood as a temporary or long-term mutually beneficial cooperation between subjects of public and private interest or subjects of public interest, formalized by a domestic regulatory agreement (e.g., public-private partnership agreement, agreements within the framework of social partnership) or social agreement (e.g., mass consent of individuals to participate in traditional subbotniks), or based on another way of delegation of state or other public

The following types of public-private partnerships are present in the national legal system:

1. Public-private partnership (as a property of the central government of the country), which includes the following types of partnerships: 1) public-private partnership based on investment principles; 2) public-private partnership based on financing principles;

2. Municipal-private partnership (as a property of local governance and self-governance in the country), which includes the following types of partnerships: 1) municipal-private partnership based on the principles of investment; 2) municipal-private partnership based on the principles of financing;

3. Consumer cooperation as a system of consumer societies, their unions and unitary enterprises and institutions created by them in order to meet material (property) and other needs of members of consumer societies and the population of the Republic of Belarus (Article 1 of the Law of the Republic of Belarus of February 25, 2002 № 93-3 "On Consumer Cooperation");

4. Social entrepreneurship.

5. Investment process in the sphere of investment in human capital - a type of public-private partnership, including, for example, the following types of partnership relations:

- public-private partnership in the sphere of political communication (public-public partnership between the state and non-governmental public-law corporations; public-public partnership between the state and religious organizations (for example, based on the Cooperation Agreement between the Republic of Belarus and the Belarusian Orthodox Church), etc.);

- financing of separate functions ensuring the production of human capital within the framework of the implementation of domestic and foreign policy (e.g. the Olympic movement, separate measures for the implementation of demographic and family policy, etc.);

- consortial organization of socio-political events (e.g. partnership between subjects of public and private interest in the organization of republican and regional dozhinoks, championships, etc.).

6. Consortial realization of state-significant projects (for example, partnership between subjects of public and private interest within the framework of construction of state-significant and socially important projects (construction of the National Library of the Republic of Belarus and other objects);

7. Social cooperation, including: social partnership; organization and holding of subbotniks; functioning of public squads within the framework of citizens' participation in law enforcement; citizens' participation in public order protection; distribution of functions for cleaning of the territory and maintenance of infrastructure facilities; crowdfunding used for solving socially significant problems, etc.

The above list of types and types of public-private partnership is not exhaustive, as there are tendencies for the emergence of new types and types of partnerships.

Accordingly, social entrepreneurship is a private and derivative institution in relation to public-private partnership. At the same time, social entrepreneurship is one of the types of public-private partnership and generic legal regimes of public-private partnership. The key to understanding the nature of social entrepreneurship is the fact that the relationship between public and private partners in the implementation of social entrepreneurship is based not on the mutual realization of investments, but on the principles of profitable/non-profitable interaction in solving acute social problems.

However, when implementing social partnership (as a methodology of partnership relations between subjects of public and private interest), other methodologies of partnership relations of such subjects, which do not contain the features of public-private partnership, can be additionally used. Such methodologies include concessions.

In accordance with Article 1 of the Law of the Republic of Belarus of July 12, 2013 No. 63-3 "On Concessions", a concession means the right to own and use the object of concession or the right to carry out an activity based on a concession agreement.

Unlike public-private partnership, the essence of a concession is a mutual "exchange" of investments between the concession (providing investments in the form of the right of possession and use of the concession object or the right to perform an activity) and the concessionaire (providing as investments various objects of rights necessary for the development of a certain object of possession provided by the concession or for the performance of a certain type of activity).

The consequence of such mutual exchange of investments is the realization of an investment project, which allows to obtain an economic effect, in the legal construction of which a mandatory element is a public-law component - the development of the national economy of the Republic of Belarus, and under certain circumstances - of the social sphere. This allows us to hypothetically assume the emergence of circumstances when, within the framework of social entrepreneurship between a public partner and a private partner in social entrepreneurship, a concession contract may be concluded, the essential condition of which will be the solution of a certain (certain) social problem.

In this case, the mechanism and methodology of social entrepreneurship implementation will not undergo any change. The concession will be used only as an additional means on the way to achieving the goals of social entrepreneurs.

5.Result and efficiency of social entrepreneurship

the main goal of secondary entrepreneurship is to obtain a social effect, i.e. favorable changes in the social sphere of social relations, caused by the reimbursable

or gratuitous consumption of tangible and (or) intangible benefits produced as a result of the implementation of public economic activity within the framework of social entrepreneurship.

The peculiarity of the social effect of social entrepreneurship is the following:

1. the main element of the legal construction of the social effect is not the volume and quality of human capital produced by the subjects of social entrepreneurship, which is necessary for the state and society to ensure continuous and effective functioning, but the produced social good in the form of solved acute social problem, optional in relation to which is a set of tangible and intangible benefits of economic or social nature, which have a different nature than the solved acute social problem

At the same time, the solved acute social problem (as the main good produced) contains two elements that have both socio-economic and socio-political significance:

- mental health of the society, expressed primarily in the society's confidence in the efficiency of the functioning of the state;

- socio-political stability in society, conditioned by the factor of the state of mental health of society.

2. An optional element of the social effect from the implementation of social entrepreneurship is:

- cumulative effect from the benefits received by individuals and society from the volume and quality of social services produced and social projects implemented (e.g., the number of disabled people rehabilitated and returned to full labor function; specialized jobs created for the disabled, etc.), from the benefits created for the purposes of environmental protection, fauna and flora (e.g., the creation of a shelter for homeless animals);

- the number of jobs created in the implementation of the social entrepreneurship function.

3. Unlike secondary entrepreneurship, the legal and organizational design of the social effect of social entrepreneurship has a four-stage character:

- at the first stage it is supposed to obtain a social effect conditioned by the very fact of solving an acute social problem, allowing to ensure the mental health of society;

- at the second stage social and political stability is formed due to the state of mental health of the society;

- at the third stage of the social effect is the actual improvement of qualitative and quantitative characteristics of the social sphere, which increases the level of social well-being;

- at the fourth stage there is the formation of the socio-political component of the social effect from the increase in the level of social well-being and the formation of psychological confidence in the effectiveness of partnership relations between the state, society and individuals who make up society; this component of the social effect allows the state to form a strategy of long-term socio-political stability; it is this element of the legal and social construction of the social effect that allows us to determine the nature of the activity of the state, society and individuals who make up society.

Accordingly, it can be stated that the legal and organizational construction of the social effect of social entrepreneurship has no less non-standard nature than the social effect peculiar to secondary entrepreneurship, because the state of partnership relations between subjects of public and private interest forms the society's confidence that any social problems can be solved, and also forms the members of the society's perception of the correlation of mutual obligations of the state and the individual. As a consequence, the social and legal construct of social and political effect of social entrepreneurship actually coincide in full.

An optional goal of social entrepreneurship is the economic effect. Its distinctive feature from secondary entrepreneurship is that it does not necessarily have to receive the external form of income of a social entrepreneur from a set of legally significant and actual actions committed by him/her, which constitute the legal construct of social entrepreneurship, or the expansion of the share in the commodity market. Such form is rather optional.

The main form of external embodiment of the economic effect of social entrepreneurship is the ability of tangible and intangible benefits produced by the social entrepreneur to generate added value in the economy in the future. At the same time, in terms of compensation for the costs incurred by the social entrepreneur, the latter may be "at a loss" at the current moment, but may receive a cumulative effect in the future. For example, a developed technology for the rehabilitation of disabled people, together with the jobs created for them and the subsequent delegation of exclusive rights to use such technology to other interested entities, can not only compensate the costs of a social entrepreneur, but also create an entire branch of the national economy; the creation of a shelter for homeless pets can significantly reduce the future costs of housing and communal services organizations for the capture and maintenance of such homeless animals.

In addition, the economic effect of social entrepreneurship is also formed at the macroeconomic level: the structure of GDP includes economic indicators formed by the results of functioning of its subjects. They are reflected in the state statistics and constitute the total array of economic results from the functioning of the national economy of the Republic of Belarus.

PART 3. STATE ENTREPRENEURSHIP

1.1.9. Treasury and public monopoly

1. The concept, legal nature, legal and organizational structure of the treasury.
2. Objects of rights constituting the treasury.
3. Property rights in the system of fiscal relations.
4. The concept, legal nature and classification of public monopoly. State monopoly as a type of public monopoly. Fiscal agency.

1. The concept, legal nature, legal and organizational structure of the treasury.

The Treasury of the Republic of Belarus is a division of the Ministry of Finance responsible for the management of public finances. It performs the functions of collecting, accounting and distributing state budget revenues and expenditures, monitoring budget execution and financial discipline of state bodies.

According to Resolution No. 846 of the Council of Ministers of the Republic of Belarus dated December 16, 1993 "On the State Treasury of the Republic of Belarus", the Treasury budget execution system was established.

In accordance with this, it was necessary to adopt a system of state treasury bodies that could process payments, keep accounting records of budget execution, prepare budget reports and manage budget funds. The organizational structure of the Treasury of the Republic of Belarus was built, which is a single centralized system created on a territorial basis, part of the Ministry of Finance, and includes the Main State Treasury of the Ministry of Finance and the territorial bodies of the State Treasury.

The main tasks of the Main State Treasury are:

- 1) organization of the execution of the republican budget and management of state financial resources held in treasury accounts;
- 2) accounting and conducting budgetary and financial transactions on treasury accounts that ensure budget execution and distribution of budget flows;
- 3) implementation of short-term forecasting of public financial resources;
- 4) implementation of mutual settlements between the republican budget and the budgets of the regions and the city of Minsk, regulation of financial relations between the republican budget and the state target budgetary and extra-budgetary, other funds;
- 5) preparation of reports on the execution of the republican budget, the use of state targeted budgetary and extra-budgetary, and other funds accumulated in treasury accounts;
- 6) development of methodological and instructional materials on the organization of the execution of the republican budget, accounting operations on issues related to the competence of the Treasury.

In accordance with the assigned tasks, the Main State Treasury performs a wide range of functions.:

- 1) organizes and ensures the execution of the republican budget, state targeted budgetary and extra-budgetary funds, as well as other funds, and the movement of other extra-budgetary funds accumulated in treasury accounts;
- 2) finance expenditures based on the priorities of the budgetary and financial policy of the Republic of Belarus;
- 3) makes proposals to improve the procedure for executing the revenue part of the republican budget and financing budget managers;
- 4) organizes the distribution of regulatory taxes in the prescribed amounts between the republican budget and the budgets of the regions and the city of Minsk;
- 5) organizes and carries out the collection, processing, analysis and synthesis of reporting information on the execution of the republican budget, local budgets of the regions and the city of Minsk, estimates of income and expenses of state target budgetary and extra-budgetary, as well as other funds;

6) organizes the accounting and conduct of financial transactions related to state financial resources, manages monetary resources held in treasury accounts;

7) develops, together with the Main Directorate of Budget Policy of the Ministry of Finance, in coordination with the regional executive committees and the Minsk City Executive Committee, the procedure for executing local budgets through the territorial bodies of the state treasury;

8) implements measures to use the methodological recommendations of international financial organizations and the experience of various States regarding the functioning of the treasury system in the development of the treasury system.

The treasury system of the Republic of Belarus is currently under development. In this regard, the provisions on the Main State Treasury are not fully fixed in the regulatory legal acts. Nevertheless, analyzing its tasks and functions, it can be concluded that the Main State Treasury bears the main workload in budget execution, interacting with the banking system, tax authorities, administrators and recipients of budget funds.

The main manager of the state treasury is the treasury system, which is the main treasurer of all funds of the state treasury. The state treasury is a broader concept than the previously existing state budget. The budget system of the state, or more precisely, all funds, constitute the main content of the state treasury.

The State treasury bodies that currently exist in the Republic of Belarus were established relatively recently. However, they represent an established system and implement the technical side of budget execution. At the same time, they are endowed with significant powers to execute the republican budget, local budgets of all levels, state extra-budgetary funds and other monetary resources.

In the Republic of Belarus, the State Treasury bodies are a single centralized system for managing the state treasury, established on a territorial basis and part of the Ministry of Finance of the Republic of Belarus.

Structure

1. The structure of the Central Office of the Ministry of Finance
2. The main departments of the Ministry of Finance for the regions and the city of Minsk
3. Local financial authorities
4. Organizations subordinate to the Ministry of Finance
5. Higher government agency

2. Objects of rights constituting the treasury

To begin with, let's turn to Article 215 of the Civil Code of the Republic of Belarus, where Part 2 defines the treasury: Republican property consists of the treasury of the Republic of Belarus and property assigned to republican legal entities in accordance with legislative acts. The funds of the republican budget, gold and foreign exchange reserves, other objects owned only by the state, and other state property not assigned to republican legal entities constitute the treasury of the Republic of Belarus. Thus, the treasury is a set of tangible and intangible resources owned by the state, which

are used to perform its functions and tasks. In the legal system of the Republic of Belarus, the treasury is formed at the expense of various objects of rights that have a legal status and are integrated into the financial and legal system of the country.

As part of the state property assigned to state organizations by right of economic management or operational management, or constituting the treasury of the state, there is a category of objects that are owned only by the state. The fundamental document regulating the accounting of such property is the Law of the Republic of Belarus dated July 15, 2010 "On objects that are only owned by the State and types of activities that are subject to the exclusive right of the State." Resolution of the Council of Ministers of the Republic of Belarus dated December 1, 2010 No. 1753 "On the Accounting Procedure for Objects of Republican Ownership that are only owned by the State" in paragraph 4 establishes that state bodies and state organizations, based on information received in accordance with paragraph 3 of the Regulation and accounting data for objects under their operational management or economic management, compile and approve lists of objects of republican ownership that are only owned by the state (hereinafter referred to as the lists), in a form approved by the State Property Committee.

These legal norms are aimed at protecting national interests in order to ensure the territorial integrity of the State, national, economic and energy security, social protection of the population, environmental protection and rational use of natural resources, preservation of historical, cultural and spiritual heritage. Article 7 of the Law "On Objects that are only owned by the State and Types of Activities that are subject to the exclusive Right of the State" establishes a list of objects that are only owned by the State. So, they include:

- 1.1. lands:
 - 1.1.1. agricultural purposes;
 - 1.1.2. environmental, health, recreational, historical and cultural purposes;
 - 1.1.3. forest fund;
 - 1.1.4. water resources;
 - 1.1.5. under roads and other transport communications;
 - 1.1.6. general use;
- 1.2. land plots:
 - 1.2.1. on which the objects of immovable property are located, which are only owned by the state;
 - 1.2.2. in the territories exposed to radioactive contamination as a result of the Chernobyl disaster (in the evacuation (exclusion) zone, the zone of priority resettlement, the zone of subsequent resettlement, from which the population was displaced);
 - 1.2.3. on the areas of occurrence of explored mineral deposits;
 - 1.2.4. which, in accordance with the approved master plans of cities and other settlements, urban planning projects of detailed planning, land management schemes of districts and land management documentation are provided for targeted use, excluding their provision to private ownership, property of foreign states, international organizations;

- 1.3. Radio frequency spectrum;
- 1.4. capital structures (buildings, structures) and other property located in territories that were exposed to radioactive contamination as a result of the Chernobyl disaster (in the evacuation (exclusion) zone, the zone of priority resettlement, the zone of subsequent resettlement from which the population was resettled), for the loss of which organizations and citizens received compensation, as well as transferred in accordance with the procedure established by law, into the ownership of the state on other grounds.;
- 1.5. chemical substances (toxins), microorganisms (viruses, bacteria), devices and technologies that can be used to create and manufacture chemical, bacteriological (biological) and toxin weapons, the list of which is established by law.;
- 1.6. objects of the animal world living in a state of natural freedom on the territory of the Republic of Belarus;
- 1.7. facilities for the use of atomic energy (nuclear installations, nuclear materials, spent nuclear materials, operational radioactive waste, and their storage facilities), with the exception of nuclear power plant facilities and specified facilities necessary for its operation, products using nuclear materials (except for products whose use is permitted to non-governmental organizations and individuals in accordance with legislation, and instruments, equipment, experimental and technological installations, used in accordance with their intended purpose to ensure the implementation of scientific research, development and testing of new technological processes), ships with a nuclear power plant;
- 1.8. devices and installations based on ionizing, acoustic, electromagnetic and laser radiation, having a military purpose or designed to destroy various objects, except for devices, equipment, experimental and technological installations used in accordance with their intended purpose to ensure scientific research, development and testing of new technological processes, as well as devices based on ionizing, acoustic, electromagnetic and laser radiation, the acquisition and use of which is allowed by non-governmental organizations, individuals in accordance with the legislation;
- 1.9. narcotic drugs and psychotropic substances included in List 1 and List 5 of the republican list of narcotic drugs, psychotropic substances and their precursors subject to state control in the Republic of Belarus;
- 1.10. highly toxic substances, with the exception of substances, the acquisition and use of which is allowed to non-governmental organizations, individuals in accordance with the legislation;
- 1.11. landfills, structures (complexes of structures) intended for the disposal of solid and liquid toxic chemical waste, products, materials;
- 1.12. funds of the republican and local budgets, state extra-budgetary funds, gold and foreign exchange reserves;
- 1.13. values of the State Fund of Precious Metals and Precious Stones of the Republic of Belarus;
- 1.14. material values of the state and mobilization material reserves;
- 1.15. special security and security facilities, the list of which is approved by the Council of Ministers of the Republic of Belarus;

1.16. military and special purpose facilities, as well as other property used in the interests of national security, unless otherwise established by acts of the President of the Republic of Belarus, including:

1.16.1. military-purpose property (products) and special equipment under the operational control of state bodies with military formations and paramilitary organizations, as well as subordinate military units, organizations and subdivisions;

1.16.2. defense facilities;

1.16.3. special means of protection of active defense, provision of special operations, detection, neutralization and destruction of explosive devices and unexploded ordnance, which are under the economic management or operational management of republican government bodies, other state organizations subordinate to the Government of the Republic of Belarus, the National Bank, the Office of the President of the Republic of Belarus, other state bodies and other state organizations subordinate to the President of the Republic of Belarus, the National Academy of Sciences of Belarus, as well as state organizations subordinate to the specified state bodies and state organizations used in the performance of their assigned tasks (except for funds that are funds for general use or the use of which is permitted to non-governmental organizations, individuals in accordance with legislative acts);

1.16.4. weapons, ammunition, except for types of weapons and ammunition, the acquisition of which are allowed to non-governmental organizations and individuals in accordance with legislative acts;

1.16.5. military, military auxiliary, and border vessels;

1.17. explosives and explosive devices, except for types of explosives and explosive devices, the purchase of which is permitted to non-governmental organizations and individuals in accordance with legislative acts;

1.18. special-purpose telecommunication networks;

1.19. Government communications facilities;

1.20. classified communication equipment and encryption technology (cryptographic information protection tools) designed to protect state secrets;

1.21. State secrets;

1.22. tangible cultural values (including historical and cultural values) in permanent storage in state libraries or state museums, forming the Library Fund of the Republic of Belarus or included in the Museum Fund of the Republic of Belarus, and the state part of the National Archival Fund of the Republic of Belarus;

1.23. geodetic points of the state geodetic, leveling, gravimetric networks and other geodetic points created at the expense of the republican or local budgets, as well as materials and data of the state cartographic and geodetic fund of the Republic of Belarus obtained as a result of geodetic and cartographic activities carried out at the expense of the republican or local budgets;

1.24. hydrometeorological objects of the state Hydrometeorological Service;

1.25. observation points of the National Environmental Monitoring System in the Republic of Belarus;

1.26. scientific objects included in the State Register of Scientific Objects that constitute the national heritage;

- 1.27. national standards of units of quantities;
- 1.28. burial sites (with the exception of burial sites located on land plots provided in accordance with legislative acts to religious or other organizations for the creation of burial sites), as well as crematoriums;
- 1.29. state-owned as of the date of entry into force of this Law and newly commissioned, the creation (acquisition) of which was carried out entirely at the expense of the republican and (or) local budgets, including state target budget funds, and (or) state extra-budgetary funds, and (or) funds of state legal entities persons:
 - 1.29.1. airfields and airports, flight test stations of civil aviation;
 - 1.29.2. civil defense facilities;
 - 1.29.3. Public roads;
 - 1.29.5. structures and devices designed to affect water flows, intake, transportation, treatment and redistribution of water, wastewater discharge (dams, canals, pumping stations, wells and other similar structures and devices);
 - 1.29.6. Structures on inland waterways designed to ensure navigation;
 - 1.29.7. inter-farm reclamation systems and separately located hydraulic structures of inter-farm importance, as well as on-farm reclamation systems and separately located hydraulic structures;
 - 1.29.8. public engineering infrastructure facilities: water supply and sewerage facilities; heat supply (main heating networks, distribution heating networks and central heating points for simultaneous heat supply to different consumers); outdoor lighting of streets in populated areas; urban electric transport; backbone power transmission lines and substations with a voltage of 110 kV and higher; interstate power transmission lines of all voltage classes, as well as the substations to which they are connected, the systems and controls of these facilities;
 - 1.29.9. capital structures (buildings, structures), isolated premises that are used for: training national and national teams of the Republic of Belarus in sports, sports reserves and (or) high-class athletes; accommodation and maintenance of public educational institutions, as well as organizations whose activities are aimed at ensuring the functioning of the education system; social services provided by government organizations providing social services; placement and maintenance of the functioning of state organizations of the public health system; placement of state sanatorium-resort organizations that treat patients with diseases that pose a threat to public health, human immunodeficiency virus, dermatovenerological diseases, mental disorders (diseases); maintenance, repair and development (construction, reconstruction) of public roads;
 - 1.29.10. capital structures (buildings, structures), enterprises as property complexes, isolated premises, equipment that are used to store state resources of grain and its processed products;
 - 1.29.11. capital structures (buildings, structures) and other real estate objects used to house government agencies and ensure that they perform their functions; 1.30. capital structures (buildings, structures) of the State Treasury of the Ministry of Finance
 - 1.31. capital structures (buildings, structures), other real estate objects assigned by the right of economic management or operational management to:

1.31.1. state organizations subordinate to the Ministry of Emergency Situations and ensuring the safety of the state material reserve;

1.31.2. bodies and institutions of the penitentiary system of the Ministry of Internal Affairs, medical and labor dispensaries;

1.31.3. The National Academy of Sciences of Belarus, scientific organizations under the jurisdiction of the National Academy of Sciences of Belarus and engaged in fundamental and applied scientific research and development;

1.32. capital structures (buildings, structures) located on land plots provided to state environmental institutions managing nature reserves and national parks, and assigned by right of operational management to these state institutions;

1.33. capital structures (buildings, structures), enterprises as property complexes assigned to state organizations by right of economic management or operational management as of the date of entry into force of this Law and used for:

1.33.1. operation of radio-television transmitting stations;

1.33.2. operation of equipment ensuring the protection of the radio frequency spectrum and its effective use;

1.34. metro;

1.35. public railway transport infrastructure facilities owned by the state as of the date of entry into force of this Law, which are being put into operation, the creation (acquisition) of which was carried out entirely at the expense of the republican and (or) local budgets, including state target budget funds, and (or) state extra-budgetary funds, and (or) funds of state-owned legal entities, as well as public railway transport infrastructure facilities transferred to state ownership;

1.36. capital structures (buildings, structures), main pipeline equipment intended for gas supply, and gas distribution system facilities intended for gas supply to gas consumers owned by the state as of the date of entry into force of this Law;

1.37. capital structures (buildings, structures), systems and facilities used for air traffic control and airspace control;

1.38. capital structures (buildings, structures) located at checkpoints across the State border of the Republic of Belarus; 1.39. residential premises of the state housing stock, which, in accordance with legislative acts, are not subject to privatization;

1.40. other facilities provided for by legislative acts. In addition to these regulatory legal acts, there are others that partially reflect the list of objects. For example, Article 13 of the Constitution of the Republic of Belarus, Article 15 of the Land Code, Article 5 of the Subsoil Code, Article 8 of the Water Code, etc. An important component of the treasury is the finances of the Republic of Belarus. Finance is one of the most important economic categories reflecting economic relations in the process of creation, distribution and use of state funds. Finance is an economic category operating in various socio-economic formations. They have a single abstract essence in all formations, but a fundamentally new content in each of them. The financial system of the Republic of Belarus is controlled by the state Treasury bodies, which are a single centralized system created on a territorial basis, part of the Ministry of Finance, and include the Main State Treasury of the Ministry of Finance and the State Treasury Department of the main departments of the Ministry of Finance for the regions and

Minsk, their departments (sectors) in cities and towns. districts.

The mechanism of budget execution through the treasury system involves the concentration of state financial resources on a single treasury account, as well as financing the expenditures of ministries and departments and their subordinate institutions from a single treasury account, transferring funds directly to suppliers of goods and services for the budget sector, bypassing the transfer of funds to the accounts of their managers. In accordance with Article 108 of the Budget Code of the Republic of Belarus, the treasury execution of the republican budget provides: – carrying out operations with the funds of the republican budget through a single treasury account. The Unified Treasury account is a set of accounts for accounting for funds from the republican budget, local budgets, budgets of state extra-budgetary funds and other funds opened to the Ministry of Finance and its territorial bodies.; – distribution of republican taxes, fees (duties) between the republican and local budgets in accordance with budget legislation;

– refund, offsetting of amounts overpaid (recovered) or improperly received into the revenue of the republican budget; – carrying out operations on the transfer of funds in the form of inter-budgetary transfers between the republican budget and local budgets; - ensuring control of budgetary powers and obligations; – making payments on behalf of the managers (recipients) of the republican budget funds; – accounting of all operations and reporting on the execution of the republican budget;

– distribution of customs duties between the budgets of the member States of the Eurasian Economic Union in the manner and amounts established by international legal acts constituting the law of the Eurasian Economic Union. The very social relations that develop in the field of the functioning of the treasury and the management of it and the individual objects that make up the treasury are called fiscal legal relations. At the same time, it is based on the institute of public economic activity, which assumes the implementation of management within the framework of treasury management using the methodology of administrative and economic activities and the methodology of fiscal economic activity (state entrepreneurship).

3. Property rights in the system of fiscal relations

Budgetary relations are objectively functioning specific financial relations that the state has with enterprises, organizations, institutions and the population. Budgetary relations (in accordance with the Budget Code of the Republic of Belarus) – relations between participants in the budget process that arise during the preparation, review, approval, and execution of the republican budget, local budgets, and budgets of state extra-budgetary funds, the preparation, review, and approval of reports on their execution, the determination of the rights and obligations of participants in the budget process, the implementation of borrowings to budgets, inter-budgetary relations, and control over the execution of budgets and the application of responsibility for violations of budget legislation. Budgetary relations are diverse (between sectors of the economy, spheres of social activity, branches of the national economy, territories of the country) and cover all levels of management (state, local).

Budgetary relations are characterized by an objective nature. It is conditioned by the fact that a certain share of national income must be concentrated in the hands of the state every year, which is necessary to meet the socio-cultural needs of citizens, solve defense problems, and cover the total costs of public administration. The existence of budgetary relations outside the state is impossible, since their functioning is predetermined by the objective need to meet public needs through the state. In the process of functioning, budgetary relations receive their corresponding material embodiment - they are materialized (materialized) in the budget fund of the country, which has a complex organizational structure.

The specific size of the budget fund, reflecting the degree of centralization of financial resources in the hands of the state, depends on a number of factors: the level of economic development; management methods in organizations; economic and social tasks solved by society, etc.

The essential features of budgetary relations as part of financial include:

1. The monetary nature of budgetary relations. Since budgetary relations mediate the movement of part of the financial resources associated with the formation and use of a centralized fund of funds,

2. Budgetary relations are of a secondary, redistributive nature. They participate in the redistribution of mainly net income by withdrawing part of it in the form of taxes and non-tax payments to generate state revenues and finance national activities.

3. Budgetary relations mediate the gratuitous movement of value in the form of taxes, fees, non-tax revenues, as well as budget financing, which are not accompanied by an obligatory immediate refund or reimbursement.

4. Besides net income, a part of the cost of the necessary product may be the object of budget redistribution.

5. The scope of budgetary relations is limited to the framework of the budgetary process, since relations arise only during the formation, distribution and use of budgetary funds.

6. Participants in budgetary relations are: the state represented by authorities of various levels and enterprises, organizations, institutions and the population, i.e. almost all participants in public production, when paying payments or using budgetary resources.

7. Budgetary relations form the central link of the financial system due to a wide range of actions: The state strives to take into account the needs of expanded reproduction and, through budget expenditures, forms the proportions of the redistribution of financial resources between units of public production, industries, territories, etc.

8. Budgetary relations are strictly regulated by budget and tax legislation. Property relations related to the formation of budget revenues are traditionally included in the subject of budget law. They are explicitly mentioned in Article 1 of the Budget Code of the Republic of Belarus as part of budgetary relations regulated by the Budget Code of the Republic of Belarus. At the same time, the BC of the Republic of Belarus has only a few rules on the regulation of relevant relations. First of all, Articles 25, 108, 120 of the Tax Code of the Republic of Belarus can be attributed here. Interestingly,

the first of them are placed in the substantive part, and the last ones are in the section on budget execution.

This, apparently, indicates that the legal nature and features of these relations have not yet been fully studied. Property relations for the formation of budget revenues are designed to ensure the functioning of the revenue side of budgets. These relations serve both the receipt of income to the relevant budgets and the return of income in cases stipulated by law. It can be said that property relations for the formation of budget revenues ensure the interaction of budgetary law (budget) and the division of state revenues. Property relations for the formation of budget revenues are binding in nature. They mediate the transfer of material goods (funds) to a single treasury account of the corresponding budget or from a single treasury account of the corresponding budget (upon return of income).

Taking into account the budgetary and legal nature of these relations, they are formed between various public legal entities. Property relations for the formation of budget revenues are closely related to tax and legal property relations and other property relations covered by the division of state revenues. Subject to the provisions of Article 25 of the Tax Code of the Republic of Belarus, property relations for the formation of budget revenues begin from the moment funds are credited to a single treasury account intended for the distribution of income between the budgets of the budgetary system of the Republic of Belarus. Relations related to the return of income from budgets in cases provided for in the law arise at the time when funds are written off from the single treasury account of the relevant budget (it is from the single treasury accounts that income is refunded). Certain grounds for such a conclusion are contained in the provisions of art. 108, 120 BC of the Republic of Belarus, which include, in the execution of revenue budgets, the transfer by the Ministry of Finance of funds necessary for the repayment (offset) of overpaid or overpaid amounts of taxes, fees and other payments, as well as the amounts of interest for late repayment and interest accrued on overpaid amounts from the unified Treasury accounts of the relevant budgets to the relevant accounts of the Ministry of Finance, intended for accounting of receipts and their distribution between the budgets of the budgetary system of the Republic of Belarus. As for the termination of the relationship in question, in accordance with Article 25 of the Tax Code of the Republic of Belarus, funds are considered to have been received into the revenues of the relevant budget of the budgetary system of the Republic of Belarus from the moment they are credited to the unified treasury account of this budget.

Technically, the unified treasury accounts of the respective budgets are accounts of the republican budget, accounts of regional budgets, budgets of the basic and primary levels, opened to the Ministry of Finance of the Republic of Belarus and its territorial bodies. In addition, it should be borne in mind that income can be returned to taxpayers in cases stipulated by law. The moment of termination of these relations, as it seems, is the receipt of funds to a single treasury account belonging to the Ministry of Finance of the Republic of Belarus. Further transfer of funds from the single treasury account to the payer's accounts is carried out within the framework of relations regulated by the rules of state revenue division. Budget law regulates relations related

to the distribution of income between different budgets. It does not establish certain revenues (with the exception of inter-budget transfers) and does not regulate the process of their receipt into the budget system (into a single treasury account). With regard to the budget laws, the Constitutional Court of the Republic of Belarus has expressed its position on this issue. In the Decision of October 8, 2010

He pointed out that the law on the republican budget creates appropriate financial conditions for the implementation of the norms stipulated in other legislative acts issued before its adoption and providing for financial obligations of the state, that is, involving the provision of any funds and material guarantees and the need for appropriate expenses. As such, it does not generate or cancel rights and obligations, and therefore cannot, as a *lex posterior* (subsequent law), change the provisions of other legislative acts, including laws on taxes, as well as substantive laws affecting expenditures of the Republic of Belarus, and even more so, deprive them of legal force. It follows from this that in the Republic of Belarus, as a State governed by the rule of law, due to the requirements of the Constitution of the Republic of Belarus, the law on the republican budget cannot establish provisions unrelated to state revenues and expenditures.

4. The concept, legal nature and classification of public monopoly. State monopoly as a type of public monopoly. Fiscal agency.

Interest in monopoly and its nature is quite high, as evidenced by the huge number of literary sources that somehow touch on the topic under consideration. The study and analysis of these sources shows that the concept of "monopoly" is not unambiguous in the economic literature. However, the legal aspect of the concept of "monopoly" is not given due attention in the legal literature. The legal regulation of the status and activities of natural monopolies is an urgent process, since the improvement of antimonopoly legislation and measures to streamline relations in the field of monopolistic activity is one of the components of state policy, including at the international level.

Monopoly is primarily an economic phenomenon, since it is based on economic relations between business entities that arise in the commodity market. As an economic category, monopoly characterizes a certain market structure, suggesting that one enterprise (firm) is the only manufacturer (supplier) of a particular product that has no analogues (close substitutes).

In some economic dictionaries, when considering the concept of "monopoly", legal aspects are highlighted along with economic aspects. Thus, it is argued that "a natural monopoly can be spoken of if the exclusive position of the monopolist is the result of the exclusive right to own a certain resource. A legally established monopoly exists in cases where competitors' access is prohibited by law." The main sources regulating the status of natural monopolists and their spheres of activity in the Republic of Belarus are the Law of the Republic of Belarus "On Countering Monopolistic Activity and Development of Competition", adopted by the House of Representatives on November 22, 2013 and approved by the Council of the Republic on November 27,

2013 as amended. dated April 3, 2024 and the Law of the Republic of Belarus "On Natural Monopolies" dated December 16, 2002 No. 162-Z as amended. dated November 11, 2019 According to the Law "On Natural Monopolies", a natural monopoly is a state of the service market in which the creation of competitive conditions to meet the demand for a certain type of service is impossible or economically impractical due to the technological features of the production and provision of this type of service.

An analysis of the various definitions of the concept of "monopoly" allows us to conclude that this concept can be interpreted from at least two sides.:

1) as the current market situation, and

2) as a process affecting market relations between business entities. As a situation, monopoly is characterized by the presence or predominance in the market of one or more sellers offering for sale goods that do not have close substitutes. As a process, monopoly is characterized by the absence of competition in the market, confrontation, and clash of interests of business entities that produce or supply for sale a particular product that practically no one else produces or supplies. Accordingly, there is no confrontation or competition in the process of producing or selling goods, performing work, or providing services aimed at systematically making a profit. It should be emphasized that profit-making becomes possible only when buyers, consumers of works and services are satisfied with their quality, when goods, works and services are purchased by consumers.

In the literature, natural monopoly is considered in two keys:

1) a situation in which economies of scale are so significant that the minimum cost is achieved only when the entire output of the industry is concentrated in the hands of a single producer, so that production costs under a monopoly are lower than under perfect competition or oligopoly. The existence of a natural monopoly is the main argument in favor of nationalizing industries such as railways.;

2) areas of activity where, as a result of natural, technological and other conditions, the possibility of competitive markets is excluded or limited. If we consider the second aspect in more detail, it should be noted that article 3 of the Law "On Natural Monopolies" defines the list of areas of natural monopolies. Thus, the following are recognized as spheres of natural monopolies: air navigation services; airport services; transport terminal services; public railway transport services provided using the infrastructure of public railway transport, railway transportation; transportation of gas through main pipelines; transportation of gas through distribution pipelines; transportation of oil and petroleum products via main pipelines; operational dispatch management services in the electric power industry; electric energy transmission services; electric energy distribution services; thermal energy transmission and/or distribution services; centralized water supply and sanitation.

The main criterion for determining an economic entity as a monopolist is its dominant position. Article 5 of the Law "On Countering Monopolistic Activity and the Development of Competition" provides the following definition: Dominant position is the exclusive position of an economic entity (or several economic entities) in a commodity market, which gives such or such economic entities the opportunity to exert

a decisive influence on the general conditions of circulation of goods in the relevant commodity market, and (or) eliminate other economic entities from this commodity market, and (or) make it difficult for them to access this commodity market. the market and/or withdrawal from the commodity market.

Based on article 5, the dominant position is recognized as an economic entity.:

1) whose share in the commodity market is 35 percent or more;

2) less than 35%, if the dominant position of such an economic entity is established by the antimonopoly authority, based on: - the ability of an economic entity to unilaterally determine the price level (tariff) for a product and have a decisive influence on the general conditions of sale of the product in the relevant commodity market; - the presence of economic, technological, administrative or other restrictions on access to the commodity market and (or) withdrawal from the commodity market;

- the period of existence of the ability of an economic entity to exert a decisive influence on the general conditions of circulation of goods on the commodity market.

3) the position of each of several economic entities is recognized as dominant if the following conditions are fulfilled in aggregate:

a) the combined share of no more than three economic entities, each of which has a greater share than other economic entities in the relevant commodity market, exceeds 50%;

b) the combined share of no more than five economic entities, each of which has a greater share than other economic entities in the relevant commodity market, exceeds 75%;

c) for at least one year or, if such period is less than one year, during the lifetime of the commodity market, the size of the shares of economic entities remains unchanged or is subject to minor changes, as well as access to the relevant commodity market by new competitors is difficult.

However, there are exceptions. Thus, a dominant position cannot be recognized.:

1) an economic entity whose share in the commodity market does not exceed fifteen percent, with the exception of the case specified in paragraph 5 of this article;

2) state bodies that, along with state authorities, carry out income-generating activities, with the exception of organizations performing the functions of these bodies. The establishment of a dominant position of an economic entity entails its inclusion in the State Register of Economic Entities that occupy a dominant Position in Commodity Markets.

The inclusion of an economic entity in the State Register of Economic Entities that occupy a Dominant Position in Commodity Markets is not a necessary condition for its recognition as a dominant entity. Economic entities providing services under conditions of natural monopolies are subject to inclusion in the State Register of Subjects of Natural Monopolies in accordance with the procedure established by the legislation on natural monopolies. Economic entities included in the State Register of Subjects of Natural Monopolies are not subject to inclusion in the State Register of Economic Entities occupying a dominant Position in commodity markets for a similar commodity position.

Based on the above concepts, it can be concluded that in all cases of the legal

definition of a natural monopoly, emphasis is placed on the positive aspect of the fact that there is no competition. It follows that the presence of a natural form of monopoly in the Republic of Belarus is a positive rather than a negative phenomenon, which contradicts the general antimonopoly policy of the state and suggests that monopoly is an ambiguous phenomenon, it should be considered as a positive trend in market development. But only in the areas specified in the closed list of Article 3 of the Law "On Natural Monopolies".

This list is exhaustive, which means that monopolies developing in other areas, unlike natural monopolists, - are not considered as natural; - do not have the status of a legitimate monopoly; - not sanctioned by the state; - operate in conditions of active (fair or unfair) competition; - do not have the rights and obligations of a natural monopoly; - have no restrictions in their activities (for example, to refuse to conclude a contract with individual consumers for the production (sale) of goods if they have the opportunity to produce (sell) such goods);

- they are entered into the state registers of economic entities that occupy a dominant position in the national and local commodity markets, while natural monopolists have a separate, specialized register.

From this it is possible to develop the following signs of a natural monopoly:

- 1) the production of the industry is under the jurisdiction of one manufacturer;
- 2) the monopolist's activity is sanctioned by the state;
- 3) monopoly acts as a system of social relations, the content of which is the subjective rights and subjective duties of the monopolist;
- 4) meeting consumer demand in a commodity market where a monopolist functions more effectively in the absence of competition;
- 5) goods, works and services produced by a natural monopoly entity cannot be replaced in consumption by others;
- 6) Large scale production;
- 7) the spheres of activity of this form of monopoly are of a natural nature, etc.

natural monopolies Legitimate monopolies exist in the Republic of Belarus, since their operation is not only sanctioned by the State, but is also under its legal protection.

This seems to be quite justified, since natural monopolies appear and develop in the areas defined by the Law of the Republic of Belarus "On Objects owned only by the State and Types of Activities subject to the exclusive Right of the State" dated 07/15/2010, No. 169-Z as amended. dated January 5, 2024 and in relation to such objects that are only owned by the state. In this regard, it seems that the term "natural" monopoly refers to the natural source of the monopoly, such as energy, gas, oil, overhead lines, etc.

This is the difference between natural monopolies and other sanctioned state monopolies. At the same time, the "naturalness" of a monopoly does not exclude, but confirms, state ownership of such a monopoly, but unlike any state monopoly, natural monopolies are formed only in specific and legally stipulated areas. If a business entity is a natural monopoly entity (for example, it transports oil, gas, etc.), then it is not subject to the Law "On Countering Monopolistic Activities and developing Competition", except in cases where such a business entity carries out activities outside

the sphere of natural monopolies, the consequence of which is or may be a restriction of competition. in the commodity markets.

Let us turn to the issue of classifying natural monopolistic activities on various grounds. So, she shares:

1) depending on the agreements concluded by business entities for monopolistic activities, contractual and non-contractual;

2) depending on the number of participants, it is divided into individual and collective. This criterion can be considered from different positions, if we assume that a monopolist fills the entire market of homogeneous goods, works and services, then his monopolistic activity may be individual in nature.

However, if such activities are carried out by agreement with another natural monopolist related to it technologically or organizationally, or with any other business entity that occupies (or does not occupy) a dominant position in the market, or with the relevant government agency, then such activities will be of a collective nature and, depending on the type of legal violations (action or inaction) will be expressed in passive or active plurality;

3) from the subject composition - carried out by business entities or government agencies. In this regard, significant attention is currently being paid to the legal regulation of the creation and activities of natural monopoly entities, both at the national and international levels. The spheres of natural monopolies are so serious and significant for the Republic of Belarus that the legal regulation includes both the principles of natural monopolists' activities, as well as the rights and obligations and corresponding prohibitions and restrictions, as well as control by antimonopoly and other government agencies.

1.1.10. Fiscal economic activity (state entrepreneurship)

1. The state as an entrepreneur.
2. The concept, features, forms and content of fiscal economic activity (state entrepreneurship). Peculiarities of legal barriers to the realization of fiscal economic activity (state entrepreneurship).
3. Result of state entrepreneurship (fiscal economic activity).
4. Subjects of public entrepreneurship.
5. Entrepreneurial activity in the system of fiscal economic activity (state entrepreneurship).

1. The state as an entrepreneur

The category "entrepreneur" is usually associated with an enterprising individual who is able to quickly and efficiently obtain not only income, but also other benefits from certain operations. Indeed, the origin of the word "entrepreneur" is due to the willful enterprising behavior of an individual who, due to his enterprising nature, was able to provide income for himself personally and to pay earnings to less enterprising

individuals hired to work for him. However, with the birth of the idea of a legal person and its institutionalization in various systems of law, the category of "entrepreneur" became relevant for this kind of institutional units as well. Subsequent institutionalization of organizations without the status of a legal entity further expanded the scope of the legal construction of entrepreneurship, allowing to refer to entrepreneurs as if only three categories of subjects:

- 1) individuals;
- 2) organizations with the status of a legal entity;
- 3) organizations without the status of a legal entity.

However, in the social nature there is another category of entrepreneurs. And the largest of the possible and ever existed in the history of mankind. And such an entrepreneur has always been and will always be the state. And the specific feature of this largest entrepreneur in history is his ability and propensity to form around him a whole economic group of much smaller and dependent on him entrepreneurs - ATU of the state.

There is a large number of state organizations - republican and communal unitary enterprises, state institutions, economic societies with the state share in the authorized capital, etc. And each of these organizations is formalized into an organization with or without the status of a legal entity mechanism for the implementation of primary and (or) secondary entrepreneurship, which in some cases may include additional methodology of social entrepreneurship. Moreover, the subjective and objective side of the state's activity as an entrepreneur is not limited only to such manifestations. There are many examples where the state implements its entrepreneurial initiative without even being the owner of any property rights in relation to a certain organization within the framework of founding relations (an example is the institution of "golden share" or other forms of manifestation of extraordinary monopoly of the state).

The question arises: "How is it possible to be an entrepreneur, to organize and ensure the process of production of goods necessary for society and the state itself, but at the same time not to be such a producer?". The answer lies in the nature of the category and status of "entrepreneur".

The answer lies in the construct of entrepreneurship:

1. The ability to initiate entrepreneurial initiative. And not just to generate (produce) an entrepreneurial idea, but to be able to form conditions for the emergence of the next function of entrepreneurship through volitional initiative behavior, since the propensity and ability to generate ideas is not evidence of the ability to translate them into reality; accordingly, it is necessary to distinguish between the two categories:

- the category of "source of entrepreneurial initiative", i.e. the subject capable of generating an entrepreneurial idea - this can always be only a person;

- the category of "subject of entrepreneurial initiative", i.e. a subject with organizational and organizational abilities to initiate the implementation of entrepreneurial initiative; only a person and the state can be such;

2. The ability to realize entrepreneurial initiative, which is a property of a set of subjects, possessing two forms of external expression:

- The ability to form a legal and organizational basis for the implementation of entrepreneurial initiative, which is an exclusive property of an entrepreneur;

- the ability to translate the entrepreneurial initiative into a socially significant result (i.e. into a corresponding economic, social and political effect) through the performance of a set of legally significant and actual actions, which is a property of an entrepreneur with personal characteristics (i.e. an individual or an organization), or acting on behalf of any entrepreneur of a business entity.

Accordingly, the constructive and essentially inconsistent categories are objective:

1. The category "source of entrepreneurial initiative", the social construction of which is limited only by the nature of a person as a physical person in the system of social relations (since there is simply no other source of this kind in nature).

2. The category "subject of entrepreneurial initiative", the social construction of which is limited by the nature of man and the state (since entrepreneurial initiative exists and flows from an idea into volitional initiative behavior outside of any rules of behavior, and law is only able to give a lawful or unlawful form to this initiative).

3. The category of "entrepreneur" (characterized by the ability to form a legal and organizational basis for the implementation of entrepreneurial initiative), the social construction of which and its derivative legal construction is limited to the limits of the circle of subjects of law (i.e. an individual, an organization with or without the status of a legal entity, the state and its ATE), since the entrepreneur is the subject who makes socially significant decisions (of personal, legal, economic and political nature), acts as an entrepreneur, and has the ability to form a legal and organizational basis for the implementation of entrepreneurial initiative.

4. The category "subject of economic activity" (characterized by the ability to translate the entrepreneurial initiative into a socially significant result), the legal construction of which is conditioned by a wide range of subjects of social relations capable of acting as an institutional unit as a producer of tangible and intangible benefits (since the subject of economic activity is the social and legal unit that through the production of tangible and intangible benefits turns into existing in the real m

The category "entrepreneur" is predetermined simultaneously by two natural statuses: entrepreneur as a physical person and entrepreneur as a collective social entity identified in the system of social relations as a state (i.e. derived from a certain set of living beings - physical persons - a unit capable of personifying the collective will of this totality of people).

The status of "entrepreneur" becomes legal at the moment when its social essence is subjectivized into one of the following options:

1. Into a natural legal subjective essence (entrepreneur of natural origin):

- physical person;
- a set of individuals - a social collective (small and medium - community, or large - society as a whole), authorized to act as a single subject on behalf of the entire such social collective (we are talking about the state and its ATU).

At the same time, the natural legal entity in the form of the state has a specific feature: it is a source of power (and thus of will and volitional behavior) and a social unit that makes decisions but does not execute them (because it is a sovereign and a generalized collective will). The execution of its decisions (including those conditioned by entrepreneurial initiative) is the task, duty and right of a certain legal entity (i.e. a certain natural person or a certain fictitious legal entity - organization) authorized by the state to do so.

2. In a fictitious legal subject entity of social nature (entrepreneur of artificial (social) origin), as derived in relation to a natural person, and to a social collective, embodied in the institution of an organization: with or without the status of a legal entity.

At the same time, both the entrepreneur of natural and artificial (social) origin can be the bearer of legal or illegal entrepreneurial initiative.

Thus, the category "entrepreneur" can be defined as a subject of law of natural or artificial (social) origin, possessing the ability to form a legal (lawful or unlawful) and organizational basis for the implementation of the primary / secondary lawful or unlawful form of entrepreneurial initiative.

Accordingly, an entrepreneur is also a subject of criminal entrepreneurship, although his entrepreneurial spirit and entrepreneurial actions have an illegal punishable nature.

The state is also an entrepreneur. Moreover, it is an entrepreneur of a special kind, since:

1. As well as a natural person is a subject of entrepreneurial initiative.
2. Like a natural person has the ability to form a legal and organizational basis for the implementation of entrepreneurial initiative. However, unlike the latter, the state, acting as an entrepreneur:
 - gives form to social reality by establishing rules of behavior, putting them into practice, and punishing subjects who do not observe such rules of behavior;
 - is a "creator" of law, and thus determines the order and conditions of transformation of the general social and economic status of "entrepreneur" into the legal status of a subject of natural or artificial (social) origin;
 - determines the functions, activities and objects of ownership, in respect of which he establishes his own exclusive right (state monopoly) to use in the realization of public tasks assigned to him (including the use of his own monopoly within the framework of initiation and realization of entrepreneurial initiative);
 - establishes for itself and other entrepreneurs the rules of initiation and implementation of entrepreneurial initiative, legal and organizational barriers to this, as well as sanctions in case of violation of such rules of conduct;
 - restricts itself within the framework of initiation and realization of entrepreneurial initiative in order to ensure the balance of public and private interest;
 - provides protection to all entrepreneurs without exception (including itself) against unlawful behavior that violates the balance of public and private interest.

3. Unlike other entrepreneurs, does not realize the entrepreneurial initiative independently, but entrusts such duty or delegates such duty or such right under the following conditions:

- subordinate subjects of economic activity (state bodies, local government bodies or other state organizations performing a public function on behalf of the state) - to act as subjects of its entrepreneurial initiative, including management of the state monopoly;

- other subjects of public relations - to use the delegated state monopoly within the limits of the entrepreneurial initiative coming from the state, implementing their own primary and (or) secondary entrepreneurial initiative into the legal construction of the latter on the principles of ensuring the balance of public and private interest.

Thus, the state as an entrepreneur is an entrepreneur of natural origin, initiating entrepreneurial initiative on behalf of the public collective represented by it, realizing it by assigning or delegating the duty or the right to such realization to the subjects of economic activity, acting on the principle of ensuring the balance of public and private interest.

2. The concept, features, forms and content of fiscal economic activity (state entrepreneurship). Peculiarities of legal barriers to the realization of fiscal economic activity (state entrepreneurship)

Public activity is always one of the forms of activity (creative, labor, economic or economic-labor), possessing the characteristics of one of the types of activity (professional or institutional, except for domestic, which is not capable of having a public-law nature), the purpose and content of which is the production of tangible and (or) intangible benefits of economic nature or tangible and (or) intangible benefits containing an economic element in its design.

The most widespread and predetermining the substantive characteristics of public administration form of activity is public economic activity, the uniqueness of the nature of which is not primarily due to the content of legal science, but stems from such a field of natural science as sociobiology.

Man has managed to combine two functions in the activity:

- direct production of tangible and intangible goods;

- management of his own community, the process of realization of which was also transformed into the process of production of a whole set of goods of public (social) nature, designed to ensure the realization of public interest and create prerequisites and conditions for the realization of private interest.

Such a unique combination of functions was embodied over time in the organizational and legal design of public activity. And this combination predetermines an indisputable fact: public administration (as an institutional phenomenon and a social institution formed on its basis) is possible only if the subject performing public administration has the ability to simultaneously produce public goods and use material and non-material goods produced by society.

Public activity is always an activity, the organizational and legal structure of which combines political, economic and legal elements, therefore, a special legal regime of its implementation, embodied in the model of its implementation, should always be established for public activity.

There are a number of regularities predetermining the legal regime of realization of public activity:

1. Public professional activity may be carried out in any of the forms of activity - creative (public activity of any politician who does not hold any position in the state apparatus, blogger, etc.), economic (activity of any public authority, state administration, local government and self-government, other subject of public monopoly), labor (activity of a public servant) or economic-labor (activity of a self-employed person who carries out legally significant activities).

2. Public institutional activity (i.e. activity on formation of the system of social relations and determination of rules of behavior for their subjects) can be carried out exclusively in the form of economic activity. For example, the functioning of the National Assembly of the Republic of Belarus is ensured through the implementation by the secretariat of the relevant chamber of the National Assembly of the administrative and economic activity, which has the nature of public economic activity. This is expressed in the fact that:

- in accordance with Article 50 of the Law of the Republic of Belarus No. 370-Z of July 8, 2008 "On the National Assembly of the Republic of Belarus", "draft laws are subject to mandatory registration and storage in the Secretariat of the House of Representatives";

- in accordance with Article 57 of the Law of the Republic of Belarus of July 8, 2008 No. 370-3 "On the National Assembly of the Republic of Belarus", "the draft laws adopted by the House of Representatives and submitted for consideration to the Council of the Republic shall be accompanied by the final conclusion of the structural subdivision of the Secretariat of the House of Representatives, which carried out expert legal activity on this draft law, as well as other expert conclusions, if they were given";

- in accordance with Article 59 of the Law of the Republic of Belarus No. 370-3 of July 8, 2008 "On the National Assembly of the Republic of Belarus", "the draft law received from the House of Representatives shall be registered in the Secretariat of the Council of the Republic and sent by the Chairman of the Council of the Republic or his deputy to the relevant standing committee of the Council of the Republic to prepare it for consideration by the Council of the Republic", etc.

Thus, it can be concluded that public economic activity can be carried out both in the mode of institutional and professional public activity. Determination of legal and organizational characteristics of the mechanism of implementation of public economic activity implies the delimitation of spheres of its implementation. This means that public economic activity differs significantly both in its nature and legal construction in the economy, social and political spheres.

All social relations that develop in relation to the implementation of public economic activity in the regime of state monopoly can be divided into the following varieties:

- administrative activity (as public institutional-professional economic activity);
- administrative economic activity (as a public professional economic activity);
- fiscal economic activity (state entrepreneurship), which should be understood as public economic activity carried out by the subjects of state monopoly in the regime of entrepreneurial and non-entrepreneurial economic activity with the purpose of obtaining economic, social and political effect, ensuring national security and creating conditions for socio-economic development of the Republic of Belarus.

According to the generic criterion, state entrepreneurship is subdivided into two types:

1) Non-delegated fiscal economic activity (state entrepreneurship), carried out on behalf of the state by its state bodies and other state organizations in the absence of an agency element in the legal construction of legal relations. There are five types of non-delegated fiscal economic activity (state entrepreneurship), identified by the criterion of the used methodology of realization of entrepreneurial initiative of the state:

- implementation of production of public and private goods by state bodies, as well as other state organizations - subjects of public interest (e.g., organizations that are by nature state corporations) and subjects of private interest (e.g., state enterprises (RUEs, PMCs) acting in private interest).

- management of the state monopoly (fiscal agency), i.e. management of the mechanism of delegation of exclusive rights of the state to various subjects of public and private interest, carried out by the manager of the state monopoly, which ensures social, economic and political effect for the state;

- management of the system of state procurement from national producers, including management of the mechanism of state order and the mechanism of procurement and commodity interventions on commodity markets, which allow to ensure stable functioning of certain sectors of the national economy and stable functioning of the social sphere using a wide range of means (for example, by ensuring national food security);

- management of urban planning policy, allowing for the formation of state infrastructure policy and investment policy in the field of construction;

- management of the public investment system, including the creation and functioning of state institutional investors (state investment banks (in the Republic of Belarus this is JSC "Development Bank of the Republic of Belarus"), state investment and innovation funds, state venture capital organizations, etc.);

- formation of a national system for managing toxic assets in the economy (in the Republic of Belarus these functions are performed by JSC "Agency for Asset Management").

2) Agency fiscal economic activity (state entrepreneurship), which is a public economic activity carried out by individuals and non-governmental organizations on the basis of the state monopoly delegated to them (i.e. public economic activity, which is a consequence and result of fiscal agency).

Thus, we can conclude: state entrepreneurship is at the same time:

1. one of the types of public economic activity carried out within the framework of the state monopoly (along with administrative, administrative-economic activity and public economic activity for the management of the state monopoly).

2. one of the generic legal regimes of entrepreneurship that determine the social orientation of entrepreneurial initiative (along with social entrepreneurship), since the legal nature and legal structure of public entrepreneurship (fiscal economic activity) is conditioned by the same interest and the same principles that are characteristic of social entrepreneurship.

3. The type of public economic activity and generic legal regime of entrepreneurship, combining in its legal construction the methodology of primary and secondary entrepreneurship, capable of optionally containing the methodology of social entrepreneurship.

4. methodology used by the state to manage the content characteristics and direction of social processes, based on the idea of forecasting, planning and organization of production on behalf of the state of public and private goods that allow the proper functioning of the national economy, social and political spheres.

State entrepreneurship is a massive subsystem of social relations in the general array of social relations, identified by the criterion of the carried out activity - public economic activity, the legal structure of which is based on the institution of state monopoly. This means that public entrepreneurship (fiscal economic activity) should be considered simultaneously as:

1. A sphere of public relations of a public nature, the legal construction of which is based on a unique combination of public and private interest:

- The public interest of the state and society embodied by it, consisting in the "production" through the mechanism and methodology of state entrepreneurship (fiscal economic activity) of the stability of the functioning of the social and political spheres of the state; at the same time, such stability is ensured by the fact that the national economy produces a guaranteed minimum amount of public and private goods necessary for the functioning of the state and society (e.g., arms and other means of

- private interest of the state in obtaining additional income for the budget or other elements of the treasury using a non-tax method, realized mainly through the state's participation in commercial organizations, as well as in non-profit organizations that receive income through secondary entrepreneurship;

- public interest of other subjects of public interest (apart from the state and its ATE), consisting in the possibility of satisfying the interest of public collectives represented by them in the production of tangible and intangible goods using the mechanism of state monopoly (for example, the functioning of consumer cooperation organizations using the methodology of public-private partnership);

- public interest of subjects of private interest (i.e. individuals and non-state organizations), consisting in realization of their abilities to produce various public and private goods, which (production) cannot be carried out outside the framework of the institution of state monopoly; accordingly, the essence of public interest of subjects of private interest consists in access to the mechanism of state monopoly and its use for

the common (public) good, the external form of expression of which is a social and political effect

- private interest of subjects of private interest and other subjects of public interest (all in addition to the state and its ATE), consisting in the possibility of obtaining an economic effect as a result of entrepreneurial activity or secondary entrepreneurship in the state monopoly regime.

It is the peculiarities of the combination of public and private interest in public economic activity carried out in the regime of state monopoly that allows us to distinguish two types of public relations of this kind:

- social relations formed in relation to the realization of non-degree fiscal economic activity (state entrepreneurship), in which there is no agency element;

- social relations formed in relation to the realization of agent fiscal economic activity (state entrepreneurship), in which the function of state entrepreneurship is performed by a fiscal agent of the state.

2. Methodology of distribution and redistribution between subjects of public and private interest of economic burden and risks on the organization of production of public and private goods necessary for the proper and effective functioning of the state and society.

3. an integral element of the methodology of public administration, the fundamental function of which is the distribution and redistribution at the macroeconomic and mesoeconomic levels of economic flows inherent to the national jurisdiction.

Non-delegated fiscal economic activity (state entrepreneurship) is characterized by the following spheres:

1. The sphere of primary state entrepreneurship, subdivided into two segments: primary state entrepreneurship that does not contain an element of social entrepreneurship and primary state entrepreneurship with an element of social entrepreneurship.

2. The sphere of secondary state entrepreneurship, also subdivided into two segments: secondary state entrepreneurship that does not contain an element of social entrepreneurship and secondary state entrepreneurship with an element of social entrepreneurship.

Both primary and secondary non-degree state entrepreneurship are carried out in the forms of:

1. State entrepreneurship of state bodies.

2. Creation and participation of the state in commercial organizations in order to obtain an economic effect (primarily in the form of additional income received by non-tax method) and the possibility of obtaining optional social and political effect (primarily through the formation of conditions for employment of the population and the creation of the necessary infrastructure).

3. Creation of state organizations, which by their nature are state corporations, performing simultaneously a regulatory function, other specific functions of the state, ensuring the receipt of social, political and economic effect, and carrying

out economic activities that allow the state to simultaneously receive income by non-tax method and develop economic complexes and sectors of the national economy.

4. Creation and participation of the state in non-profit organizations with the purpose of obtaining social and political effect and the possibility of optional obtaining economic effect from their functioning.

5. Management by state institutional units and specialized state organizations of economic flows at the macroeconomic and mesoeconomic levels, by ensuring the performance of state functions:

- a buyer or seller of goods in national commodity markets (e.g., procurement or commodity interventions) and in foreign economic activity in commodity markets operating outside civil turnover, i.e., the State's performance of transactions in which other subjects of international law and their fiscal agents act as counterparties, and economic transactions in relation to objects of civil and political rights belonging to the State (e.g., public law transactions in the arms market);

- investors in public investments, including public investments within the framework of fiscal agency (e.g., when the state plays the role of a concessionaire under a concession contract).

A unique feature of legal barriers to state entrepreneurship is the symbiosis of legal barriers inherent to entrepreneurial activity, secondary and social entrepreneurship, and legal barriers redefined by the nature of state monopoly. This is expressed in the fact that:

- on the one hand, the state, as a sovereign, is able to establish the "rules of the game" in the implementation of any form of activity, to form the organizational and legal basis for new types of public economic activity within the framework of state entrepreneurship;

- on the other hand, the state, as by definition a stronger subject in the system of economic legal relations, establishes a significant set of restrictions (legal barriers) for the subjects of state entrepreneurship (fiscal economic activity), allowing to ensure compliance with the balance of public and private interest. The most important are the legal barriers due to:

- international obligations of the state;

- legislation on public service;

- anti-corruption legislation;

- antimonopoly restrictions within the framework of the rule-making process and law enforcement practice (Article 23 of the Antimonopoly Law);

- the legal nature of a certain function, a certain type of activity or a certain object of ownership constituting a state monopoly.

It is important to note that the legal construction of legal barriers for a particular subject of legal barriers in the implementation of state entrepreneurship (fiscal economic activity) always has a personalized nature, because it is conditioned by the most complex combination of the most diverse factors. Therefore, the determination of the legal status of the subject of state entrepreneurship and the determination of the legal regime of public economic activity carried out by it always has a personalized character.

3. Result of state entrepreneurship (fiscal economic activity)

And such a result must necessarily have an impact on the structure, quantitative and qualitative characteristics of the state treasury, which implies an assessment of the performance of state entrepreneurship in the form of:

1. Receipts to the state budget system of income received by subjects of state entrepreneurship by non-tax method:

- active revenues - from transactions with the participation of the state on commodity markets, receiving active revenues as a result of making investments, as a result of fiscal agency (for example, within the framework of execution of a concession contract or agreement on public-private partnership), etc.

- passive income - within the framework of dividend policy from the state's participation in commercial and non-commercial organizations; receipt of passive income as a result of investments, as a result of fiscal agency (e.g., within the framework of execution of a concession agreement or a public-private partnership agreement), etc.; receipt of passive income as a result of investments, as a result of fiscal agency (e.g., within the framework of execution of a concession agreement or public-private partnership agreement), etc.

2. Proportional increase in revenues received by non-tax method, increase in the receipt of tax payments and para-tax payments to the budget system.

3. Increasing the volume of parafiscal revenues to parafiscal funds (e.g., contributions to state innovation funds).

4. Creation or acquisition of new objects of civil and political rights of the state (e.g., creation of new infrastructure objects; acquisition of armaments within the framework of the state defense order; from the implementation of the state monopoly on precious metals and precious stones, the legal regime of which is determined taking into account the norms of the Law of the Republic of Belarus of June 21, 2002 № 110-3 "On Precious Metals and Precious Stones" and the Agreement on the peculiarities of operations with precious metals and precious stones within the framework of the Eurasian Economic Community (EECC).

5. Improvement of qualitative and quantitative characteristics of human capital, ensuring an increase in the investment attractiveness of the national economy.

6. Improvement of the state of the environment.

7. Increasing the importance of the country brand and increasing its value characteristics as a macroeconomic commodity (increase in the importance of the brand), expressed, above all, in the state of the investment climate in the country.

The peculiarity of the effect of the state fiscal economic activity (state entrepreneurship):

1) Economic effect is an element of the political effect. The content characteristics of the social effect are a system of indicators of the quality of the political effect.

2) The external form of expression of the relationship between political and economic effect is:

- an increase in the "purchasing power" of the state, expressed in its ability to acquire more goods on commodity markets and to acquire the loyalty of society by improving the qualitative and quantitative characteristics of the obligations fulfilled by the state within the framework of the social contract;

- increasing the attractiveness of the state, expressed in the investment attractiveness of the national economy and in the social attractiveness for residents and non-residents of the state (i.e. in the desire of individuals to reside within the national jurisdiction);

- increasing the level of protection of national interests (i.e. in the qualitative and quantitative characteristics of the national security system).

4. Subjects of public entrepreneurship

The subject composition of public relations formed in relation to the implementation of state entrepreneurship includes:

1. Primary subjects - state entrepreneurs:

1) Subjects of state entrepreneurial initiative, possessing the ability to initiate entrepreneurial initiative, but are not subjects of state entrepreneurship as a general rule:

- owner of the state monopoly - the state and its ATE, acting as a beneficiary from the management of the state monopoly in domestic legal relations and as a counterparty
- owner of the state monopoly within the framework of international relations;

- manager of the state monopoly - state bodies, local government bodies, state organizations that are by their nature state corporations, other specialized state organizations endowed with special public legal personality, performing the function of fiscal agency.

2) State monopoly users (i.e. directly subjects of state business (fiscal economic activity)) - subjects of economic activity (including certain groups and types of state monopoly managers) carrying out public economic activity under the state monopoly regime, including:

- state users of the state monopoly - subjects of economic activity identified as state organizations, carrying out the production of tangible and intangible goods within the framework of implementation of the function of state entrepreneurship;

- fiscal agents of the state - economic entities engaged in the production of tangible and intangible goods within the framework of realization of the function of state entrepreneurship (fiscal economic activity) on the basis of the state monopoly delegated to them within the framework of fiscal agency.

2. Secondary actors, including:

1) State institutional units (the list of which is determined in accordance with the Statistical Classifier SK 00.007-2015 "Institutional units by sectors of the economy")
- consumers of benefits produced using the methodology of state entrepreneurship;

2) State bodies performing control and supervisory function within the framework of state entrepreneurship.

The peculiarities of the legal nature and legal construction of state entrepreneurship allow us to conclude that:

1. Determination of the legal status of state entrepreneurs - subjects with the ability to initiate entrepreneurial initiative, and the legal regime of public economic activity carried out by them, is carried out on the basis of their place in the system of public administration and (or) local administration and self-government.

2 The determination of the legal status of the user of state monopoly, i.e. the subject of state entrepreneurship, as well as the determination of the legal regime of public economic activity carried out by it always has an individual character, which is a consequence of the specific features of the system of legal barriers to the implementation of state entrepreneurship.

At the same time, it can be stated that economic activities of state monopoly users are always carried out in a repressive legal regime or contain an element of a repressive legal regime (for example, due to anti-corruption legislation).

3 The absolute majority of subjects of state entrepreneurship (fiscal economic activity) are by their legal nature economic entities. Exceptions to this rule are:

- natural persons who are not registered as sole proprietorships and who do not carry out income-generating licensed public economic activities, to whom the state monopoly has been delegated in accordance with the procedure established in pt. 3 of Article 10 of the Law on State Monopoly;

- non-profit organizations that are not commodity producers and do not receive income as a result of their public economic activity.

4. Subjects of entrepreneurial activity - managers of the state monopoly are only subjects of primary state entrepreneurship, i.e. subjects of commercial activity and secondary entrepreneurial activity. At the same time, among them economic entities are exclusively subjects of commercial activity.

5. Entrepreneurial activity in the system of fiscal economic activity (state entrepreneurship)

Determination of the legal nature and legal structure of fiscal economic activity (state entrepreneurship) of state bodies is possible only if its legal nature and the legal nature of administrative and economic activity are distinguished.

Under administrative and economic activity should be understood public economic activity carried out by international organizations, their bodies, state bodies, local government and self-government bodies, as well as state organizations vested with a regulatory function or performing special functions in the field of public administration.

This means that administrative and economic activity should be considered as public non-entrepreneurial economic activity, which is not subject to taxation, carried out by state bodies, bodies of local government and self-government, as well as state corporations to ensure the fulfillment of functions assigned to them by the Constitution of the Republic of Belarus.

Consequently, like state entrepreneurship, administrative and economic activity is a type of public economic activity carried out in the regime of state monopoly. The differences between the above-mentioned manifestations of public economic activity are as follows:

1. administrative and economic activity is:

- continuation of the administrative function of the state embodied in its administrative activity (which by its nature is public institutional economic activity), which is an external form of manifestation of regulatory (establishment of rules of conduct) and regulatory (law enforcement practice) behavior of the subject of international law, carried out by international organizations and their bodies, state bodies, bodies of local government and self-government, as well as state organizations endowed with the

- the external form of manifestation of administrative activity is the administrative procedures and adoption of legal acts carried out by its subject, while the external form of manifestation of administrative and economic activity is expressed in the totality of actual and, due to the need for their formalization, legally significant actions performed by the subject of administrative activity or its official in order to ensure the very possibility of the functioning of such a subject and its production of relevant administrative acts

- the result of administrative and economic activity is not an economic, social or political effect; its result is the creation of organizational and technical opportunities for the functioning of the subject of administrative activity;

- the legal and organizational nature of the result of administrative and economic activity allows to state that it is derivative in relation to administrative activity, but unlike the latter, its legal basis is not in the sphere of regulation of the system of public administration, but in the sphere of regulation of intra-economic relations of subjects of economic activity that make up the system of public administration; in other words, administrative and economic activity is an analogue of intra-economic relations of subjects of economic activity that make up the system of public administration.

- Since the subjects of state entrepreneurial initiative to a greater or lesser extent are an integral element of the system of public administration, it can be stated that all of them, without exception, are characterized by the implementation of administrative and economic activity, in the absence of which it becomes impossible to carry out fiscal economic activity (state entrepreneurship);

- within the framework of administrative and economic activities, tangible and intangible benefits are also produced (e.g. cleaning of premises, printing of documents, etc.), but the peculiarity of these benefits is their exclusively internal consumption: in other words, the subject of administrative activity through administrative and economic activities ensures its proper functioning;

- administrative and economic activity is not capable of being carried out in the legal regime of entrepreneurial activity, secondary entrepreneurship, social entrepreneurship or state entrepreneurship.

Using the analogy with the functioning of a commercial organization, which is not endowed with any public-law function in the system of state administration, the inherent economic activity of the state is correlated as follows:

- administrative activity of a state body is an analogue of intra-economic activity in a commercial organization, carried out within the framework of the corporate management system of the organization, which forms and implements the intra-economic policy of the organization;

- administrative and economic activity is an analogue of intra-economic activity of the "office of a commercial organization", which ensures the functioning of the corporate governance system and organizes the functioning of the organization as a whole on the basis of the latter's decisions;

- fiscal economic activity (state entrepreneurship) is an analogue of entrepreneurial activity of a commercial organization, which allows the latter to produce the necessary tangible and intangible goods and receive economic effect at the expense of it.

2. Fiscal economic activity (state entrepreneurship) is:

- public economic activity carried out in the legal regime of primary or secondary state entrepreneurship (which can optionally contain an element of the legal regime of social entrepreneurship);

- the result of fiscal economic activity (state entrepreneurship) is a political effect based on economic effect, associated with social effect;

- tangible and intangible goods produced within the framework of state entrepreneurship are intended for sale on commodity markets and for use in the performance of the state's functions (although, of course, optionally they can be used also within the framework of internal economic activities of subjects of public and private interest and within the framework of administrative and economic activities in the system of state administration); accordingly, unlike the goods produced within the framework of administrative and economic activities, they can be used within the framework of the state's functions.

- realization of fiscal economic activity (state entrepreneurship) and obtaining the expected result from it is impossible without prior realization of administrative and economic activity by the subject of state entrepreneurial initiative.

Thus, it can be stated that for any state body, local government and self-government body the primary form of manifestation of public economic activity is administrative and economic activity, while the form of fiscal economic activity (state entrepreneurship) is permissible for it only in exceptional cases provided for by the Constitution of the Republic of Belarus and the legislation on state entrepreneurship.

1.1.11 Peculiarities of legal regulation of fiscal economic activity (state entrepreneurship)

1. Fiscal economic activity (state entrepreneurship) of state bodies.

2. Fiscal economic activity (state entrepreneurship) in the sphere of state investments.

- 3. Agency fiscal economic activity (state entrepreneurship).**
- 4. Social entrepreneurship in the system of fiscal economic activity (state entrepreneurship).**

1. Fiscal economic activity (state entrepreneurship) of state bodies.

Fiscal economic activity, which includes tax activity, is a mechanism for the state to carry out entrepreneurial activities. In this regard, fiscal economic activity is also called state entrepreneurship. Fiscal economic activity is a tool for the implementation of fiscal interests by the state. The implementation of fiscal economic activities by the state does not cancel the receipt of fiscal payments from such activities - entities engaged in fiscal economic activities are recognized as payers of fiscal payments. Entities engaged in fiscal business activities participate in the formation of other fiscal revenues. Entities engaged in fiscal economic activities participate in the formation of secondary fiscal flows - parafiscalities.

State entrepreneurship is an active proactive behavior of a formalized nature, the purpose of which is to generate income for the state, and income and (or) profit for public-law state legal entities and public-law municipal legal entities (depending on their organizational and legal form and the specifics of their economic activities), carried out by the state using the fiscal economic mechanism. activities. State entrepreneurship manifests itself in two forms:

- fiscal economic activities of public-law state legal entities and public-law municipal legal entities;
- fiscal economic activity of the state in the form of creation of private law state legal entities and ownership of shares in non-governmental legal entities.

Thus, state entrepreneurship is an institutional phenomenon that represents the active proactive behavior of the state of a formalized nature, the purpose of which is to generate income for the state, and income or profit for subjects of fiscal economic activity; and fiscal economic activity is a form of expression of state entrepreneurship in the real world. Further, in order to determine the legal nature and legal structure of fiscal economic activity (state entrepreneurship), it is necessary to limit it from administrative and economic activities.

There is no definition of administrative and economic activity in national legislation and there is no uniform approach to understanding this category, therefore the phrase "administrative and economic" can be found in various contexts in a variety of regulatory legal acts. From the point of view of the science of economic law, administrative and economic activity is a public economic activity peculiar to entities performing their functions on behalf of the state. Thus, administrative and economic activities should be understood as public economic activities carried out by international organizations, their bodies, state bodies, local government and self-government bodies, as well as state organizations endowed with a regulatory function or performing special functions in the field of public administration. As Yu.G. Konanovich notes, this means that administrative and economic activities should be considered as public non-entrepreneurial economic activities that are not subject to taxation, carried out by state bodies, local government and self-government bodies, as

well as state corporations in order to ensure the fulfillment of the functions assigned to them by the Constitution of the Republic of Belarus.

Administrative and economic activities - this is a continuation of the administrative function of the state, embodied in its administrative activity (which by its nature is a public institutional economic activity), which is an external form of manifestation of the regulatory (establishment of rules of conduct) and regulatory (law enforcement practice) behavior of a subject of international law, carried out by international organizations and their bodies, state bodies, local government and self-government bodies, as well as government organizations, endowed with a regulatory function or performing special functions in the field of public administration; at the same time, administrative and economic activities also have the nature of public institutional and professional economic activities.;

- the external form of manifestation of administrative activity is the administrative procedures carried out by its subject and the adoption of legal acts, while the external form of manifestation of administrative and economic activity is expressed in a combination of actual and necessary formalization - legally significant actions performed by an administrative entity or its official in order to ensure the very possibility of such an entity functioning and conducting appropriate administrative procedures, as well as the adoption of appropriate legal acts of various nature and the commission of law enforcement acts; For example, the functioning of the National Assembly of the Republic of Belarus is ensured through the implementation of administrative and economic activities by the secretariat of the relevant chamber of the National Assembly, which are of the nature of public institutional and professional economic activities.; - the result of the implementation of administrative and economic activities is not an economic, social or political effect; its result is the creation of organizational and technical capabilities for the functioning of the subject of administrative activity;

- the legal and organizational nature of the result of administrative and economic activity allows us to state that it is derived from administrative activity, however, unlike the latter, its legal basis is not in the sphere of regulation of the public administration system, but in the sphere of regulation of intra-economic relations of economic entities that make up the public administration system.; In other words, administrative and economic activity is an analogue of on-farm activity in an organization that is not endowed with a public function in the public administration system.;

- since the subjects of the state entrepreneurial initiative are, to one degree or another, an integral element of the public administration system, it can be stated that all of them, without exception, are characterized by the implementation of administrative and economic activities, in the absence of which it becomes impossible to carry out fiscal economic activities (state entrepreneurship); - within the framework of administrative and economic activities, tangible and intangible benefits are also produced (for example, cleaning of premises, printing of documents, etc.), however, the peculiarity of these benefits is their exclusively on-farm consumption: in other words, the subject of administrative activity ensures its proper functioning through administrative and economic activities; - administrative and economic activities are not

capable of being carried out in the legal regime of entrepreneurial activity, secondary entrepreneurship, social entrepreneurship or state entrepreneurship. Using an analogy with the functioning of a commercial organization that is not endowed with any public legal function in the public administration system, the economic activity inherent in the state is correlated as follows:

- the administrative activity of a state body is an analogue of on-farm activities in a commercial organization carried out within the framework of the corporate governance system of the organization that forms and implements the on-farm policy of the organization.;

- administrative and economic activity is an analogue of the on-farm activity of the "office of a commercial organization", which ensures the functioning of the corporate governance system and organizes the functioning of the organization as a whole based on the decisions of the latter;

- fiscal economic activity (state entrepreneurship) is an analogue of the entrepreneurial activity of a commercial organization, which allows the latter to produce the necessary tangible and intangible benefits and thereby obtain an economic effect. At the same time, fiscal economic activity (state entrepreneurship) is:

- public economic activity carried out in the legal regime of primary or secondary state entrepreneurship (which may optionally contain an element of the legal regime of social entrepreneurship);

- the result of fiscal economic activity (state entrepreneurship) is a political effect based on an economic effect, associated with a social effect; - tangible and intangible goods produced within the framework of state entrepreneurship are intended for sale on commodity markets and for use in the performance of state functions (although they can also optionally be used within the framework of internal business activities of subjects of public and private interest and within the framework of administrative and economic activities in the public administration system);

Accordingly, unlike goods produced within the framework of administrative and economic activities, tangible and intangible goods produced within the framework of state entrepreneurship have a legal regime of goods on the commodity market.; - the implementation of fiscal economic activity (state entrepreneurship) and obtaining the expected result from it is impossible without the prior implementation of administrative and economic activities by the subject of the state entrepreneurial initiative. Thus, it can be stated that for any state body, local government and self-government body, the primary form of public economic activity is administrative and economic activity, while the form of fiscal economic activity (state entrepreneurship) is permissible for it only in exceptional cases provided for by the Constitution of the Republic of Belarus and legislation on public administration.

The fiscal effect of fiscal economic activity has the following structure:

1. As a result of fiscal economic activity, the budget system of the state is supplied with fiscal revenues, primarily tax and para-tax payments.

2. Fiscal economic activity makes it possible to ensure the supply of fiscal flows to the treasury, resulting from the receipt of profit, income or other significant result

by subjects of fiscal economic activity (for example, the creation of infrastructure facilities, etc.).

3. Fiscal economic activity makes it possible to reduce the fiscal burden on the national economy, since subjects of fiscal economic activity enable the state to reduce budget expenditures on financing and implementing public investments in certain areas of society and sectors of the national economy, thereby without creating prerequisites for increasing budget revenues using the mechanism of tax and para-tax payments. Fiscal economic activity involves the formation of two levels of economic flows serving the treasury of the state:

1. At the first level, fiscal economic activity ensures the flow of funds directly to public budgets or to other structural elements of the treasury.

2. At the second level, fiscal economic activity ensures the flow of funds into combined funds of financial resources operating simultaneously in the modes of satisfying public and private fiscal interests. Unlike private entrepreneurial activity, fiscal economic activity, which is a public entrepreneurial activity, is always aimed not only at obtaining a high economic effect from the implementation of economic processes, but also optionally involves achieving a certain social effect in conjunction with ensuring the implementation of certain areas of domestic and foreign policy of the state.

Thus, the tax economic activity of state bodies is a comprehensive system of public entrepreneurial activity of the state, ensuring the stable formation and reproduction of financial resources of the treasury. It is not limited only to tax collection, but also includes the receipt of income from the activities of state business entities and the creation of economically significant results that reduce budget expenditures and thereby reduce the fiscal burden on the national economy. This type of activity creates a multi-level system of financial flows, direct revenues to the budget and combined funds serving both public and private interests. Unlike private entrepreneurship, the tax (fiscal) economic activity of the state is aimed not only at extracting economic benefits, but also at achieving social results and implementing strategic directions of domestic and foreign policy. Thus, the tax economic activity of government agencies is a key tool for ensuring the financial stability of the state, economic development and the implementation of its public functions. If we talk about the category of "state body", then it should be considered in a broad sense, defined in accordance with the definition of "state body" contained in art. 1 of the Antimonopoly Law and in art. 1 of the Law of the Republic of Belarus dated December 13, 2022 No. 227-Z "On settlement of insolvency", namely:

- National Bank of the Republic of Belarus; - National Academy of Sciences of Belarus; - Office of the President of the Republic of Belarus; - other government agencies and other government organizations subordinate (accountable) To the President of the Republic of Belarus (except for the Administration of the President of the Republic of Belarus, the State Secretariat of the Security Council of the Republic of Belarus and the Security Service of the President of the Republic of Belarus);

- government agencies and government organizations that are subordinate (accountable) Administration of the President of the Republic of Belarus; - republican

government bodies and others state organizations subordinate to the Government of the Republic of Belarus, as well as other organizations performing the functions of these bodies;

- local executive and administrative bodies;
- temporary or permanent interdepartmental formations consisting of representatives of state bodies that are endowed with separate state powers by legislative acts. For the purposes of defining the legal regime of state entrepreneurship, it is necessary to limit ourselves to a narrow (standard) understanding of the nature of a state body. This makes it possible to identify the following types of government agencies that regulate the relations that arise regarding the implementation of fiscal economic activities (state entrepreneurship): 1. Public authorities are capable of performing the function of a subject of a state entrepreneurial initiative (namely, the administrator of a state monopoly), if this is due to their functionality. For example, such a function is available to the Council of Ministers of the Republic of Belarus, but it is not a property of the judicial system for objective reasons, and it is also not a property of the National Assembly of the Republic of Belarus, since it is a representative authority that does not perform an administrative function. 2. Sectoral government bodies are the main type of administrators of the state monopoly, performing the function of fiscal agency. At the same time, their performance of the function of a user of a state monopoly can take place only in exceptional cases when such a function is mandatory for the regulated branch of public relations. An example of such a sectoral government body is the State Military-Industrial Committee of the Republic of Belarus, the function of state entrepreneurship for which can be determined based on the interpretation of the norms contained in Chapter 2 of the Regulations on the State Military-Industrial Committee of the Republic of Belarus, approved by Decree of the President of the Republic of Belarus dated December 8, 2009 No. 602 "Issues of State Military-Industrial the committee."

3. Functional public administration bodies are created according to the principle of narrow specialization, which involves endowing such a public administration body with all the necessary tools to perform a certain function of the state. Accordingly, for functional government bodies, along with the legal position of the administrator of the state monopoly, as a rule, the functionality of the user of the state monopoly is available (that is, both functions – the subject of the state entrepreneurial initiative and the user of the state monopoly (or rather, the state user of the state monopoly), as a rule, are combined). An example of such functional government bodies are departments with the rights of a legal entity in the central offices of ministries and State committees. Moreover, individual departments with the rights of a legal entity in the central offices of ministries and state committees can actually be endowed with the functionality inherent in a state organization, which is by its nature a state corporation.

Thus, depending on the specifics of the legal status of a public administration body, the functionality of fiscal economic activity (state entrepreneurship) may be available to it. At the same time, they can combine the functions of the administrator of the state monopoly and the state user of the state monopoly. At the same time, public

administration bodies cannot have the legal status of a fiscal agent of the State, since they are an integral element of the public administration system.

The implementation by sectoral and functional government bodies of the function of fiscal economic activity (state entrepreneurship), involving the implementation of entrepreneurial activities, is carried out according to the following rules:

1. The performance of commercial activities (as a primary type of entrepreneurial activity) by an industrial or functional state management body is permissible in exceptional cases when such a function is assigned to it by law.

2. The participation of an industry-specific or functional public administration body in entrepreneurial activity (i.e. secondary entrepreneurial activity) is a widespread practice in the Republic of Belarus and is reflected in the institution of organizations subordinate to the public administration body.

The implementation of commercial activities by a state management body or the implementation of secondary entrepreneurial activities by it is evidence that such a state body is a subject of public economic activity carried out in the regime of a state monopoly, acting in the public interest. State bodies in the Republic of Belarus carry out tax economic activities through the functions of tax regulation, control over the payment of taxes and fees, as well as business management within the framework of state entrepreneurship. The main functions include the development of tax proposals, accounting for payments to the budget, monitoring compliance with legislation on entrepreneurship and gambling, as well as creating conditions for the development of the private sector of the economy.

These functions are carried out by republican bodies, such as the Ministry of Taxes and Duties (MNS), which implements policies in the field of taxation and control over the turnover of excisable goods. The exclusive functions of state bodies in the implementation of state-owned entrepreneurship in the Republic of Belarus are to exercise the right of the State to carry out certain types of activities that can only be carried out on behalf of the State by authorized bodies or by acts of the President. These functions include government regulation of the ownership, use and disposal of objects that are exclusively State-owned, as well as control over strategic sectors where private initiative is limited. The President, the Council of Ministers, and local authorities determine the conditions and procedures for such activities, prohibiting unauthorized interference. The key bodies are the Ministry of Taxes and Duties, the Department of Entrepreneurship of the Ministry of Economy, the Council for the Development of Entrepreneurship under the Council of Ministers and local executive committees. The Ministry of Internal Affairs controls the calculation and payment of taxes, including business fees, as well as alcohol and tobacco trafficking. The Department of Entrepreneurship and the executive Committees regulate small and medium-sized businesses by forming support programs, coordinating operating modes and providing financial assistance through funds. State entrepreneurship is manifested in unitary enterprises. State bodies act as owners of the property of unitary enterprises that are not endowed with ownership rights, ensuring the indivisibility of property and the appointment of managers. They have the exclusive right to transfer the management powers of a unitary enterprise to other organizations or individuals, and to participate

in business associations and associations by decision of the President or the Government. Enterprises such as republican and municipal enterprises under the right of economic management are subject to direct control in order to fulfill the tasks of national security and economic stability. Examples of such enterprises can be Pinskdrev-Tehenergoservice (furniture manufacturing) or, for example, Zhlobinsky Dairy Plant, which are part of state-controlled holdings.

Government interference in business is allowed only on the basis of legal norms in the interests of national security, public order or public health, excluding arbitrary influence on the non-governmental sector. The State determines the types of activities with the exclusive right, transferring their implementation to non-state actors only under special acts of the President with established conditions. This ensures a balance between state control and the development of competition in accordance with the Civil Code of the Republic of Belarus. To summarize, it should be noted that the tax economic activities of government agencies in Belarus combine control and support for entrepreneurship, ensuring budget replenishment and economic development with a tax burden of about 24% of GDP. This contributes to the sustainability of a system where state-owned unitary enterprises complement the private sector, and bodies like the Ministry of Internal Affairs and Councils focus on regulation and incentives. In general, the approach balances fiscal interests with entrepreneurial initiative in accordance with the legislation.

2. Fiscal economic activity (state entrepreneurship) in the sphere of state investments.

At the present stage, the formation of the state investment policy is a key instrument of the socio-economic development of the Republic of Belarus. State regulation of investment activity, aimed at establishing rules and mechanisms for attracting and effectively managing investment resources, is the basis for intensive economic growth and sustainable development. Investments serve as the basis for expanded reproduction, contributing to a reduction in the cost of final products, an increase in labor productivity, the creation of new high-tech industries and the balanced development of economic sectors.

The economic activity of individual business entities and the country as a whole is characterized by the volume and forms of investment. The development of priority economic activities in the Republic of Belarus directly depends on their ability to attract financial resources and use them effectively. According to international experience, government intervention in the investment sector of the economy has long been the norm. At the same time, the mechanisms of state investment policy are being systematically improved, and the public sector plays a significant role both in the economy and in investments. In the context of globalized investment models and fierce competition for capital flows, the most successful countries are those that implement rational (effective) investment policies (Japan, the United States, Germany, etc.), where government support for investment activities plays an important role as an activator of the overall investment activity of business entities. By themselves, market

mechanisms without government regulation and support measures are not capable of achieving the goals and objectives of socio-economic development. In the context of the Belarusian socio-economic model, there are two main scenarios for mobilizing investment resources for the implementation of investment policy:

1. The first scenario provides for the mobilization of resources in the hands of the state and an increase in government spending on investments in fixed assets. Here, the state is the main actor in managing the investment process and modernizing the real sector of the economy, where the investment climate plays a secondary role.

2. The second scenario is based on the insufficient financial resources of the public sector to create a competitive economy and achieve conditions for sustainable development, which requires the involvement of private capital. In this scenario, the state plays a significant role in supporting investment activities, creating and developing infrastructure. In order to achieve the objectives of socio-economic development, joint participation of public and private capital is envisaged. The formation and implementation of these scenarios involves, first of all, the effective use of the involved investment capital. The study showed that in fact, the first scenario of the formation and implementation of investment policy was implemented in the Republic of Belarus, where the public sector was given a leading position in the accumulation and use of investment resources. State regulation of investment activities is carried out in order to stimulate the activities of investors, attract foreign investment to the Republic and protect the rights of investors in the territory of the Republic of Belarus. Government provides for: regulation of investment activity

1) direct participation of the state in investment activities by: adopting state investment programs and financing them from the republican budget; providing centralized investment resources from the republican budget to finance investment projects on the basis of payment, urgency and repayment; providing guarantees from the Government of the Republic of Belarus on loans attracted for the implementation of investment projects; conducting state investment projects; comprehensive expertise of granting concessions to national and foreign investors;

2) creating favorable conditions for the development of investment activities by: providing state support to investors; protecting investors' interests; creating free economic zones on the territory of the Republic of Belarus; determining the conditions for the ownership, use and disposal of land, subsoil, waters and forests; taking antitrust measures and suppressing unfair competition; determining the conditions for the privatization of state-owned facilities ownership; assistance to the development of the securities market; implementation of effective fiscal, tax, monetary and monetary policy; use of other forms and methods of state regulation in accordance with the legislation of the Republic of Belarus.

3. A special place in the formation of a favorable investment climate is occupied by state guarantees of investment activity, which include guarantees of investors' rights and investment protection. Guarantees of observance of investor's rights provide for: the investor's ownership and other property rights, as well as property rights acquired legally, and protects these rights. equality of rights granted to investors, regardless of their form of ownership, in carrying out investment activities, as well as equal, without

any discrimination, protection of the rights and legitimate interests of investors. stability of the investor's rights established by the Investment Code of the Republic Belarus, on the implementation of investment activities and their termination.

The investor's right to independently determine and carry out, in accordance with the legislative acts of the Republic of Belarus, all actions arising from the ownership, use and disposal of objects and results of investment activities. Guarantees of the use of activities include: results of investment the investor's right to independently manage the profit (income) received as a result of investment activities, including reinvestment in the territory of the Republic of Belarus in accordance with the legislative acts of the Republic of Belarus.; unhindered transfer outside the Republic of Belarus of profits (income) received on the territory of the Republic of Belarus as a result of investment activities, as well as proceeds from the full or partial sale of investment property upon termination of investment activities after payment of taxes and other mandatory payments established by legislative acts of the Republic of Belarus. Special attention should be paid to reinvestment, which is understood as an investor's investment in investment activities in the territory of the Republic of Belarus of profits (income) already received by him as a result of such activities. The increase in reinvestment is indicative of the investment sector. the State policy effectiveness in the National Security Concept of the Republic of Belarus (paragraph 50) states: "a necessary condition for neutralizing internal sources of threats to national security in the economic sphere is to maintain long-term macroeconomic stability through structural restructuring of the economy of the Republic of Belarus based on foreign direct investment, increased labor productivity and innovation activity of all business entities, reduction of the negative balance of foreign trade, reducing import and material consumption, cost and quality improvement of manufactured products".

3. Agency fiscal economic activity (state entrepreneurship).

State entrepreneurship in the Republic of Belarus is a special form of economic activity carried out by government agencies and organizations in order to realize strategic interests, ensure economic security and achieve socially significant results. Departmental tax economic activity is a part of this system, covering the processes of managing state assets, collecting non—tax revenues, and interacting with the private sector. Fiscal economic activity (state entrepreneurship) is:

- public economic activity carried out in the legal regime of primary or secondary state entrepreneurship (which may optionally contain an element of the legal regime of social entrepreneurship); – the result of fiscal economic activity (state entrepreneurship) is a political effect based on an economic effect, associated with a social effect;
- tangible and intangible goods produced within the framework of state entrepreneurship are intended for sale on commodity markets and for use in the performance of state functions (although they can also optionally be used within the framework of internal business activities of subjects of public and private interest and within the framework of administrative and economic activities in the public

administration system); Accordingly, unlike goods produced within the framework of administrative and economic activities, tangible and intangible goods produced within the framework of state entrepreneurship have a legal regime of goods on the commodity market.;

– the implementation of fiscal economic activity (state entrepreneurship) and obtaining the expected result from it is impossible without the prior implementation of administrative and economic activities by the subject of the state entrepreneurial initiative. In disclosing the content of state entrepreneurship, it is important to establish the interests realized by its subjects.

Their composition includes: the state; commercial enterprises of the public sector of the economy; business organizations based on a mixed form of ownership; individuals and legal entities that have received from the state for a certain period of time the rights to dispose and use property and intangible assets belonging to it. The object of these relations includes: property complexes at the disposal and use of state-owned enterprises; state tangible and intangible assets contributed to the authorized capitals of mixed enterprises; state capital in various forms transferred on market supply terms to private individuals and legal entities. In describing the content of managerial relations between the state and each of the identified subjects of state entrepreneurship, we pay attention to the following.

The relationship between the state and a state-owned enterprise is based on a clearly defined list of management tasks, the composition of which depends on the organizational and legal status of the business entity (a state-owned enterprise, a joint-stock company with a 100% stake in the state, etc.). At the same time, there are many invariant issues, including: establishing the profile and types of economic activity of an enterprise, the order of income distribution between it and the owner, the conditions and mechanism of state financing of individual reproduction processes, the organization and reorganization of the personnel incentive system, etc. Relations between the state and an economic organization based on a mixed form of ownership are mainly about: redistribution of property, changes in the composition and scope of powers exercised in the management of different owners, the formation of consumption and accumulation funds, the establishment of conditions and procedures for the provision of forms of state support, etc. Entrepreneurial activity (primary entrepreneurship) – business activities of state organizations (in some cases, state institutional units (for example, the Department of Security of the Ministry of Internal Affairs of the Republic of Belarus)) carried out on behalf of the state and for the benefit of the state. Thus, it can be stated that for any state body, local government and self-government body, the primary form of public economic activity is administrative and economic activity, while the form of fiscal economic activity (state entrepreneurship) is permissible for it only in exceptional cases provided for by the Constitution of the Republic of Belarus and legislation on public administration.

However, for the purposes of defining the legal regime of state entrepreneurship, it is necessary to limit oneself to a narrow (standard) understanding of the nature of a state body. This makes it possible to develop the following rules for determining the

place of government agencies in the framework of public relations related to the implementation of fiscal economic activities (state entrepreneurship):

1. Public authorities are capable of performing the function of a subject of a state entrepreneurial initiative (namely, the administrator of a state monopoly), if this is due to their functionality. For example, such a function is available to the Council of Ministers of the Republic of Belarus, but it is not a property of the judicial system for objective reasons, and it is also not a property of the National Assembly of the Republic of Belarus, since it is a representative authority that does not perform an administrative function.

2. Sectoral government bodies are the main type of administrators of the state monopoly, performing the function of fiscal agency. At the same time, their performance of the function of a user of a state monopoly can take place only in exceptional cases when such a function is mandatory for the regulated branch of public relations. In the context of the topic of this report, we are interested in the second option, since a special branch body, the Ministry of Taxes and Duties, is endowed with competence in tax activities.

The implementation by sectoral and functional government bodies of the function of fiscal economic activity (state entrepreneurship), involving the implementation of entrepreneurial activities, is carried out according to the following rules:

1. The performance of commercial activities (as a primary type of entrepreneurial activity) by an industrial or functional state management body is permissible in exceptional cases when such a function is assigned to it by law.

2. The participation of an industry-specific or functional public administration body in entrepreneurial activity (i.e. secondary entrepreneurial activity) is a widespread practice in the Republic of Belarus and is reflected in the institution of organizations subordinate to the public administration body. Departmental tax economic activity. One of the most important areas of state entrepreneurship is departmental tax economic activity, which is the activity of a state organization or institution carried out within the competence of the department, aimed at generating income, disposing of property and performing business operations. Departmental tax activities are activities related to the fulfillment of tax obligations, tax planning, calculation and transfer of taxes, as well as tax accounting. Together, they form a complex of departmental tax economic activities, that is, the entire system of economic operations of state structures and related taxes, payments and financial settlements.

Forms of departmental economic activity:

1. Paid services of government agencies. Institutions can provide services related to their main activities: medical services, educational services, scientific research, expertise, cultural events, sports services.

2. Production activities of state-owned enterprises. State-owned enterprises produce goods, perform work, and provide services in various industries: industry, transport, energy, communications, and agriculture.

3. Commercial use of state property. Government organizations can receive income from: renting out premises, using equipment, transferring land or other resources.

4. And others. Departmental tax activity in the Republic of Belarus is a special area of management practice that covers the internal processes of tax authorities and government organizations related to the control, analysis and administration of tax and non-tax revenues. Unlike official government statistics, they have the character of internal reporting and serve as a tool for improving the effectiveness of tax policy and management of state assets.

The content of departmental tax activities includes monitoring tax revenues, accounting for income from the use of state property, analyzing the effectiveness of benefits provided, as well as interaction with law enforcement agencies and other agencies. An important element is the collection of information about taxpayers, their property status and economic activity, which allows the state not only to monitor the completeness and timeliness of tax payments, but also to assess the overall tax burden on the economy.

4. Social entrepreneurship in the system of fiscal economic activity (state entrepreneurship).

Social entrepreneurship is a unique legal and economic institution. Among others, it is distinguished by a feature that is no longer characteristic of any other legal regime of entrepreneurship - an unconditional attachment to the organizational structure of the social sphere and the legal structure of social relations developing in the social sphere.

In other words, social entrepreneurship is impossible outside the social sphere and cannot exist without a methodological basis for economic activity in the social sphere.

It is also necessary to understand that social entrepreneurship is an institutional phenomenon and a complex legal institution of a derivative nature in relation to primary and secondary entrepreneurship (the nature and design of which determine the nature of entrepreneurial initiative, methodology and mechanism of its implementation). Social entrepreneurship does not have its own kind of entrepreneurial initiative. It is based only on a specific methodology for the implementation of primary and (or) secondary entrepreneurial initiatives, which determines the specific social orientation of the latter. At the same time, social entrepreneurship is characterized by the presence of a range of specific subjects that are absent from the constituent structure of primary and secondary entrepreneurship.

However, the nature of social entrepreneurship is determined by a completely unnamed feature. The fact is that the institutionalization of social entrepreneurship into an independent methodology, conditioned by the generic legal regime that defines the social orientation of entrepreneurial initiative, is conditioned by the same interest and the same principles as the institutionalization of state entrepreneurship.

Social entrepreneurship is a methodology for the realization of public interest, which can be distinguished from state entrepreneurship using the following rules:

1. State entrepreneurship (fiscal economic activity) is a methodology for the implementation of a primary or secondary entrepreneurial initiative initiated by the state in a state monopoly, which is not delegated to non-state actors of public relations, or delegated to the latter, but is managed by the state through the methodology of fiscal agency.

At the same time, the state is able to perform the function of social entrepreneurship independently, without the participation of non-state actors in public relations.

Accordingly, social entrepreneurship is optional not only in relation to primary and secondary entrepreneurship, but also to public entrepreneurship.

2. Social entrepreneurship is a methodology for combining a primary or secondary entrepreneurial initiative initiated by the state with the entrepreneurial initiative of non-state actors in public relations who implement such a "combined entrepreneurial initiative" through partnerships between subjects of public and private interest, embodied primarily in the institution of public-private partnership.

Social entrepreneurship has the following characteristics:

1. The idea and methodology of social entrepreneurship is formed around two public law institutions that constitute the exclusive right of the state to function:

1.1. Social services (that is, a set of measures for the organization and provision of social services, assistance in activating citizens' own efforts to prevent, overcome and (or) adapt to a difficult life situation), regulated by the norms of the Law on Social Services, embodied in the form of:

- social services - activities in the field of social services to provide assistance to a citizen in order to assist in preventing, overcoming a difficult life situation and (or) adapting to it, not related to the provision of financial assistance;

- social projects - a set of organizational and technical measures to solve the social problems of a certain group of citizens in a difficult life situation.

1.2. Environmental protection, the pronounced segments in the legal structure of which are the protection of the animal and plant world.

In some States, the sphere of social entrepreneurship also includes a segment of the implementation of secondary entrepreneurial initiatives in the field of expansion and protection of civil rights, which is characterized by highly speculative, tendentious and politicized mechanism and methodology of social entrepreneurship, which are not widespread in the Republic of Belarus.

2. Social entrepreneurship - this is the sphere of exclusively public economic activity (both entrepreneurial and non-entrepreneurial economic activities), although at first glance it may seem that some of its subjects carry out creative and economic and labor activities (both with and without an element of self-employment), the purpose of which is to achieve a social effect that ensures the functioning of, development and expansion of the social sphere for continuous and efficient production of human capital, by solving social problems of a temporary and permanent nature.

However, it is necessary to remember the following rule: if an element of public monopoly appears in the legal structure of creative or economic activity involving the production of tangible or intangible benefits of an economic nature (including those designed to produce a social rather than an economic effect), such activity is automatically transformed into public economic activity.

Accordingly, social entrepreneurship: This is not a specific type of methodology for carrying out entrepreneurial activity, although it implies the possibility of its

implementation; it is exclusively the sphere of public economic activity (both entrepreneurial activity and non-entrepreneurial economic activity).

Social entrepreneurship aims to solve social problems (including acute ones that generate a serious imbalance of public and private interest) in the social sphere, while goal-setting in secondary entrepreneurship focuses on the production of a variety of goods necessary for the functioning of the social sphere and ensuring the production of human capital.

5. Social entrepreneurship is a mutually beneficial cooperation between the state and a social business entity (which can be supported by both a state organization and a private interest entity), providing simultaneous solutions to two conceptually important social tasks.:

- ensuring the functioning, development and expansion of the social sphere by solving social problems in the mode of partnership between subjects of public and private interest, or as part of the implementation by the state of a socially oriented primary or secondary entrepreneurial initiative;

- the implementation of a redistribution of the burden of bearing costs and other costs of ensuring the functioning, development and expansion of the social sphere between the state and the subject of social entrepreneurship, assuming an objective reduction in government spending on the social sphere without causing damage to the latter.

Social entrepreneurship is the actual pooling of the resources of the state and the subject of social entrepreneurship in order to achieve a social effect that ensures the functioning, development and expansion of the social sphere of continuous and efficient production of human capital and environmental protection.

Social entrepreneurship is at the same time a mechanism for leveling (smoothing), distributing and redistributing risks of a social and economic nature and social responsibility between the state and the subject of private interest.; at the same time, a methodology and a mechanism for solving acute socially significant problems and tasks that ensure the realization of a public interest based on the initiative of a private interest entity or a request from a certain set of public interest entities, or a request from public collectives (for example, the population of a certain locality, certain public organizations (for example, trade unions)); This is both a methodology and a direction for the implementation of state policy in the field of employment, since the functioning of the mechanism of social entrepreneurship creates conditions for creating jobs and ensuring employment of the population, including outside the framework of labor relations.

The signs of social entrepreneurship allow us to characterize its legal and organizational nature as follows:

1. Social entrepreneurship is a sphere of public legal relations that develop regarding the solution of acute social problems in order to achieve a social effect that ensures the functioning, development and expansion of the social sphere and the resulting continuous and efficient production of human capital and environmental protection. The external form of such legal relations is the public economic activity of social entrepreneurship entities.

2. Social entrepreneurship is the sphere of the state monopoly on functions, assuming the existence of a state monopoly on activities and objects of ownership.

Currently, there is no definition of social entrepreneurship in the legislation of the Republic of Belarus and its legal and organizational structure is not defined. However, in fact, there is a significant array of public relations in the country, which can be described as social entrepreneurship or legal relations with an element of social entrepreneurship.

2. PRACTICAL SECTION

LIST OF TASKS FOR CONTROLLED WORK OF STUDENTS

2.1 Methodological recommendations.

When organizing the educational process, the following heuristic approach is used, which involves:

- students making personally significant discoveries about the world around them;
- demonstration of the variety of solutions to most professional tasks and life problems;
- creative self-realization of students in the process of creating educational products;
- individualization of learning through the ability to independently set goals and reflect on their own educational activities. a practice-oriented approach that involves:
- mastering the content of education through solving practical problems;
- acquisition of skills to effectively perform various types of professional activities;
- focus on generating ideas, implementing group student projects, and developing an entrepreneurial culture;
- the use of assessment procedures and methods that record the formation of professional competencies. the method of analyzing specific situations (case method), which involves:
 - the acquisition of knowledge and skills by the student to solve practical problems; – analyzing the situation using professional knowledge, personal experience, additional literature and other sources. the method of project-based learning, which involves:
 - a way of organizing students' learning activities that develops planning, self-organization, and collaboration skills relevant to academic and professional activities and involves creating your own product;
 - acquisition of skills for solving research, creative, social, entrepreneurial and communication tasks.

A method of educational discussion that involves the participation of students in a purposeful exchange of opinions and ideas to present and/or coordinate existing positions on a particular issue.

The use of the method provides a new level of understanding of the topic under study, the application of knowledge (theories, concepts) in solving problems, and the definition of ways to solve them. methods and techniques for the development of critical thinking, which are a system that forms the skills of working with information in the process of reading and writing; understanding information as the starting point, not the end point of critical thinking.

The group learning method, which is a form of organizing educational and cognitive activities of students, involves the functioning of different types of small groups working on both general and specific learning tasks. the method of business game, which is a kind of imitation- role modeling, in which the game situation is as close as possible to solving real problems of professional activity.

This method involves modeling a specific business problem. In the process of business games, students gain specific professional experience, develop creative thinking, and gain experience in social relationships.

2.2 The topic of the seminar sessions with questions for self-control and tasks for them

The information received at the lecture requires further consolidation and discussion. This task is partially realized in the process of the student's independent work on the topic of the lecture. However, this is not enough to fully and comprehensively master the discipline being studied, which requires practical training.

A seminar session is a form of study in which students acquire the skills of independent creative work on an academic discipline. The essence of the seminar session is to provide students with the opportunity to master the skills of substantiating and arguing their position on the topic under discussion, as well as expressing their thoughts correctly, concisely and clearly in front of the audience and the teacher.

A seminar session is a certain form of control of knowledge acquired by students in the course of lectures and in the process of independent work on an academic discipline. Moreover, independent work in this case is of fundamental importance.

Each seminar session is conducted on the basis of a plan that contains methodological materials on the academic discipline being studied. The student is obliged to familiarize himself with the seminar lesson plan, with the goals and objectives of its conduct, with possible forms of knowledge control in this seminar lesson. In addition, the student should familiarize himself with the content of additional independent work on the topic under study (for example, preparation of essays and reports).

Preparation for the seminar session is carried out on the basis of the lecture notes, as well as on the basis of the list of sources indicated in the methodological materials on the discipline for studying a particular topic. The list of literary sources, regulatory legal acts, and visual aids provided in the methodological materials is not exhaustive. The student has the right to use any other source to prepare for the seminar, including various analytical information, statistical data, data from sociological and other studies related to the issues under discussion. At the same time, the only condition for the possibility of using this source is the compliance of its content with the applicable legal norms. The student can also use normative legal acts, as well as the literature based on them, to analyze the development of legislation and the relations regulated by it, naturally indicating that at the moment this or that rule of law is invalid.

In the process of preparing for the seminar, close interaction between the student and the teaching staff is important. With the support of the department and other departments of the institution of higher education, the latter can provide the student with the information he is interested in, provide explanations on certain issues, and point out in advance that certain actions of the student are incorrect in preparation for the seminar session.

The result of the preparation for the seminar session should be the willingness of each student to make a presentation to the audience on the issues included in the seminar lesson plan, as well as to participate in the discussion of the reports made.

The duration of each student's report should be 5-10 minutes, after which the speaker receives questions on the topic of the report from the teaching staff and the audience, as well as additions and adjustments. Speakers are appointed by a teaching staff, usually from among those who wish to speak. During the report, the student has the right to refer to the extracts and notes of certain questions available to him, but he is obliged to refrain from reading such materials completely. During the presentation, it is allowed to read out certain materials verbatim, if their essence can be understood only with full reproduction in compliance with all the rules of grammar and style specified in certain documents.

Students can also make a report in a seminar session based on abstracts prepared in advance on the teacher's instructions or on their own initiative. Making a report based on a pre-prepared abstract should also not result in a continuous reading of the text of the abstract by the speaker. The speaker's speech outlines the essence of the issue raised by him, his analysis, and indicates the existing theories and scientific developments on this issue.

During the report on the abstract prepared by students, they have the right to express their own opinions on the issue raised by them, certain suggestions for solving certain problems related to the topic discussed in the abstract. At the same time, the student must substantiate all judgments and suggestions with existing legal norms, information obtained as a result of various studies, historical information or analysis of foreign experience on certain issues.

Other students are required to listen carefully to the reports of their colleagues, grasp the essence of their reasoning and notice any inaccuracies. Each of the students acting as listeners of a particular report should be ready at any time to enter into a discussion on the issue under discussion, to ask the speaker a question about his speech in order to clarify individual positions.

If a student does not attend a certain seminar session, he is obliged, in coordination with the teaching staff, to prepare the material within the agreed time frame and report on the topic of the seminar session.

A student who has arrears in seminar classes is not allowed to take the final control of knowledge in the discipline.

In accordance with the curriculum, along with seminars, practical classes can be conducted, during which students are given the opportunity to master the skills of independent work on practical tasks, during which they acquire certain skills and abilities to use their existing theoretical knowledge.

The practical lesson involves solving problems, during which the student must apply certain rules of law to make a correct and legitimate decision. In fact, the student is given the opportunity to simulate law enforcement activities for educational purposes. This makes it possible to bring the future specialist to a certain extent closer to the real working conditions that the student will encounter during introductory or industrial practice or in subsequent work.

The content of the practical lesson and the tasks that are necessary for its preparation are indicated in the methodological materials on the discipline being studied. The tasks are accompanied by a list of literary sources and regulatory legal acts, the use of which is necessary to obtain answers to the tasks.

During the practical lesson, each student is required to provide solutions to the tasks assigned to them with an appropriate justification for the answer and its argumentation. The student must be ready to provide a solution to the problem, both verbally and in writing. All suggested solutions to the problem are discussed by the audience in a free discussion.

The forms of ongoing monitoring used in conducting practical (seminar) classes:

- oral survey on the topic of the lesson;
- knowledge control during the seminar session;
- individual interview;
- a panel discussion on the topic;
- checking notes;
- listening to abstracts and reports on the topic under consideration;
- the colloquium.

2.3 Seminar assignments

2.3.1. Seminar lesson No. 1. Entrepreneurship as an institutional phenomenon

1. List of oral questions to prepare for the lesson:

1. Volitional behavior of a person and volitional behavior of a subject of legal relations.
2. Entrepreneurship as an institutional phenomenon and a form of expression of strong-willed, active and socially significant behavior.
3. Commerce and its relation to entrepreneurship.
4. The relationship between the institutions of entrepreneurship, entrepreneurial activity and self-employment.
5. Legal regime of entrepreneurship.

2. Tasks:

1. Based on the legal and linguistic aspects, prepare a comparative table of the categories "entrepreneurship", "entrepreneurial activity", "commerce", "commercial activity".
2. Prepare an essay on the differences in understanding entrepreneurship in legal and economic science.
3. Analyze the differences between the types of legal regime of entrepreneurship and select 2-3 examples of such legal regimes. Please put the results in writing.
4. Prepare reports on the following topics: 1. The place of the institution of self-employment in the system of public relations; 2. The ratio of labor, civil and economic law norms in the regulation of self-employment.

3. Self-check assignment.

Choose the correct statement from the suggested ones, justify your choice.:

A) entrepreneurship is not a characteristic of the volitional behavior of any living being;
B) the category of "entrepreneurial activity" is broader than the categories of "entrepreneurship" and "entrepreneurship";
C) criminal entrepreneurship is not distinguished as a separate type of entrepreneurship; D) mining does not relate to entrepreneurial activity.

2.3.2. Seminar lesson No. 2. Primary entrepreneurship (entrepreneurial activity)

1. List of oral questions to prepare for the lesson:

1. The concept, signs, forms and content of primary entrepreneurship (entrepreneurial activity).
2. Subjects of entrepreneurial activity.
3. The legal regime of entrepreneurial activity of an individual entrepreneur.
4. The legal regime of entrepreneurial activity of a legal entity – a commercial organization.
5. The legal regime of entrepreneurial activity of organizations without the status of a legal entity.
6. The legal regime of entrepreneurial activity of economic entities that do not have the characteristics of an organization.

2. Tasks:

1. Draw up a comparative table of the legal status of various business entities with mandatory indication of its distinctive characteristics.
2. Study the educational literature and regulatory legal acts to prepare for a business game on the topic of the legal and organizational nature of commercial organizations, including:
 - about the organization as a legal institution;
 - on the division of the organization into formal and informal organizations;
 - on the nature of the legal personality of commercial organizations with the status of a legal entity and without the status of a legal entity and the place of both types of organizations in the mechanism of entrepreneurial activity;
 - on the difference between the legal personality of non-profit organizations and the legal personality of an individual entrepreneur.
3. Draw up a diagram about the specifics of the legal and organizational nature of business entities that do not have the characteristics of an organization, including:
 - the difference between the legal status of such entities and commercial organizations;
 - the difference between the legal status of a multinational corporation and the legal personality of international organizations;
 - the grounds for the legal status of a business entity that does not have the characteristics of an organization.

4. Prepare in writing a list of criteria for the legality of business activities. Determine the criteria for choosing the optimal form of entrepreneurial activity (with or without the formation of a legal entity (as an individual entrepreneur; in the form of an organization without the status of a legal entity).

5. Determine the specifics of the legal regime of entrepreneurial activity in certain structural elements of the national economy (for example, the financial sector (financial, banking, leasing, etc.), the high-tech sector, the defense sector, the agro-industrial complex, the construction complex, trade and catering, etc.) using the following criteria:

- the form of entrepreneurial activity – acceptable organizational and legal forms of legal entities and organizations without the status of a legal entity;
- criteria for identifying entrepreneurial activity as meeting the established requirements for carrying out economic activities in the relevant structural element of the national economy;
- the existence of prohibitions on carrying out certain types of economic activities for business entities that are residents of the relevant structural element of the national economy;
- the existence of qualification requirements for manufactured goods or the results of economic activities.

Please put the results in writing.

3. Self-check assignment.

Choose the correct statement from the suggested ones, justify your choice.:

- A) entrepreneurial activity should be considered as secondary entrepreneurship;
- B) business law is a sub-branch of business law;
- C) one of the signs of entrepreneurial activity is the dependent nature of economic activity;
- D) public relations that develop in relation to the protection of the economic interests of business entities are not included in the subject of business law.

2.3.3. Seminar lesson No. 3. Features of the legal regime of primary entrepreneurship (entrepreneurial activity)

1. List of oral questions to prepare for the lesson:

- 1. State registration of business entities and other legal barriers to entrepreneurial activity.
- 2. Making investments in entrepreneurial activity and financing entrepreneurial activity.
- 3. Measures of state support for business entities.
- 4. Planning and forecasting of entrepreneurial activity.
- 5. Competition as a characteristic of entrepreneurial activity.

2. Tasks:

- 1. Write down and describe the algorithm for:
 - state registration of an individual entrepreneur;

– state registration of a commercial organization in the general order: a legal entity and an organization without the status of a legal entity;

– state registration of certain categories of commercial organizations – legal entities (for example, financial organizations, credit and financial organizations (banks and non-bank credit and financial organizations), insurance organizations, professional participants in the securities market, commercial microfinance organizations, etc.).

2. Prepare an essay on the topic "Licensing of business activities".

3. Make a list legal barriers to doing business.

4. Identify and describe the minimum requirements for economic concentration and market dominance established by the antimonopoly legislation of the Republic of Belarus.

3. Self-check assignment.

Choose the correct statement from the suggested ones, justify your choice.:

A) Qualimetric barriers refer to the basic legal barriers to doing business;

B) the concession does not relate to the methods of making investments;

C) the formation and implementation of state programs is a measure of state financial support for business entities;

D) the performance of coordinated actions is typical for a legal monopoly.

2.3.4 Seminar lesson No. 4. Secondary entrepreneurship

1. List of oral questions to prepare for the lesson:

1. The concept, signs, forms and content of secondary entrepreneurship. Features of legal barriers to secondary entrepreneurship.

2. Subjects of secondary entrepreneurship.

3. Secondary entrepreneurship as an element of the economic activity of non-profit organizations.

4. Secondary entrepreneurship as an element of the activities of self-employed individuals and households.

5. Secondary entrepreneurship as an element of investment.

2. Tasks:

1. Prepare a comparative table of financing and investment institutions by:

– defining criteria for identifying financing as a legal institution;

– defining criteria for identifying investment as a legal institution;

– determining the conditions for the admissibility of external financing of the business entity's business activities.

2. Prepare a list of state support measures established by the legislation of the Republic of Belarus and the law of the Eurasian Economic Union, and a description of their characteristics using the following criteria:

– the entity providing support on behalf of the state;

– recipient of state support;

– conditions for providing state support;

– control over the use of state support measures.

3. Describe the algorithm for obtaining industrial subsidies and agricultural subsidies established by the legislation of the Republic of Belarus and the law of the Eurasian Economic Union.

4. Draw up a diagram of the "Algorithm for planning and forecasting entrepreneurial activity."

3. Self-check assignment.

Choose the correct statement from the suggested ones, justify your choice.:

A) commercial organizations are the main subject of secondary entrepreneurship;

B) the purpose of secondary entrepreneurship is to achieve a social effect;

C) the economic and labor activity of individuals belongs to primary entrepreneurship;

D) self-employed persons and households carry out secondary entrepreneurship by engaging in entrepreneurial activities.

2.3.5 Seminar lesson No. 5. Social entrepreneurship

1. List of oral questions to prepare for the lesson:

1. The concept, signs, forms and content of social entrepreneurship. Features of legal barriers to social entrepreneurship.

2. The place of entrepreneurial activity in the mechanism of social entrepreneurship.

3. Subjects of social entrepreneurship.

4. Public-private partnerships and concessions as tools for social entrepreneurship.

5. The result and effectiveness of social entrepreneurship.

2. Tasks:

1. Develop an algorithm for state registration and (or) state registration of secondary business entities, indicating its specifics.

2. Prepare a description of the legal and organizational nature of non-profit organizations known to the jurisdiction of the Republic of Belarus, using the following criteria:

– purpose of creation and activity;

– founders (participants, members) of the non-profit organization;

– owner of the property of the non-profit organization;

– the existence of the property rights of the founders (participants, members) in relation to the property of a non-profit organization;

– the existence of the obligation of the founders (participants, members) to make organizational, membership or other contributions;

– the permissibility of obtaining additional income through entrepreneurial activities.

3. In the form of a diagram, describe the mechanism of secondary entrepreneurship:

– by non-profit microfinance organizations that provide additional income;

- individuals initiating transactions with non-deliverable over-the-counter financial instruments on the over-the-counter Forex market;
- owners of agricultural farms.

4. Draw up and justify a list of signs of secondary entrepreneurship when using individual investment methods that do not form signs of entrepreneurial activity.

3. Self-check assignment.

Choose the correct statement from the suggested ones, justify your choice.:

- A) individual entrepreneurs cannot act as subjects of social entrepreneurship;
- B) social entrepreneurship is an activity that is specific only to government agencies and organizations;
- C) investments in the near-social sphere cannot be the result of social entrepreneurship;
- D) the main purpose of social entrepreneurship is to achieve social and economic benefits.

2.3.6 Seminar lesson No. 6. State entrepreneurship (fiscal economic activity)

1. List of oral questions to prepare for the lesson:

1. The concept, signs, forms and content of fiscal economic activity (state entrepreneurship). Features of legal barriers to fiscal economic activity.
2. Subjects of state entrepreneurship.
3. Fiscal economic activity of state bodies and organizations.
4. Secondary entrepreneurship as a form of fiscal economic activity.
5. State monopoly as a form of fiscal economic activity.

2. Tasks:

1. Prepare for a discussion about the nature of social entrepreneurship and its relationship to primary entrepreneurship (entrepreneurial activity).
2. Draw up the following algorithms in the form of a diagram:
 - an algorithm for the creation and economic activities of organizations with disabilities, the main statutory purpose of which is to implement measures to ensure equal opportunities for disabled people to participate in all spheres of society, respect and protect their rights and legitimate interests on an equal basis with other people;
 - an algorithm for the creation and economic activities of consumer cooperation organizations.
3. By compiling a table, describe and differentiate the nature of the public-private partnership and the public-private partnership using the following criteria:
 - the purpose of the partnership;
 - the object of the partnership;
 - subjects of partnership; – ways and forms of partnership;
 - the difference between public-private / public-private partnership and concession relations.
4. Describe the algorithm for creating sanatorium-resort and wellness organizations, the participants (owners of property) of which are trade unions.

3. Self-check assignment.

Choose the correct statement from the suggested ones, justify your choice.:
A) fiscal economic activity cannot have a social effect;
B) the state monopoly is established exclusively on the types of activities;
C) fiscal economic activity is a type of public economic activity;
D) state non-profit organizations are prohibited from carrying out secondary entrepreneurship.

2.3.7 Seminar lesson No. 7. Criminal entrepreneurship and its counteraction

1. List of oral questions to prepare for the lesson:

1. The concept, signs, forms and content of criminal entrepreneurship.
2. Subjects of criminal entrepreneurship.
3. The place of criminal entrepreneurship in the system of economic relations.
4. Signs of criminal entrepreneurship of economic activity and their identification.

2. Assignments: legal

1. Prepare an essay on "Illegal activity". economic
2. Write down a list of types of entrepreneurship, indicating the characteristics of each of them. criminal
3. Prepare a comparative table of forms of criminal entrepreneurship – professional crime, organized crime, white-collar crime.

4. Study the Methodology for Calculating the volume of the Unobserved Economy, approved by Resolution No. 17 of the National Statistical Committee of the Republic of Belarus dated April 26, 2019 "On Approval of the Methodology for Calculating the volume of the Unobserved economy" and distinguish in writing the following categories:

- unobserved economy;
- hidden economic activity;
- informal economic activity;
- informal labor relations.

3. Self-test assignment.

Choose the correct statement from the suggested ones, justify your choice.:

- A) the forms of criminal entrepreneurship are professional crime, organized crime, white-collar crime;
- B) government employees may not be considered subjects of criminal entrepreneurship;
- C) the list of signs of criminal entrepreneurship includes strong-willed, proactive, socially neutral, economically significant behavior of a criminal entrepreneur;
- D) criminal entrepreneurship is not a part of the national economy.

3. KNOWLEDGE CONTROL SECTION

3.1. Methodological Recommendations

Form of current attestation on the discipline «Public and private sector entrepreneurship»

The final grade is formed on the basis of a ten-point scale, which is based on the value of the score and includes seven groups of criteria, distributed in ascending order as follows:

1 point - (unsatisfactory), no credit:

- lack of knowledge and competencies within the educational standard or refusal to answer.

2 points - (unsatisfactory), no credit:

- Fragmentary knowledge of individual terms of financial law, making significant errors in the definition of the subject, method of the branch of law when answering. Making fundamental errors when performing a practical task within the framework of the educational standard;

- knowledge of some literary sources recommended by the curriculum;

- inability to use the scientific terminology of the discipline, presence of gross stylistic and logical errors in the answer;

- passivity at seminars, low level of culture of fulfillment of tasks for independent preparation.

3 points - (unsatisfactory), no credit:

- Insufficiently complete knowledge of the educational material (knowledge of only some concepts of the discipline). Partial assimilation of the recommended basic normative-legal acts;

- knowledge of part of the basic literature recommended by the curriculum;

- incorrect use of scientific terminology of the academic discipline, presentation of answers to questions with significant linguistic and logical errors, lack of consistency in the presentation of the material;

- poor command of the tools of the discipline, incompetence in solving standard (typical) problems in the field of tax calculation;

- inability to navigate in the basic theories studied in the framework of the discipline;

- passivity at seminars, low level of culture of performance of tasks for independent preparation.

4 points - (satisfactory), scored:

- sufficient knowledge of a significant part of the program training material;

- assimilation of the recommended basic normative legal acts;

- use of scientific terminology of the academic discipline, stylistic and logical presentation of the answer to questions, making minor errors in the answer, ability to draw conclusions without significant errors;

- mastery of the tools of the academic discipline, ability to use them in solving standard (typical) problems in the field of the discipline studied;

- ability to solve standard (typical) problems under the guidance of the teacher;

- the ability to orient in the main theories inherent in the studied discipline and to evaluate them;

- work under the guidance of the teacher at seminars, acceptable level of culture of performance of tasks for independent training.

5 points - (almost good), passed:

- sufficient knowledge of a significant part of the program educational material;

- use of scientific terminology of the academic discipline, stylistically competent, logically correct presentation of the answer to questions, ability to draw conclusions;

- mastery of the tools of the academic discipline, ability to use them in solving educational and professional tasks;

- ability to independently solve typical problems within the framework of the curriculum;

- mastering of the basic literature recommended by the curriculum;

- ability to orient in the basic theories peculiar to the discipline under study;

- work at seminars, periodic participation in group discussions, high level of culture of fulfillment of tasks for independent preparation.

6 points - (good), passed:

- sufficiently complete and systematized knowledge in the scope of the program study material;

- use of necessary scientific terminology, stylistically competent, logically correct presentation of the answer to questions, ability to make reasonable conclusions;

- mastery of the tools of the academic discipline, ability to use them in solving educational and professional tasks;

- ability to independently solve typical tasks within the framework of the curriculum;

- mastering of the basic normative legal acts regulating the legal relations under consideration and the recommended additional literature within the scope of the curriculum;

- ability to navigate in the basic theories and concepts inherent in the discipline under study and give a comparative assessment of them;

- work at seminars, periodic participation in group discussions, high level of culture of fulfillment of tasks for independent preparation.

7 points - (very good), credit:

- systematized, deep and complete knowledge of educational and program material;

- use of scientific terminology, linguistically and logically correct presentation of the answer to questions, ability to make reasonable conclusions;

- mastery of educational tools, ability to use them in setting and solving scientific and professional problems;

- mastering of the main and additional literature recommended by the study program;

- ability to navigate in the main theories and concepts inherent in the studied academic discipline, and to give them a critical assessment;

- active work at seminars, participation in group discussions, high level of culture

of fulfillment of tasks for independent preparation.

8 points - (almost excellent), passed:

- systematized, deep and complete knowledge of educational and program material, systematic mastery of the academic discipline and the ability to independently replenish this knowledge;

- use of scientific terminology, stylistically competent, logically correct presentation of the answer to questions, ability to make reasonable conclusions;

- mastery of the tools of the academic discipline (methods of complex analysis), ability to use them in setting and solving scientific and professional problems;

- ability to solve complex problems independently;

- mastering of the main and additional literature recommended by the curriculum;

- ability to navigate in the main theories peculiar to the studied discipline and to give them a critical assessment;

- active work at seminars, systematic participation in group discussions, high level of culture of fulfillment of tasks for independent preparation.

9 points - (excellent), passed:

- systematized, deep and complete knowledge of the educational program material;

- accurate use of scientific terminology, stylistically competent, logically correct and consistent presentation of the answer to questions;

- mastery of the tools of the academic discipline, ability to use them effectively in setting and solving scientific and professional problems;

- ability to independently and creatively solve complex problems in a non-standard situation;

- full assimilation of the main and additional literature recommended by the training program;

- ability to navigate in the main theories, concepts and trends inherent in the discipline under study, and to give a critical assessment of them;

- active work at seminars, creative participation in group discussions, high level of culture of fulfillment of tasks for independent preparation.

10 points - (excellent):

- Comprehensive, systematic and in-depth knowledge of the educational program material. Demonstration of creative abilities and scientific approach in understanding and presentation of educational program material;

- accurate use of scientific terminology, stylistically competent, logically correct presentation of the answer to questions;

- impeccable mastery of the tools of the academic discipline, ability to use them effectively in setting and solving scientific and professional problems;

- expressed ability to independently and creatively solve complex problems in a non-standard situation;

- full and deep assimilation of the main and additional literature recommended by the training program;

- ability to navigate in theories, concepts and directions peculiar to the studied discipline, and to give them a critical assessment, to use the scientific achievements of

the theory;

- creative independent work at seminars, active participation in group discussions, high level of culture of fulfillment of tasks.

3.2. Topics of abstract works

3.2.1. Requirements for preparation of abstracts

The topics of abstracts are organized in such a way that during independent preparation the student has the opportunity to cover the maximum possible amount of additional information on the discipline, not covered in lecture classes, as well as not fully subject to consideration in the seminar classes.

Each of the students in the study group can choose in advance a block of essays of interest to him, which will be prepared during the entire period of the classes of the appropriate form on the discipline under study. When choosing a particular block, the student carries out the preparation of essays on the topics concentrated in this block.

In case of unsatisfactory work of the student at the seminars, the teacher may assign, in addition to the selected block of essays, to prepare several additional essays from another block or the whole additional block.

The preparation of essays is not mandatory, but the presence of this additional form of independent work of the student has a significant impact on the results of the final assessment of knowledge, exhibited at the end of the entire complex of work on the discipline, provided by the working program of the course.

In the preparation of abstracts is welcomed the creation of electronic presentations.

Requirements for abstracts:

1. The abstract must contain up-to-date information that corresponds to the current legislation of the Republic of Belarus.

2. The abstract must not contain plagiarism.

3. Abstracts must contain the names of normative legal acts in accordance with the requisites stipulated by the legislation on normative legal acts of the Republic of Belarus.

4. In the text of the abstract and in the electronic presentation it is not allowed to use the abbreviation "RB", it is always necessary to use the full name of our country - the Republic of Belarus.

5. The structure of the abstract should be built in such a way that when declaring its content in the classroom, the student will disclose its content in full within 5 minutes. Another 2 minutes will be given to each speaker to answer additional questions of the teacher and questions received from the audience. At the same time, the volume of text in the paper version of the abstract does not matter.

6. The paper version of the abstract must comply with the requirements established by the Education Code of the Republic of Belarus and technical normative legal acts.

7. When analyzing Belarusian legislation and foreign legislation, the text of the abstract should make it clear which country's normative legal acts are in question. This is achieved by indicating the full name of the relevant normative legal act with all the

necessary details, as well as indicating to which country this normative legal act refers.

8. When using international treaties for the preparation of essays, it is necessary to take into account the fact that not all international treaties known in the world practice can be signed by the Republic of Belarus, and some of the international treaties signed by the Republic of Belarus may not be in force in our country due to the failure of the authorized state bodies of the Republic of Belarus to carry out the necessary procedures for this purpose. The procedure and conditions for the validity of international treaties in the territory of the Republic of Belarus are regulated by the Law of the Republic of Belarus No. 421-Z of July 23, 2008 "On International Treaties of the Republic of Belarus".

A certain block of time is allocated for the reading of abstracts at each seminar session. A student's speech at a seminar class is planned on the basis of the schedule of speeches prepared by the head of the group and coordinated with the teacher leading the seminar classes.

The topics of abstracts for each seminar (practical, laboratory) session shall be agreed upon with the teacher conducting it.

3.2.2. Topics for preparing abstracts

1. Architectural activity as a type of economic activity.
2. The foreign exchange market as an economic and legal category.
3. Departmental management as a complex economic and legal category.
4. Foreign trade activity as a sphere of legal regulation of foreign economic activity.
5. Foreign economic law in the system of economic law.
6. The military organization of the state as an economic and legal institution.
7. Secondary entrepreneurship as a comprehensive legal institution.
8. The state corporation as a business entity and an element of the public administration system.
9. State entrepreneurship (fiscal economic activity) as a comprehensive legal institution.
10. Public-private partnership as an element of public-private partnership.
11. State institutional units as legal categories.
12. The state body as a state organization and the subject of economic activity.
13. Urban planning activity as a type of economic activity.
14. The Department as a public administration body and business entity.
15. Activity as a legal category.
16. Activities of non-profit organizations to represent the interests of business entities.
17. Housing and communal services as an integrated economic and legal institution.
18. The importance of labor, economic, labor and creative activity in economic legal relations.
19. An institutional unit as a legal category.
20. An institutional investor as a business entity and a financial organization.

21. An institutional investor as a business entity and a resident organization of the high-tech sector of the national economy.
22. The infrastructure of the state as an integrated economic and legal institution.
23. The use of preferential and experimental legal regimes to stimulate foreign trade.
24. Quotas of business operations and volumes of economic activity.
25. Control over assets and control over the business operations of a multinational corporation.
26. Corporate governance as a complex economic and legal category.
27. Corporation and quasi-corporation as complex economic and legal institutions.
28. Criminal entrepreneurship as an intersectoral legal category and its counteraction in the process of carrying out legal business activities.
29. Legal barriers to economic activity.
30. Legal barriers to economic activity arising from the special status of territories outside the jurisdiction of States that have exclusive rights over them (the exclusive economic zone of the State, territorial sea, continental shelf, archipelagic waters, etc.).
31. Licensing of economic activity as an economic and legal institution.
32. Licensing of business operations as an economic and legal institution.
33. Logistics as a comprehensive legal institution.
34. Macroeconomics as an economic and legal category.
35. Mesoeconomics as an economic and legal category.
36. Measures of state repression of economic entities.
37. Measures of state support for economic entities.
38. Measures to counteract the legalization of illegally obtained income as an element of economic regulation.
39. Methods and means of state regulation of foreign trade relations.
40. The mechanism of corporate governance in quasi-corporations.
41. National economic security as an economic and legal category.
42. The normative contract in economic law.
43. Associations of subjects of economic activity as subjects of economic activity.
44. Nationalization as a complex legal category.
45. Restrictions, prohibitions and protective measures in the regulation of foreign economic activity and foreign economic transactions.
46. Provision of legal services as an economic and legal institution.
47. An organization without the status of a legal entity as a business entity.
48. The organization as a complex legal institution and business entity.
49. Management bodies, supervisory and arbitration bodies of a legal entity as elements of corporate and departmental management of the organization.
50. Features of the legal regulation of transport relations.
51. Responsibility in the sphere of economic activity as an integrated legal and social institution.
52. The branch of the national economy as an economic and legal category.
53. Assessment of the regulatory impact on the conditions of economic activity.

54. Primary entrepreneurship (entrepreneurial activity) as a comprehensive legal institution.
55. Cross-subsidization as a complex legal institution and its importance for economic activity.
56. A subdivision of a legal entity as an economic and legal category and an element of corporate or departmental management of an organization.
57. Import substitution and export development policy.
58. The concept and legal nature of the economic system.
59. The concept, legal nature and classification of subjects of economic activity.
60. The legal status of a paramilitary organization in economic relations.
61. The legal status of state organizations subordinate to the Government of the Republic of Belarus in the system of economic relations.
62. The legal status of a credit and financial organization in economic relations.
63. The legal status of an agricultural organization in economic relations.
64. The legal status of a financial organization in business relations.
65. Legal regulation of banking activities carried out in the foreign economic regime.
66. Legal regulation of activities in the field of domestic and international audit.
67. Legal regulation of activities in the field of notary.
68. Legal regulation of property and rights management activities.
69. Legal regulation of the activities of business entities within the framework of the functioning of the agro-industrial market.
70. Legal regulation of activities related to the protection of the rights and legitimate interests of citizens and organizations, representing the interests of the State, civil society, individuals and organizations.
71. Legal regulation of the entertainment industry.
72. Legal regulation of leasing activities carried out in the foreign economic regime.
73. Legal regulation of minimum standards of economic security and minimum social standards as.
74. Legal regulation of commercial presence and protection of interests of residents of the Republic of Belarus abroad.
75. Legal regulation of security activities.
76. Legal regulation of advertising activities.
77. Legal regulation of the construction complex of the national economy.
78. Legal regulation of theatrical business.
79. Legal regulation of pharmaceutical activity and pharmacopoeia.
80. Legal regulation of financial activities carried out in the foreign economic regime.
81. Legal regulation of the functioning of the national security infrastructure.
82. Legal regulation of economic activity in the field of healthcare.
83. Legal regulation of economic activity in the field of cinematography.
84. Legal regulation of economic activity in the sphere of culture.
85. Legal regulation of economic activity in the field of education.

86. Legal regulation of economic activity in the field of human capital development.
87. Legal regulation of economic activity in the fuel and energy complex.
88. Legal regulation of household economic activity.
89. Legal regulation of the economic activities of trade union organizations.
90. Legal regulation of economic activities related to the development and use of information technologies in the high-tech sector of the national economy (IT law).
91. The legal regime of foreign economic activity in the financial market.
92. The legal regime of charitable activities.
93. The legal regime of ownership supervision.
94. The legal regime of foreign trade.
95. The legal regime of foreign economic activity in the investment market.
96. The legal regime of the domestic regulatory agreement in the system of economic legal relations.
97. The legal regime of indicators of foreign economic activity.
98. The legal regime of logistics activities.
99. The legal regime of taxable non-entrepreneurial economic activity.
100. The legal regime of non-entrepreneurial economic activity of non-profit organizations.
101. The legal regime of non-entrepreneurial economic activity that is not subject to taxation.
102. The legal regime of construction activity.
103. The legal regime of the sphere of social services. The legal regime of services provided by natural monopoly entities.
104. The legal regime of state participation in corporate relations.
105. The legal regime of economic activity in the housing and communal services.
106. The legal regime of economic activity in the field of information communications.
107. The legal regime of economic activity in the field of using alternative dispute resolution methods.
108. The legal regime of economic activity in the field of ensuring the functioning of transport communications.
109. The legal regime of economic activity in the field of transportation of goods and passengers.
110. The legal regime of economic activity in the field of trade.
111. The legal regime of economic activity under martial law.
112. The legal regime of economic activity in the context of the application of measures to protect the domestic market.
113. The legal regime of economic activity in the context of the application of international or national sanctions.
114. The legal regime of economic activity in a state of emergency.
115. The legal regime of economic activity in the field of public catering.
116. The legal regime of economic activities carried out in the territories affected by the Chernobyl disaster.

117. Legal bases of the state economic policy.
118. The legal basis for the division of the national economy into sectors, industries and economic complexes.
119. Legal foundations of the international division of labor.
120. Legal bases of international industrial, financial, scientific and technical cooperation.
121. Legal bases of scientific and information activities and technology transfer.
122. Legal bases of scientific, scientific and technical activities and activities in the field of innovation.
123. Legal bases of political and communicative activity as a type of public economic activity.
124. The legal basis for the development of the high-tech sector of the national economy.
125. The legal basis for the functioning of the service sector.
126. The legal basis of economic activity in the field of space exploration for peaceful purposes.
127. Entrepreneurship and commerce: problems of institutionalization and differentiation of essence.
128. Entrepreneurship and entrepreneurial activity: problems of institutionalization and differentiation of essence.
129. Preferential treatment of economic activity as an economic and legal institution.
130. Privatization as a form of expression of transfer denationalization.
131. Derivative financial instruments as an economic and legal category.
132. Industrial production (industry) as a comprehensive legal and economic institution.
133. Public business activity as a complex legal institution.
134. Public-private partnership as an integrated economic and legal institution.
135. Public and private goods as an object of economic and legal regulation and the result of economic activity.
136. Denationalization as a complex legal category.
137. Differentiation of the legal nature and essence of the institutions "state organization", "state legal entity" and "state corporation".
138. Differentiation of the legal nature of financial, banking and investment activities and the specifics of the legal regime of their implementation.
139. The banking services market as an economic and legal category.
140. Insurance services market as an economic and legal category.
141. The securities market as an economic and legal category.
142. Self-employment as a sphere of economic, labor and creative activity.
143. A self-regulating organization as a subject of economic relations and a mechanism for self-regulation of economic activity.
144. Freedom of international transit.
145. The sector of the national economy as an economic and legal category.
146. The system of ensuring the security of business activities, property and personnel of a legal entity.

147. Promoting the development of foreign trade activities.
148. Social entrepreneurship as a comprehensive legal institution.
149. Social effect as an economic and legal institution and characteristics of economic activity.
150. Specific directions, methods and means of regulating foreign trade.
151. Subsidized lending as a comprehensive legal institution and its importance for economic activity.
152. Subjects of entrepreneurial activity as an element of the system of subjects of economic activity.
153. Business entities that do not have the characteristics of an organization (multinational corporation, strategic alliance, conglomerate, etc.).
154. Tariff and non-tariff regulation of foreign economic activity.
155. Transnational corporation as a business entity.
156. Transport communications as an integrated legal institution.
157. Financing of economic activity and making investments in economic activity.
158. Financial instrument as an economic and legal category.
159. Financial market as an economic and legal category.
160. Economic activities of a political party.
161. Economic activity of religious organizations.
162. Business entities as an element of the system of economic entities.
163. The economic complex of the national economy as an economic and legal category.
164. Economic effect as an economic and legal institution and characteristics of economic activity.
165. Export control as an economic and legal institution.
166. Legal foundations of the international division of labor.
167. Legal regulation of the entertainment industry.
168. Legal regime of the consortium.
169. High technologies as an object of economic and legal regulation.
170. Information and communication technologies as an object of economic and legal regulation.
171. Information and communication technologies as an object of economic and legal regulation.
172. The legal regime of artificial intelligence in economic legal relations.
173. The legal regime of economic activity in the field of tourism.
174. The legal regime of the tourist infrastructure.
175. The nature of economic legal relations, their content and scope of implementation.
176. The essential characteristics of the categories "status", "legal personality", "legal status" and "legal regime" as a basis for determining the subject matter, object and content of economic legal relations.
177. The subject structure of economic legal relations.
178. The institutional environment of economic legal relations.

179. The object of economic legal relations.
180. The concept, system and content of state management of the national economy.
181. State regulation of economic legal relations.
182. Economic regulation of economic legal relations.
183. Humanitarian regulation of economic legal relations.
184. Self-regulation of economic legal relations.
185. The concept and nature of responsibility in economic legal relations.
186. Peculiarities of legal responsibility in economic legal relations.
187. Non-standard types of legal liability in business relations.
188. Features of non-legal liability in economic legal relations.
189. The responsibility of the state in economic legal relations.
190. Legal acts of the organization and their significance for corporate and departmental management.
191. External management of the organization and participation of other entities in the management of the organization.
192. The legal basis of the mining industry.
193. The legal regime of manufacturing.
194. Stimulating economic activity in the field of industrial production and industrial development.
195. The role of international financial institutions in the implementation of economic activities in the financial sector of the national economy.

3.3. An approximate list of questions for preparation for the current certification

1. The concept and nature of business entities.
2. Classification of economic entities.
3. Business entities.
4. Organizations as subjects of economic activity.
5. Public business units as subjects of economic activity.
6. Volitional behavior of a person and volitional behavior of the subject of legal relations.
7. Entrepreneurship as an institutional phenomenon and a form of expression of strong-willed, active and socially significant behavior.
8. Commerce and its relationship with entrepreneurship.
9. The relationship between the institutions of entrepreneurship, entrepreneurial activity and self-employment.
10. Legal regime of entrepreneurship.
11. The concept, signs, forms and content of primary entrepreneurship (entrepreneurial activity).
12. Subjects of entrepreneurial activity.
13. The legal regime of entrepreneurial activity of an individual entrepreneur.
14. The legal regime of entrepreneurial activity of a legal entity – a commercial organization.

15. The legal regime of entrepreneurial activity of organizations without the status of a legal entity.
16. The legal regime of entrepreneurial activity of economic entities that do not have the characteristics of an organization.
17. State registration of business entities and other legal barriers to entrepreneurial activity.
18. Making investments in entrepreneurial activities and financing entrepreneurial activities.
19. Measures of state support for business entities.
20. Planning and forecasting of entrepreneurial activity.
21. Competition as a characteristic of entrepreneurial activity.
22. The concept, signs, forms and content of secondary entrepreneurship. Features of legal barriers to secondary entrepreneurship.
23. Subjects of secondary entrepreneurship.
24. Secondary entrepreneurship as an element of economic activity of non-profit organizations.
25. Secondary entrepreneurship as an element of activity of self-employed persons and households.
26. Secondary entrepreneurship as an element of investment.
27. The concept, signs, forms and content of social entrepreneurship. Features of legal barriers to social entrepreneurship.
28. The place of entrepreneurial activity in the mechanism of social entrepreneurship.
29. Subjects of social entrepreneurship.
30. Public-private partnerships and concessions as instruments of social entrepreneurship.
31. The result and effectiveness of social entrepreneurship.
32. The concept, signs, forms and content of fiscal economic activity (state entrepreneurship). Features of legal barriers to fiscal economic activity.
33. Subjects of state entrepreneurship.
34. Fiscal economic activity of state bodies and other state organizations.
35. Secondary entrepreneurship as a form of fiscal economic activity.
36. State monopoly as a form of fiscal economic activity.
37. The concept, signs, forms and content of criminal entrepreneurship.
38. Subjects of criminal entrepreneurship.
39. The place of criminal entrepreneurship in the system of economic relations. Prevention of criminal entrepreneurship and the fight against its manifestations.
40. Signs of criminal entrepreneurship in legal economic activity and their identification.

4. SUPPORTING SECTION

4.1. Study plan for the academic discipline

План изучения учебной дисциплины содержится в учебной программе УВО по учебной дисциплине «Public and private sector entrepreneurship».

Public and private sector entrepreneurship: учебная программа УВО для специальности: 7-06-0421-01 «Jurisprudence», № М36а-5.13-102уч. – URL: (дата обращения: 13.12.2025).

EDUCATIONAL AND METHODOLOGICAL CARD OF THE EDUCATIONAL DISCIPLINE

Очная форма получения углубленного высшего образования с применением дистанционных образовательных технологий (ДОТ)

Номер раздела, темы	Название раздела, темы	Количество аудиторных часов					Форма контроля знаний
		Лекции	Практические Занятия	Семинарские занятия	Лабораторные Занятия	Иное	
PART 1. ENTREPRENEURSHIP AS AN INSTITUTIONAL PHENOMENON							
1.	Entrepreneurship as an object of legal regulation	2		2			Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests, control work / Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест, контрольная работа
2.	Entrepreneur as a social function and a subject of social relations	2					
3.	Public and private interest as legal categories	2					
PART 2. PRIVATE ENTREPRENEURSHIP AS AN EMBODIMENT OF PRIVATE ENTREPRENEURIAL INITIATIVE							
4.	Private entrepreneurship	2		2			Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests, control work/ Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест, контрольная работа
5.	Peculiarities of legal regulation of private entrepreneurship	2					

6.	Secondary entrepreneurship	2		2				Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests / Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест
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7.	Self-employment as a type of secondary entrepreneurship	2		2				Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests / Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест
8.	Social entrepreneurship	2		2				Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests / Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест

PART 3. STATE ENTREPRENEURSHIP

9.	Treasury and public monopoly	2		2				Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests / Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест
10.	Fiscal economic activity (state entrepreneurship)	1		2				Oral survey on the topic of the lesson, debatable discussion of issues on the topic, preparation of abstracts, reports, essays, tests, control work / Устный опрос, дискуссия, подготовка рефератов (эссе, докладов), тест, контрольная работа
11.	Peculiarities of legal regulation of fiscal economic activity (state entrepreneurship)	1						
Итого:		20		14				

4.2. Recommended literature

Legal acts

1. Бюджетный кодекс Республики Беларусь : Кодекс Республики Беларусь, 16 июля 2008 г., № 421-З // ЭТАЛОН : информ.-поисковая система (дата обращения: 22.10.2025).
2. Гражданский кодекс Республики Беларусь : Кодекс Республики Беларусь, 7 дек. 1998 г., № 218-З // ЭТАЛОН : информ.-поисковая система (дата обращения: 22.10.2025).
3. Договор о Евразийском экономическом союзе : Договор Республики Беларусь от 29 мая 2015 г. // ЭТАЛОН : информ.-поисковая система (дата обращения: 22.10.2025).
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APPLICATION 1 **TERMINOLOGY DICTIONARY**

Household activity is the activity of individuals aimed at satisfying personal, family, and other household needs, carried out in the mode of economic and (or) creative activity. In some cases, the State delegates to households the right to carry out activities in the mode of economic and labor activity (for example, the activities of personal subsidiary farms).

Secondary entrepreneurial activity is the activity of individuals, commercial and non-profit organizations in the form of creating a legal entity – a commercial organization and participating in its activities in order to systematically generate passive income from the commercial activities of such a commercial organization. Secondary entrepreneurship is the volitional, proactive, socially significant behavior of individuals and non-profit organizations, the main purpose of which is to obtain a social effect, involving the optional receipt of additional income from ongoing activities (economic, labor, or creative).

A state monopoly is a system of public relations in which the exclusive right to carry out certain types of activities, including entrepreneurial ones, is held by the state represented by individual state bodies or other specially authorized economic entities by legislative acts.

Activity is a set of operations of various kinds performed by a subject of public relations systematically, consistently and with a certain frequency of repetition, the purpose of which is to create tangible and intangible benefits that ensure the spiritual, material and social well-being of the individual and society as a whole and expand the human habitat in nature.

Foreign investors are foreign citizens and stateless persons who do not permanently reside in the Republic of Belarus, citizens of the Republic of Belarus who permanently reside outside the Republic of Belarus and invest in the territory of the Republic of Belarus; foreign and international legal entities (organizations that are not legal entities) that invest in the territory of the Republic of Belarus.

Institutional activity is the activity of the state, its administrative-territorial units, civil society institutions (for example, political parties, religious organizations, trade unions, etc.), and other organizations operating in the field of political communication and political communication activities aimed at shaping and implementing the internal and foreign policy of the state, ensuring national security, and protection of national interests, impact on public consciousness and worldview.

Commerce is a sphere of entrepreneurial activity carried out exclusively by commercial organizations and individual entrepreneurs, involving a set of purposeful actions (business operations) aimed at making trade transactions in order to make a profit.

Competition is the competitiveness of economic entities in which: by independent actions of each of them, the possibility of unilaterally influencing the general conditions of circulation of goods in the relevant commodity market is excluded; by independent actions of each of them, the possibility of unilaterally

influencing the general conditions of circulation of goods in the relevant commodity market is limited.

Criminal entrepreneurship is an objectively existing part of the national economy (hidden economy), based on the principles of carrying out economic activities in an illegal regime in order to generate income or conceal legal income.

Legal barriers to entrepreneurial activity are restrictions established by the norms of national, supranational, or international law on the commencement of entrepreneurial activity, certain types of entrepreneurial activity, or certain business operations.

State support measures are the provision of budgetary funds or public investments to organizations and individual entrepreneurs on preferential terms in accordance with legislative acts; non-financial support in order to ensure a balance of public and private interests.

Measures of state repression are the establishment of a repressive legal regime for the implementation of economic activities by certain types and groups of business entities or certain types of economic activities.

National investors are citizens of the Republic of Belarus, foreign citizens and stateless persons permanently residing in the Republic of Belarus, including individual entrepreneurs who invest in the territory of the Republic of Belarus; legal entities of the Republic of Belarus that invest in the territory of the Republic of Belarus.

Legal economic activity is an activity involving the production, circulation and use of goods and services that are prohibited by law, or that is illegal if the activity involving the production, circulation and use of goods and services is carried out without the manufacturers obtaining the appropriate permission or without state registration.

The object of economic activity is economic operations and economic processes formed by a set of economic operations that make it possible to obtain a legally and (or) economically significant result expected by the business entity.

The subject of economic activity are objects of the material and immaterial world, with the use of which economic operations are carried out.

Primary entrepreneurial activity is commercial activity, i.e. purposeful entrepreneurial activity of individual entrepreneurs and commercial organizations (including those that are a group of persons in the form of an organization without the status of a legal entity), involving the production of goods intended for trade transactions on commodity markets on a systematic basis for the purpose of systematic profit extraction and distribution.

Entrepreneurship is a characteristic of the volitional behavior of any living being, suggesting active behavior aimed at ensuring the vital activity and safety of one's own organism or a group of living beings.

Unlike non-enterprising individuals, an enterprising individual has the ability and motivation to overcome obstacles on the way to achieving the good and to develop innovations in the methodology of achievement.

Entrepreneurial activity is:

1) independent activity of legal entities and individuals carried out by them in civil circulation on their own behalf, at their own risk and under their own property responsibility and aimed at systematically making a profit from the use of property, the sale of things produced, processed or acquired by these persons for sale, as well as from the performance of works or services, if these works or services are intended for sale to other persons and are not used for their own consumption (art. 1 of the Civil Code of the Republic of Belarus);

2) a type of entrepreneurship involving the purposeful production of tangible and intangible goods for exchange with other subjects of legal relations, the result of which is the profit of the producer in kind or in cash. It always involves obtaining an economic effect, is the object of regulation and control by the state to ensure a balance of public and private interests.

Business law is a sub-branch of economic law, which is a set of legal norms governing public relations that arise regarding the exercise of the right to freedom of economic activity in the form of primary entrepreneurship, the formation and functioning of the organizational and legal basis of primary entrepreneurship (entrepreneurial activity) and the provision by the state of conditions for entrepreneurial activity.

Entrepreneurship is an institutional phenomenon that represents strong-willed, active proactive behavior of a formalized nature, the purpose of which is to solve socially significant tasks and obtain a result in the form of a social and (or) economic effect (this definition is doctrinal and is not established by law).

Professional activity is the activity of individuals (for example, law practice, etc.) and organizations (for example, professional activity in the securities market, construction organizations, activities of institutional investors in the financial market, etc.), carried out on an ongoing basis, based on the use of a set of knowledge, skills, skills and technologies of professional influence on a particular the sphere of public relations, subjects and participants of public relations, as well as objects of civil rights.

Public activity – the purpose of which is the realization of a public interest carried out by subjects of international law, administrative-territorial units of the state, public law organizations with or without the status of a legal entity.