

The Historical Basis of the Property of Systematic Financial Law: Issues of Budget and Tax Federalism

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ABSTRACT

The article provides a historical analysis of the formation of fiscal and tax federalism of the modern Russian state, substantiates the relationship between tax revenues and public spending, which is a property of the consistency of financial law. An analysis of the formation of Russian statehood made it possible to single out features of budgetary and tax federalism in Russia that distinguish it from similar systems of other federal states. Significant spending on military affairs, a large territory, a multinational and multicultural composition of the population led to the predominance of strict centralization in Russia's financial policy.

Keywords: *history of taxation, public spending, budget revenues, tasks of the state*

1. INTRODUCTION

The property of consistency is characteristic of law in general and financial law in particular [1]. However, it seems necessary to note that the property of consistency in the social sciences is questioned, and by some scientists it comes down to the concept of order in relation to law [2]. There is well-reasoned criticism regarding the applicability to the law of the property of systemicity, more precisely, of the content that is embedded in the concept of systemicity; and therefore, this quality in the article should be defined as the ordering of the elements of the set, which in combination meets the following criteria:

- 1) the formation of a holistic unity within itself and in conjunction with the external environment;
- 2) the ability to produce new, missing elements and relationships;
- 3) the ability to generate new qualities of the whole, not reducible to the properties of its parts.

In addition, it seems that the consistency of law has historical premises, i.e. the system in social relations is not formed overnight and is the result of certain reasons: the impact of external conditions, natural factors and other causes identified by historical science. The purpose of this article is to analyze the historical foundations of fiscal and tax federalism of the modern Russian state.

2. METHODOLOGY

The study is based on the historical method of cognition, the empirical part of which is represented by a systematic presentation of historical facts, confirmed by various

sources, the theoretical part - by analysis of sources and conclusions from the analysis.

3. DISCUSSIONS

The emergence and development of taxes is an integral part of the history of the development of society, state and law. Their appearance is traditionally associated with the emergence of the first states and the formation of the state apparatus, the maintenance of which required significant funds. There are also opinions that the history of taxation is much older than the history of the state itself. A.V. Demin writes: "Obviously, the need for the formation of public funds existed already in the pre-state era, and these needs were covered by various kinds of gratuitous exemptions, some of which may well be called proton taxes. In this sense, the state did not create taxes, but only "grabbed the baton" from previous social systems, transforming and adapting existing forms of property redistribution that have been sanctified for a long time. ... The taxes currently levied are fundamentally different from their historical predecessors, and it is hardly possible to look for strict analogies here. Perhaps the only non-historical feature of tax exemptions is their mandatory nature and public appointment" [3].

At first, the needs of the nascent states were small and did not require significant expenses, since their administrative structure was not difficult, and employees paid most of the costs at the expense of their own property. Government spending was mainly associated with the formation and maintenance of troops, waging wars, and ensuring external security. Therefore, the initial period of development of taxation is characterized by the

underdevelopment and random nature of taxes, as well as other sources of income. At the same time, the main source of finance of the ancient states was military booty and tribute from the conquered peoples, which subsequently spread to the entire population of the state [4].

To achieve the goal of this study, it seems possible to disrupt the periodization that has developed in historical science and to propose an author's approach to highlighting certain stages of the tax and budget activities of the Russian state

The first stage: taxes in Kievan Rus.

The main source of treasury income in the Old Russian state was a tribute, the first mention of which dates back to the era of Prince Oleg (? –912). The term "tribute" in the Russian annals "The Tale of Bygone Years" is used in the meaning of military indemnity paid by the Slavic tribes subject to their conquerors - the Varangians and Khazars. With the growth and strengthening of the Kiev feudal state, tribute turned into a tax paid by the population to the treasury, the funds of which were spent on the maintenance of the Grand Duke's court, squads, governing bodies, waging wars. In addition, during the formation of Kievan Rus, the tribute collected by the Kiev prince often was not of a fiscal nature, but testified to the tribe belonging to the subjects of Kiev [5]. The collection of polyates was an administrative and financial event of the Grand Duke. V.O. Klyuchevsky wrote: "Expanding their possessions, the princes of Kiev established a state order in the countries subject to them, above all, the administration of taxes. The main mechanical link of the population of the Russian land was the princely administration with its *posadniks*, tributes and duties" [6]. Thus, *protonalogs* in Kievan Rus performed several functions. Firstly, fiscal. Moreover, the bulk of the princely income was directed to military purposes. Secondly, the fact of payment of payments by individual tribes testified to the extension of the power of the Kiev prince to these tribes. Here the content of the word "subjects" is shown, that is, being under the tribute of a certain power. *Protonalogs* are a subjective factor linking several tribes to the state of Kievan Rus.

The second stage: the Horde and the formation of the Moscow state.

Tribute in the XIII century was mainly levied in favor of the khans of the Golden Horde. A tribute sent directly to the princely treasury was levied in the 14th – 15th centuries, along with the Horde tribute from the free population. The need for public spending led to the search for new sources of domestic income, which became various duties, for example, money - a fee for carts, a trade fee for the right to trade, a living fee, a stamp for horses, honey, a fee for marriage etc. [7]. The main indirect tax in Ancient Rus was a road tax levied in the form of tolls, freight, livestock, etc. Initially, funds from its receipt were spent on the repair and construction of roads, bridges and crossings. However, with the strengthening of centralized state power, the toll has lost

its intended purpose and has become a kind of regalia [8]. IN. Klyuchevsky characterizes the period of the gathering of Muscovite Russia in the following ways: buying up, armed capture, diplomatic with the help of the Horde, a service contract with the unitary prince and resettlement from the Moscow possessions over the Volga [6]. Under Ivan III, special charges began to acquire special significance, which financed the formation of the young Moscow state. Their introduction was determined by the need for public spending, for example, *polonyanichnye* - for the purchase of military men, *pishchal'nye* - for casting guns, *zasechnye* - for the construction of fortifications on the southern borders (*serifs*), *streleckaya podat'* - to create a regular army [7].

Thus, this stage is characterized by a temporary loss of fiscal sovereignty of Russia. The revival of statehood is directly related to the return of the right to levy various kinds of payments to the princely treasury. In addition to military purposes, the princely treasury was actively used "to collect Russian lands."

The third stage: Ivan IV and the Troubles.

The era of Ivan IV is associated with managing in specific principalities, when "government actions ... the court, the police, even part of the legislation, were considered as profitable articles of the princely economy, were associated with well-known fees in favor of the government and its agents: this is how all those court and trade duties came about, wedding and others, which entered the princely treasury and for the maintenance of individual rulers of specific time" [9]. The Institute of Feeding suggested that "a feeder, viceroy or *volostel* received a punishment or income list upon assignment for feeding, a kind of *dachshund* that determined in detail his income, feed, and duties." The *Zemstvo* reform carried out by Ivan IV did not aim at decentralization; on the contrary, the expansion of the Moscow state prompted the local authorities to assume responsibility for organizing public relations of local importance. "The Moscow government turned to the usual reception of its organizing policy - to demand the missing materials of dispensation from the population ..." [9].

A feature of the third stage is an attempt to shift the execution of part of the princely functions to the local bureaucracy. The reason for the appearance of such "local authorities" was the expansion of the territory of the Moscow state. With the obligation on local officials to conduct princely affairs, they were given the right to "feed" from their territory. That is, the fiscal function of *protonalogs* has received additional content: financial support for the "peaceful" functions of the state (judicial, functions of organizing trade, maintaining the adopted public order, etc.).

The fourth stage: the accession of the Romanovs.

After the turmoil, a period of centralization was observed, the consequence of which was the resumption of the institution of *voivodship* and the consolidation of orders. There was a Counting Order since 1621, which was responsible not only for income and expenses in the

branches of the central government, but also for zemstvo finance. The order of counting cases "called for reports from the cities of Zemsky Tselovalnik with these receipts and consumables". The creation of the Account Order allowed "to streamline the financial economy of the state and determine its budget with sufficient accuracy" [5]. It also seems necessary to pay attention to the scientist's observation of the organization of the collection of state taxes from serfs. V.O. Klyuchevsky writes: "As soon as the peasant labor was placed at the disposal of the owner, the latter transferred the obligation to maintain his burden and be responsible for his taxable serviceability. This made the landowner a free inspector of serfdom..." [9]. The increase in national expenditures and, above all, in military affairs, led to the "desire to pull all revenues to the central treasury", local expenses were reduced, local posts were abolished with the transfer of all affairs to governors [10]. Numerous and long wars have determined the practice of emergency taxes levied along with direct and indirect. Almost half of government revenue went to military affairs [10].

Thus, the fourth stage is characterized by the centralization of the fiscal activity of the state, which was due to an increase in military spending. One of the important tasks of this stage was to find a balance in the distribution of fiscal rights between the center and places in order to ensure good governance throughout the Moscow state and to collect enough resources to conduct numerous wars.

Fifth stage: financial issue under Peter I.

This trend continued during the reign of Peter I: the initial moment of the transformational activity of Peter I was military reform, "the organization of finance is its ultimate goal" [10]. The scientist writes: "Peter thought about his treasury, and not about people's freedom, he was looking for not debtors, but debtors (tyaglet); the census gave him more than one hundred thousand new debtors, albeit with great damage to law and justice" [10]. Monopolies also created the conditions for centralizing fiscal policy. Under Peter I, the state monopoly extended to salt, tobacco, chalk, tar, fish oil, oak coffin. The wars with Turkey and Sweden, the construction of a fleet, the creation of a regular army, the development of industry, the construction of new cities, the construction of canals and other transformations required significant financial resources. To cover additional costs, emergency taxes were introduced (money of dragoons, recruits, ships, to submit for the purchase of dragoons), as well as taxes initiated by profitters from inns, furnaces, smooth boats, watermelons, nuts, etc. [8]. Quittrent items brought good income to the treasury: salt stores, state-owned fishing, barns, mills, distilleries, malt houses, breweries and others. "Peter saw only two subjects in the tax issue: the soldier who should be supported, and the peasant who should contain the soldier" [10].

Thus, the unsystematic nature of financial activity, which pursues the only task - to ensure military affairs, is perhaps the main feature of this period. The centralization

of finance, the increase and unsystematic payments to the state treasury accompany Russia during the war.

Sixth period: XVIII and XIX centuries.

During the reign of Alexander III and Nicholas II, a monopoly on wine and railroads played a special role in public finances. S.V. Witte, the Minister of Finance, considered the concentration of the railway system "in the hands of the treasury and the subordination of the private economy of the state" to be the most important task [5]. It is noteworthy that the folding fee levied during this period was subject to distribution between regions and provinces "in accordance with the degree of development of trade and industry in them" [5]. Starting from the 19th century, the financial structure of Russia is characterized by an increase in the influence of law in the implementation of public spending and revenue generation. In 1810, the State Council of Russia approved the program of financial transformations of the state - the famous "finance plan", created by the Russian economist and statesman M.M. Speransky. In addition to basic taxes during this period, "special purpose allowances were introduced. Such were the allowances for the construction of state highways, the arrangement of water communications, and temporary allowances to accelerate government debts. Only the last of the taxes listed - for the payment of debts was levied on the nobles who had an income above the established amount. The nobles who lived abroad not in the service and "lived incomes outside the Fatherland" had to pay twice" [7].

After the abolition of serfdom, the liberated peasants not only paid the capitation tax, zemstvo fees and other official and zemstvo monetary duties, but also participated in socially significant work, serving their in-kind duties, which included extinguishing fires, maintaining country and field roads, exterminating harmful insects, the content of rural guards and several others. In addition, they paid mundane fees for special purposes: for the maintenance of persons of mundane government, the design and maintenance of hospitals, almshouses, schools and teachers. Payment of worldly fees and serving of natural duties extended to all peasants - householders living in the area [7].

A distinctive feature of this period is the growing role of the state in the regulation of the economy. The state uses not only tariff and tax regulation measures, but also becomes a participant in economic relations through the development of a monopoly in railway activities.

Eighth Period: Soviet.

In 1917, as a result of the February and October revolutions, a change in the political and state power in Russia took place. It is noteworthy that with the establishment of Soviet power, the right of the state to taxation was established in constitutions. This source is also interesting for studying the distribution of tax authority between the Union republics and the USSR. Clause "m" of Article 49 of the Constitution of the RSFSR of 1918 established that the establishment of national taxes and duties is the responsibility of the All-

Russian Congress of Soviets and the All-Russian Central Executive Committee. The Constitution did not provide for tax activity in the subject matter of the local organs of Soviet power (Chapter 12). According to article 80: state revenues and expenses of the Russian Socialist Federative Soviet Republic are combined in the national budget. The All-Russian Congress of Soviets or the All-Russian Central Executive Committee determine the types of income and fees that are included in the national budget, and which come at the disposal of local Soviets [11]. The Soviet government sought to use tax policy tools not for fiscal but for socio-political purposes, abolished previously existing taxes and sought to transfer the country to in-kind taxation. The main incomes of the young Soviet state were the issue of money, indemnities and food surplus. Government spending was also covered by emergency payments [12].

As a result of the financial policy carried out at that time and the sharp depreciation of the ruble, which led to a decrease in the effectiveness of cash taxes, the country almost completely switched to in-kind taxation. The population was involved in the supply of firewood, the preparation, loading and unloading of all types of fuel, the transportation of food and military goods. In February 1921, the Presidium of the All-Russian Central Executive Committee adopted a decision on the suspension of the collection of all state and local taxes. The policy of "war communism" reached its climax, but at the same time, a transition to a new economic policy was outlined.

The purpose of the transition from food surplus to tax was the formation of incentives among the peasants to restore the economy, increase production and sales of agricultural products. Decrees of the Soviet government imposed a tax on bread, potatoes, eggs, dairy products, wool, tobacco, etc. The taxation was based on class principles and was progressive: the highest rates were set for kulak farms, and the poorest peasants were exempted from certain types of taxes. Direct taxes were the main tax source of state revenue. The share of their income in 1922 amounted to 43% of all tax revenues, in 1924 - 45%, in 1926 - 82% [8].

The 1924 Constitution of the USSR in clause "I" of the first chapter provides that the jurisdiction of the supreme organs of power of the USSR includes "approval of the unified state budget of the USSR ... of the system of all-Union taxes". The second chapter expressly states that the sovereignty of the Union republics is limited only to the extent established by the Constitution. The Constitution of the RSFSR of 1925, adopted a year later, determined that the establishment of state and local taxes, fees and non-tax revenues is carried out in accordance with the Constitution and legislation of the USSR and is under the exclusive jurisdiction of the All-Russian Congress of Soviets (clause 16 f). Article 72 of the Constitution established that the distribution of budgetary revenues and expenditures is determined by all-Union legislation.

Since the 1930s the role of taxes in the USSR decreased significantly. They began to perform unusual functions,

used as an instrument of political struggle with the kulaks and private agricultural producers. As a result of the tax reform of 1930-1932, the system of taxes and levies that had developed during the NEP was practically abolished. In fact, two tax systems were established: "a system of non-tax exemptions for state-owned enterprises and a tax system for cooperative and private enterprises". At the same time, exemptions from the socialized sector of the economy reached 90 percent of the state budget [5]. The main source of state budget revenues has become the public sector of the economy. Fiscal payments of state enterprises have actually become a form of redistribution of national income between enterprises of the socialized sector and the budget system.

The Constitution of the USSR of 1936 directly established that the approval of taxes received for the formation of the Union, Republican and local budgets belongs to the jurisdiction of the USSR (clause "I", article 14). These provisions were continued in the Constitution of the RSFSR of 1937: state and local taxes, fees and non-tax revenues are established in accordance with the legislation of the USSR and are under the jurisdiction of the RSFSR (clause K, article 19).

Additional budgetary requirements during World War II were provided by a number of new taxes and fees from the population. As an emergency tax of the war period, a tax was introduced on single people, single and small-family citizens of the USSR to raise funds from childless citizens to the state's expenses for public education and maintenance of children in childcare facilities, to assist large families and single mothers. This payment lasted until the 1991 tax reform. In addition, part of the important wartime expenditures was covered by voluntary contributions - collecting funds from the population in the Defense Fund and the Red Army Fund. During the war years, the budget received 111.7 billion rubles, of which 84.7 billion rubles amounted to payments from state and cooperative enterprises [5].

The needs of the post-war Soviet state were due to the need to restore the economy, to arrange a peaceful life for citizens. Some of the wartime emergency taxes were abolished. In 1958, the rural population was exempted from road duties. Construction and repair of local roads was entrusted to state farms, collective farms, transport, industrial, construction and other enterprises and organizations. The procedure, terms and forms of involvement in roadwork were established by the Presidiums of the Supreme Soviets of the Union Republics, taking into account local conditions. In this way, the state transferred the burden of public spending to business entities.

Far from taxes, by their nature, were payments from the profits of state enterprises that came to the budget of the country. Until 1966, they were made in the form of deductions in the amount of the free balance of profits in excess of the needs of the enterprise. Then, in order to strengthen self-financing, two priority payments to the budget were introduced - payment for production assets

and rental payments, as well as the third - contributions of the free balance of profits, which performed the function of final regulation of the relationship of enterprises with the state budget for the use of profit. The share of payments from profits in budget revenues exceeded 30% and remained stable for several decades.

Clause 6 of Article 73 of the 1977 Constitution of the USSR consistently attributed the establishment of taxes to the formation of the state budget of the USSR to the jurisdiction of the USSR.

In addition to the system of compulsory payments, public expenditures in the USSR were covered by means of self-taxation — a form of voluntary participation of citizens in cash or gratuitous labor in events for socio-cultural construction and improvement of local scale. The funds from self-taxation were not included in the budgets and were spent on the goals determined by the general meeting of citizens of the settlement.

Changes in the tax system associated with the restructuring that began in 1985 were due to the reform of the economic management system, the development of foreign economic activity, and the expansion of the scope of individual labor activity of citizens. The transition to market relations has returned to taxes the status of one of the main sources of state budget revenues. The situation has not changed until now.

Thus, taxes did not play a significant role in the economy of the Soviet state. The supreme authority in matters of tax and budget activity was concentrated at the highest organs of state power of the USSR.

Ninth period: modern Russia.

One of the first legally significant documents that created the conditions for the tax sovereignty of the modern Russian state is the Declaration of the RSD of the RSFSR of June 12, 1990 N 22-1 "On State Sovereignty of the Russian Soviet Federative Socialist Republic" (Vedomosti Congress of People's Deputies and the Supreme Soviet of the RSFSR. 1990. N 2. Article 22.). This document does not directly indicate the supremacy of the Russian state in matters of establishing and levying taxes, but the fullness of the power of the RSFSR is established in resolving all issues of state and public life. The complex nature of state sovereignty, which includes not only the supremacy of the state in the establishment and collection of taxes, but also other sovereign rights no less significant for statehood, does not imply their transfer in an act proclaiming state sovereignty. Moreover, the tax system of the Russian state as of the date of declaration of state sovereignty has only just begun to take shape. The issues of its construction, as well as the expression of the tax sovereignty of the Russian state, were enshrined in subsequent acts.

In subsequent documents, in particular in the Federal Treaty of March 31, 1992 "The Treaty on the Delimitation of the Subjects of Authority and Powers between the Federal Government Agencies of the Russian Federation and Authorities of Sovereign Republics within the Russian Federation", issues of federal taxes and fees, as well as financial regulation, are referred to the jurisdiction

of the federal bodies of state power, and the general principles of taxation and fees - to joint jurisdiction. The provisions of the Federal Treaty were included in the Constitution of the Russian Federation, adopted at the All-Russian vote in 1993.

More precisely, the content of the tax sovereignty of the Russian state was formulated in the Law of the Russian Federation of 27.12.1991 N 2118-1 "On the Basics of the Tax System in the Russian Federation" (Rossiyskaya Gazeta. 1992. No. 56). Article 1 of the Law determined that the establishment and cancellation of taxes, fees, duties and other payments, as well as benefits to their payers, are carried out by the Supreme Council of the Russian Federation and other government bodies in accordance with this Law. National - state, national - and administrative - territorial entities establish additional benefits only in terms of the amounts received in their budgets. Clause 2 of Article 18 of the Law determined that public authorities of all levels are not entitled to introduce additional taxes and mandatory deductions not provided for by the legislation of the Russian Federation, as well as to increase the rates of established taxes and tax payments. The law also determined the list of federal, regional and local taxes, as well as empowered state authorities at the regional level and local authorities with the power to determine the rates for regional and local taxes and fees. Experts note the exceptional role of the Constitutional Court of the Russian Federation at this stage in the formation of tax legislation. This stage is characterized by the formation of the institution of tax obligations in the modern sense [13].

Some provisions of the special tax legislation contained norms aimed at ensuring the tax sovereignty of the Russian Federation. For example, the Federal Law "On the Unified Tax on Imputed Income for Certain Types of Activities" of July 31, 1998 stipulated that the subjects of the Russian Federation establish and enforce the single tax in accordance with the Federal Law (SZ RF. 1998. No. 31. St. 3826).

The federal law established a list of activities in respect of which it was allowed to establish and enforce a special tax regime in the territory of a subject of the Russian Federation, some concepts (basic profitability, increasing / decreasing ratios, and some others). Federal law determined that the basic profitability calculation formulas are established by the constituent entities of the Russian Federation on the basis of the recommended formula developed by the Government of Russia.

Scattered tax laws created the preconditions for numerous tax disputes. A well-known role in the formation of legal guarantees of tax sovereignty belongs to the Supreme Court of the Russian Federation and the Constitutional Court of the Russian Federation.

Thus, by Decision N 5B96-226, the Supreme Court of the Russian Federation invalidated the Decree of the President of one of the constituent entities of the Russian Federation on the introduction of a tax on the sale of alcoholic beverages. The basis for declaring the Decree invalid was

its inconsistency with the provisions of the Law of the Russian Federation of December 27, 1991 N 2118-1 "On the Basics of the Tax System in the Russian Federation", which prohibits the establishment of taxes and fees not provided for by this Law.

The codification of tax legislation has become a significant step in the formation of legal guarantees of the tax sovereignty of the Russian state. Systematization of tax legislation was also accompanied by internal changes that significantly transform the relationship between the state and the taxpayer. I.I. Kucherov notes that the problem of the multitude of tax disputes resolved by the system of arbitration courts was resolved by eliminating "mandatory reasons for going to court by expanding the competence of the tax authorities to independently, without authorizing the court, recover arrears, penalties and fines ... Further development of tax legislation demonstrates rejection of the design of preliminary judicial control over decisions of tax authorities and the transition from January 1, 2009 to the mandatory pre-trial appeal procedure". Further in this study, the legal positions are formed by the arbitration courts, which directly influenced the formation of the financial and legal framework of the tax sovereignty of the Russian Federation. For example, the concept of the limits on the exercise of rights granted by tax legislation, set forth in Article 54.1 of the Tax Code of the Russian Federation, is the result of the development of the concept of unjustified tax benefit, formed in the Decree of the Plenum of the Supreme Arbitration Court of the Russian Federation dated 12.10.2006 N 53 "On the assessment by arbitration courts of the justification for obtaining tax benefits by the taxpayer" (Bulletin of the Supreme Arbitration Court of the Russian Federation. 2006. N 12).

The modern system of revenues of state and local budgets of the budget system of the Russian Federation took shape with the adoption in 1998 of the Budget Code of the Russian Federation, article 41 of which states that budget revenues include tax revenues, non-tax revenues and gratuitous revenues. Budget tax revenues include revenues from the taxes and duties of the federal taxes and fees stipulated by the legislation of the Russian Federation, including taxes stipulated by special tax regimes, regional and local taxes, as well as penalties and fines on them. Performing, as before, the fiscal function, taxes continue to be the predominant source of funds from state and local budgets and make up more than 80% of the revenues of centralized public monetary funds [14].

4. RESULTS

The study allows us to draw interesting conclusions about the following.

1. The financial activities of the state, starting from Kievan Rus and ending with modern Russia, suggest a significant link between tax revenues and public spending.

2. This relationship is an objective prerequisite for a systematic or, at least, a certain order of domestic financial law.

3. The budget and tax federalism of the modern Russian state is characterized by strict centralization, which is largely due to historical reasons: a large territory, the need for significant military spending, and to some extent, the need to confirm the "citizenship" of some subjects of the Russian Federation.

4. The processes of decentralization of financial activity are more aimed at increasing its efficiency, financial self-sufficiency of power in the regions and local self-government and are not associated with "separatist" movements. Decentralization is carried out as part of the implementation of centralized financial activities.

5. CONCLUSION

The history of statehood determines the features of tax sovereignty, fiscal and fiscal federalism of states with a federal structure. Features of the formation of tax and budget systems of a federal state must be taken into account when implementing state financial policy. There are no universal "recipes" for applying the processes of centralization and decentralization of the financial systems of states.

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