

Špoljarić Danko*

<https://orcid.org/0000-0003-3300-2654>

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CONTRIBUTIONS TO THE STUDY OF THE HISTORY OF FINANCIAL LAW IN ANCIENT ROME – THE REIGN OF EMPEROR DIOCLETIAN

ABSTRACT: Roman law, as the legal system that was in force for nearly thirteen centuries in Ancient Rome, did not disappear with the fall of the Roman state. Rather, in a more or less modified form, it became positive law in contemporary European states. The reception of Roman law, especially the fundamental institutions of private law (private ownership, freedom of contract, and freedom of testamentary disposition), forms the legal foundation of modern private law. A part of the Roman legal system is also public law (*ius publicum*) which deals with general state interests (*Ulpian, Digest 1,1,1, 2*).

The purpose and aim of this research is Roman financial law, and the subject of the paper is the fiscal system during the reign of Emperor Diocletian. Through a comparative method of available sources and texts from relevant authors of Diocletian's time and the period immediately after him (a smaller number), as well as scientific studies from the modern era (referring to the past hundred or more years), it is concluded that the public-law acts of financial law from that period were, in some of their solutions, far ahead of their time and are partially applicable even today.

Keywords: *Diocletian, tax reform, Edict on prices.*

*LLD, University College Professor, Effectus University of Applied Sciences, Zagreb, Croatia,
e-mail: dspoljaric@effectus.com.hr

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1. Introduction – Historical Context

Financial law is a branch of law that encompasses the legally regulated financial activity of the public sector, the legal framework governing public revenues and expenditures and the regulated collection, management, and spending of financial resources necessary for the functioning of the public sector. The development of financial law can be traced back to the emergence of the state and social classes, when the need arose to finance public (state) expenditures.

Financial and tax reforms of Roman emperor Diocletian represent a significant contribution to the history of financial law. Historical records show that Diocletian as a soldier and later as a ruler, took part in Roman wars across the Empire: in Gaul, along the Danube, in Asia Minor, Syria, Mesopotamia, Egypt, and Italy and that he became Roman emperor in 284 (Bulić, Cambi & Babić, 2005, p. 152; Bošković, 2008, p. 402).

A year after he became emperor (285), he appointed Maximian (*Marcus Aurelius Valerius Maximianus Augustus*), a military commander, friend, and comrade-in-arms from many battles (and, as it would turn out, who proved to be a loyal supporter), as co-ruler in the western part of the Empire (Waldron, 2022, p. 38). After ten years of *dyarchy*, in 293 he appointed Constantius Chlorus (*Marcus Flavius Valerius Constantinus, surnamed Chlorus*) and Galerius (*Gaius Galerius Valerius Maximianus*) as subordinate co-rulers and successors, *caesares* (Kalas, 2016, p. 66; Leadbetter, 2009, pp. 5, 63, 139; Waldron, 2018, p. 2). Diocletian divided the governance of the Empire: from his residence in Nicomedia in Asia Minor he himself administered the Asian portion of the state and Egypt; he entrusted the Balkan Peninsula and the Danubian frontier to Galerius; Maximian governed Italy, Raetia, Hispania, and Africa; and Constantius Chlorus administered Gaul and Britain (Romac, 2018, p. 98; Williams, 2000, p. 63).

Historians remember Diocletian as a ruler whose reign was marked, among other things, by the persecution of Christians (Corcoran, 2000, p. 6), but also by reforms with which he attempted to stabilize the Empire. The brief reigns of several of Diocletian's predecessors had led to political, military, and financial crisis that threatened the collapse of the Empire. The state could survive only through major structural reforms that would establish a stable public administration, a robust military organization, and financial recovery (Aličić, 2006, p. 553).

Assessments of Diocletian as a ruler range from that of a spendthrift who oppressed his own people and ruthlessly persecuted Christians (Laktancije, 2005, pp. 39, 41) through those depicting a pragmatic and capable soldier and

reformer, to portrayals of a savior of the Empire and founder of a new order – a ruler who was more statesman than warrior.

2. Diocletian's Edict on Prices

“When Diocletian became Emperor in 284 the Empire had already suffer anarchy and chaos for half a century. The economic situation was very poor. The people were impoverished and partly bound in hereditary castes” (Wassink, 1991, p. 486). After several unsuccessful attempts to reform the monetary system, in 301 Diocletian issued the well-known Edict on the Prices of Goods for Sale (*Edictum de pretiis rerum venalium*) (Romac, 2007, p. 37). It is more commonly referred to as the Edict on Prices (*Edictum de pretiis*) or Diocletian's Edict on Prices (*Edictum Diocletiani de pretiis*). Jovanović (2009, p. 553) emphasizes that the Edict, which was carved on stone slabs and set up throughout the Empire, is “one of the best-known textual testimonies to the *tetrarchy*.”

The preamble of the Edict calls it a “divine edict” by which greed would be eradicated forever (Crawford & Reynolds, 1975, pp. 160–163), and states that the reason for its adoption is the struggle against immoral and shameless human greed, which must be curbed by fear. Whoever violates the provisions of the Edict will be subject to the death penalty, and the death penalty will also befall anyone who buys at prices contrary to the regulation (Jovanović, 2009, p. 553; Kent, 1920, p. 37). Fragments of the stone slabs on which the Edict on Prices was inscribed have been found at forty sites across the Empire (Barbieri, 2008, p. 435).

The Edict on Prices set maximum prices for more than 1200 ancient goods and services, freight rates, animals, wages, and even slaves (Salway, 2010, pp. 1–20). The ceilings ranged from one denarius (silver coin) for animal fodder to 150,000 denarii for a live lion. In addition to protecting citizens, Diocletian also issued the Edict for pragmatic reasons: it was necessary to cap prices to protect the state's largest consumer – the army (“protect the soldiers from profiteers”) The prescribed maximum prices for a large number of products and services placed some producers and service providers in a position where they had to produce and trade at a loss. The Edict prescribed the death penalty not only for those who sold goods and services at prices above the ceilings, but also for those who bought them, and for those who withheld goods from sale (Petrak, 2016, p. 104). Forced price regulation contrary to market forces ultimately resulted in the economic collapse of some producers, who, under threat of death, could not withdraw from the market until they had gone bankrupt. This resulted in a market collapse, and the remaining producers and

merchants in the end turned to the illegal market, where goods were sold at market prices (Cambi, 2016, p. 130). The Roman writer Lactantius (Lucius Caecilius Lactantius Firmianus), a contemporary of Diocletian, writes that Diocletian himself, through his ‘insatiable greed’, caused an economic crisis and high prices, and therefore took it upon himself to set maximum prices for goods and services by law. In the process, he shed much blood over trivial and insignificant matters before he repealed the bad law (Meißner, 2000, p. 79).

Beyond administratively capping the prices of goods and services, the Edict on Prices went a step further in state intervention in the economy: it also prescribed maximum wages for different categories of craftsmen and workers. The prices for the maritime transport of goods, and especially the rates for transport on behalf of the state, were set by the Edict at significantly lower levels than commercial rates. For example, the state freight rate for transporting grain from Alexandria to Rome was limited to fifty percent of the rates charged to other users (Michel, 1947, pp. 1–12).

Ultimately, the Edict on Prices did not lead to economic stabilization and order in the market. Shortages of goods further deepened the crisis, and the ineffective regulation was eventually repealed. While it did not materially change the dire economic situation of the period, the Edict is an important historical source on economic conditions in Diocletian’s time. Some historians of Roman law even consider it the most important text of late antiquity (Petrak, 2016, p. 104; Brandt, 2004, p. 47). Analyzing the available historical sources, it can be concluded that the Edict on Prices, although unsuccessful for the state economy, is a significant source for understanding the financial relations Diocletian’s time. Some authors find similarities between the Price Edict and modern regulatory attempts to fight against inflation. They conclude that the experiences of Ancient Rome should be instructive for today’s governments – state intervention in the market failed in Diocletian’s time as well as it fails today (Matić Matešković & Dujmešić, 2024, p. 109). Sukačić (2017, p. 113) highlights Diocletian’s willingness to put public interest ahead free trade and connects this with today’s regulations: “A similar situation is present today where competition law creates barriers for fully free trade in order to give protection to consumers, which is again viewed as public interest.”

3. The Roman Fiscal System and Diocletian’s Reforms

While the history of the Roman state and law is not fully the history of all peoples who lived within that state, the relationship between the center and the provinces changed over time, as did the size of the state with the outcomes

of wars for territory (Kurtović, 2005, p. 12). The fiscal system in all phases of ancient Rome was organized for the entire territory under state control, and changed over the centuries in line with historical circumstances.

In the early phase of the Roman Republic, the earliest property tax was the *tributum*. The Senate decided on its introduction; it was paid by Roman citizens. A peculiarity of this tax was the possibility of refunds – particularly in the event of unexpected war spoils that replenished the state treasury. Over time, state expenses were mostly covered from external sources (war indemnities, levies imposed on conquered provinces such as Africa, Macedonia, Hispania), so there was no need for citizens to pay the *tributum*, although it was never entirely abolished. The Republic transformed from a tax state into a state that relied for public revenue on the spoils of war and on tax revenues in subjugated provinces (Špoljarić, 2024, pp. 162–167).

The tax system of the Principate (beginning with Octavian and ending with Diocletian), although continuing the practice of funding the treasury with war booty and levies on subjugated populations, was characterized by a multitude of tax rules, tax forms, and privileges for favored strata and social elites. Tax policy constituted a powerful weapon of rule used to purchase loyalty where necessary and to keep the non-privileged in subordination. A tax system tailored to the army and to social elites (tax privileges and exemptions) further impoverished the poorest populations.

Tributum soli and *tributum capitinis*, the official direct state taxes during the Principate, burdened the populations of the provinces, while citizens of Rome living in Italy were exempt from the tax obligation. *Tributum soli* – the tax on agricultural land and the means of cultivating it – also covered labor, primarily slave labor. The taxable base was determined by censuses of the population, land cadastres, and land registers, while the amount of the tax burden depended on the size and quality of agricultural land and the number and quality of the labor force. Agricultural land in Italy was exempt, and Roman citizens did not pay *tributum soli* even on agricultural land they owned outside Italy.¹

Tributum capitinis (poll tax, tax on the person), one of the most significant direct taxes, arose and persisted in various forms and with various exemptions

¹ The tax form known as *tributum soli* was a direct tax on agricultural land and means for cultivating the land. The object of taxation was determined through population censuses. Arable land, vineyards, olive groves, meadows, forests and houses were recorded. In some provinces taxes were collected in fixed amounts of money, while elsewhere they were collected in kind. In some provinces taxes were collected as a percentage of the estimated value of the land, while in others they were paid in quotas (Špoljarić, 2024, pp. 163–167).

for almost the entire period of ancient Rome. During the Principate it struck primarily Roman subjects in the provinces, while citizens of Rome were exempt. In the earlier Republic this tax was collected by state officials; during the Principate it was left to magistrates and city senates in the provinces. *Portoria*, the oldest known Roman tax, originally a customs duty on the traffic of goods entering or leaving a port, later were collected in the form of tolls or bridge tolls in land transport. For most goods the *ad valorem* method applied (the tax base is the value of the goods). This tax was paid by all Roman citizens, and collection was carried out by provincial procurators or specially appointed procurators charged precisely with tax collection in the provinces. A significant portion of state expenditures was earmarked for financing veterans pensions (*aerarium militare*). For this purpose Emperor Augustus introduced a 5% tax on testamentary inheritances, the *vicesima hereditarum* (*vicesima* – i.e., a twentieth). Another revenue source for the military pension fund was the *centesima rerum venalium*, a tax on goods sold at auctions, at a 1% rate. The *collatio lustralis*, a tax on production or services, was paid by craftsmen, merchants, and moneylenders, but not by physicians, teachers, or farmers. Physicians and teachers were particularly valued in society because they were few, whereas farmers paid the *tributum soli*. As it was a slave-owning society, the trade in slaves and liberation on slaves were also taxed. The *vicesima libertatis*, a tax at 5% of a slave's value, was paid by the owner who liberated the slave or by the slave himself; the *quinta et vicesima venalium mancipiorum (manumissio)*, a tax on the trade and transfer of slaves, was levied at 4% (Günther, 2019).

A significant portion of tax revenues also came from local taxes not regulated by the state, which the central authority left to local bodies in the provinces. The tax sovereignty of local bodies was nevertheless limited: a portion of the revenues collected through taxes not regulated by the state could be retained locally, while another portion was paid into the state treasury. Despite the lack of uniformity in types of taxes and the differing tax burdens on citizens across provinces, the Roman state largely relied on local authorities for tax collection. The costs of assessment, collection, and enforcement through local administration were incomparably lower than if they had been carried out by a centralized tax administration.

Aside from attempting to reform the financial system by issuing the Edict on Prices, Diocletian's reign was marked by tax reform. An assessment of Diocletian's tax reform must begin from his fundamental conception of the relationship between emperor and subjects. The tax reform was a logical extension of his basic idea about that relationship: unconditional loyalty to the emperor was expected of the subjects, and the emperor's obligation was to do

everything in the interest of the citizens. Security of Rome was paramount for both, and it rested on a strong military force. Therefore loyalty to the emperor was to be demonstrated through responsibility, respect for imperial regulations and timely payment of taxes, so that military expenditures could be financed and the Empire defended against external threats.

At the very beginning of his reign Diocletian introduced the *capitatio-iugatio*,² a unified form of taxation of agricultural land and persons capable of work, while urban populations continued to pay the *tributum capitum*. The intention was to standardize taxation across the entire empire, with the tax base determined by the extent of arable land, the number of livestock, and the labor force. This tax form encompassed both persons and property, and simplified taxation. From a tax-technical perspective the *capitatio-iugatio* represented a significant advance over the previous period and, with minor modifications, this mode of taxation survived for the next three centuries (Romac, 1966, p. 52). While for its time it was a positive innovation, objective circumstances rendered the overall tax system unsuccessful. In order to make tax collection in the field efficient, Diocletian gave provincial administrators a smaller area to oversee (Wassink, 1991, p. 488). The vastness of the Empire, difficulties in communication with distant areas, and the excessive costs of an administration that would assess and collect taxes made it impossible to ascertain and tax actual agricultural income; instead, presumptive quota taxes (based on cadastral data collected) were applied. Tax liability was determined on the assumption that the taxpayer realized a certain level of income, and an actual absence of income (poor harvest, drought, flood) did not extinguish the tax obligation. Inability to pay taxes led to confiscation of land and further impoverishment of the population (Nelson, 2018, p. 2).

The tax system during the imperial period largely influenced the emergence and development of the colonate. The peasant, the colonus – “a semi-free cultivator of another’s land” (Clark, 2017, p. 51) – who, owing to inability to pay taxes, had lost his own land, was not a slave but a tenant. He cultivated another’s land but was existentially tied to the land and its owner. Tenancy and the cultivation of others’ land over time took on ever greater dimensions and economic significance, so that the colonate gradually evolved from a leasehold relationship into an alienable and hereditary real right known as *emphyteusis*.³ The holder of the right of *emphyteusis* was obliged to pay

² In system *capitatio-iugatio* the assessment was based on the categories of people and animals and land combined with each other, calculated by the tax estimates.

³ Alienable and inheritable real right over someone else’s land, which gives the holder of that right the possibility of full use of that land.

an annual rent to the owner in money or in kind, to keep the land in good condition, and to pay the tax. “*Emphyteusis* was not, from the very beginning, an inheritable lease, but a lease for a fixed term, originally five years” (Horvat & Petrák, 2022, p. 204). The impact of Diocletian’s tax reforms was also felt in the colonate.

Under the *capitatio-iugatio* system, instead of a free choice grounded in the voluntary cultivation of another’s land, the colonate was transformed into an obligation, and peasant coloni were forcibly tied to the land they had cultivated as tenants. The movement of coloni was restricted – they became “slaves of the soil” (*servi terrae*) – and if the ownership of the land changed, the colonus was obliged to continue cultivating the land for the new owner. The reason for introducing compulsory colonate is to be sought in the importance of the farmers as the most generous source of state revenue. Every migration of a colonus created disorder in an already imprecise registry of taxpayers and thus jeopardized orderly tax payment and the tax system as a whole.

The census, the survey of agricultural land and the abolition of privilege regimes are considered positive legacies of Diocletian’s tax reform. While taxation in the field did not function as envisaged, particularly in distant provinces, the idea of universality in taxation as a form of just taxation deserves attention as a significant step forward compared with the preceding period of the Roman state.

4. Conclusion

The Roman Emperor Diocletian left a significant mark on the history of ancient Rome. His twenty-year reign, from 284 to 305, was marked by constant incursions by barbarian peoples and wars on the borders of the Empire, merciless persecution of Christians, but also reforms of state administration and reforms of the military, tax and financial systems.

History remembers Diocletian for his reform of state administration and the introduction of the tetrarchy. The Roman Empire at the end of the 3rd century, when Diocletian came to power, was burdened with numerous problems. The empire stretched from the Iberian Peninsula in the west to Mesopotamia in the east, and included Britain in the north and North Africa in the south. Due to the constant incursions of barbarian peoples, the state was constantly at war, wars and the army had to be financed, and the state finances were unsettled and burdened by a large and corrupt administration. Since he had fought in all parts of the Empire as a soldier and thus got to know it, he assessed that one man could not successfully govern the state alone. After

appointed his friend and comrade Maximian as co-emperor, faced with wars in various parts of the Empire, in 293 he appointed two more co-emperors, the generals Constantius Chlorus and Galerius. Diocletian ruled in the east of the Empire, Maximian in the Iberian Peninsula, Italy and North Africa, Constantius Chlorus in Britain and Gaul, and Galerius in the Danube region and the Balkans all the way to the Black Sea.

Although they were not entirely successful in their implementation, Diocletian's reforms of state finances and the tax system were, even by today's standards, in some parts well conceived. The Edict on Prices of 301 was passed as an attempt to suppress the enormous inflation that had completely paralyzed the Roman economy. Diocletian tried to counteract inflation in the simplest way possible – he prescribed by law maximum prices for goods and services throughout the Empire. The Edict could not be successful for a long period of time: some manufacturers were forced to sell goods below the cost of production, which ultimately led to their ruin. Others, despite the strict sanctions, turned to the black market, which flourished and everything continued as before. When he saw that the Edict had not achieved its intended goal, Diocletian repealed it. Tax reforms, partly based on the idea of universal taxation of all citizens of the Empire, were initiated with great expectations for the recovery of public finances. A population census was prepared and carried out and the existing agricultural land register (land cadastre) was revised. Diocletian's *capitatio – iugatio* taxation system, although burdened with the problems, nevertheless represented a great improvement over the anarchy in the tax system that preceded it.

As a warrior and military leader, Diocletian distinguished himself in wars throughout the empire and eventually attained the imperial throne. For a man of common descent, he displayed unusual clarity and skill as a ruler. He reformed the way the vast Roman Empire was governed by the tetrarchy, reorganized public finances and the army, and, by all accounts, saved the Empire from collapse in his time.

Conflict of Interest

The authors declare no conflict of interest.

Špoljarić Danko

Effectus veleučilište, Zagreb, Hrvatska

PRILOZI ZA PROUČAVANJE ISTORIJE FINANSIJSKOG PRAVA U STAROM RIMU – VREME VLADAVINE CARA DIOKLECIJANA

APSTRAKT: Rimsko pravo, kao pravni poredak koji je važio gotovo trinaest vekova u Starom Rimu, nije nestalo sa padom rimske države, već je, u manje ili više izmenjenom obliku, postalo pozitivno pravo današnjih evropskih država. Recepirano rimsko pravo, naročito osnovni instituti privatnog prava (privatna svojina, sloboda ugovaranja i sloboda raspolažanja zaostavštinom), čine pravnu osnovu savremenog privatnog prava. Deo rimskog pravnog sistema je i javno pravo (ius publicum) koje se bavi opštim državnim interesima (*Ulpijan, Digesta 1,1,1,2*).

Svrha i cilj ovog istraživanja je rimsko finansijsko pravo, a predmet rada fiskalni sistem u vreme vladavine rimskog cara Dioklecijana. Komparativnom metodom dostupnih izvora i tekstova relevantnih autora iz Dioklecijanovog vremena i perioda neposredno nakon njega (u manjem broju), kao i naučnih studija iz savremenog doba (misli se na poslednjih sto i više godina), dolazi se do zaključka da su javnopravni akti finansijskog prava iz tog perioda po nekim svojim rešenjima bili daleko ispred svog vremena, a delimično su primenljivi i danas.

Ključne reči: Dioklecijan, poreska reforma, Edikt o cenama.

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