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Russia has been a member of the WTO since 22 August 2012 and, in response to its accession commitments, was allowed to maintain the local content requirement in its auto investment programmes until 1 July 2018. Starting from 1 July 2018, the WTO-inconsistent import duty rates for auto parts under commodity classification codes 8701-8705 must be brought in line with the single rates applied by the Eurasian Economic Union. This will mark a new era of localisation encouraged by the government’s new special investment contract regulations and commitment to further streamlining the automotive legislation. Thus, as part of this effort, the government approved a plan of actions towards the removal of administrative barriers in the industry. Learn more in the "Government support initiatives" section.

The environmental measures are being kept up: actions proposed by the Russian Ministry of Natural Resources and Environment include charging an environmental fee on new categories of goods, and packaging and raising some of the existing rates. Furthermore, the government clarified the procedures relating to the imposition, calculation, payment and recovery of recycling fees on self-propelled vehicles and trailers—read more in the "Environmental law" and "Recycling fee" sections.

The customs regulations also underwent changes in 2Q 2018 introduced by Federal Law No. 289-FZ of 3 December 2018 "On customs regulation in the Russian Federation and on amendments to certain regulations of the Russian Federation” and the Regulation on control of the declared customs value of goods imported into the EAEU. For more details on the changes, please refer to "The EAEU Code and customs issues" section.

Among the upcoming activities, the Russian State Duma will consider a bill postponing the labelling of certain products (tyres)—read on in the "Track and trace and paperless procedures" section.

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Government support initiatives
Partial compensation of costs resulting from Russia’s WTO commitments to harmonise import duties with the EAEU’s single tariff rates

The Russian Government’s draft resolution regulates the allocation of subsidies to Russian car manufacturers to partially compensate their production costs.

The subsidies will be granted to the manufacturers of wheeled vehicles and associated components to compensate for up to 90 percent of spare parts acquisition costs (exclusive of VAT) incurred since 1 January 2018, being charged by the suppliers of such spare parts or paid for the import of items into Russia.

To verify the costs, the Russian Ministry of Industry and Trade jointly with the Federal Customs Service monitor the customs value of CKD car components imported into Russia over an accounting period, as well as the customs duties charged to each subsidy recipient.

New SPICs with manufacturers of cars and agricultural machines approved

On 15 May 2018, the Interdepartmental SPIC Evaluation Committee resolved to support three investment projects:

- A trilateral SPIC among the Russian Ministry of Industry and Trade, PAO Kamaz, and OOO Daimler Kamaz Rus, aimed at fostering the production of KAMAZ and Mercedes-Benz models and modernising the production capacities
- By Isuzu Sollers – to launch the production of UAZ and ISUZU vehicles (chassis) at OOO Isuzu Sollers plant in Ulyanovsk Region
- By OAO Kovrov Electromechanical Plant – to roll out the domestic production of multifunctional Drawbar 1 ANT 4135F wheeled tractors (which are currently not produced in Russia).

Russian Government approves new SPIC 1.1 rules

The following key changes entered into force on 18 June 2018:

- A SPIC can be entered into with respect to a new project or a new phase of an existing project, thus allowing pre-contract investments
- The list of permitted parties to a SPIC was expanded to include the engineering and financial centres and other designated persons
- A formula to calculate penalties for the breach of production technologies is introduced.
**Russian government extends subsidies to manufacturers of natural gas-powered vehicles**

The government subsidies will be extended for 2018 subject to provision of discounts to consumers.

The subsidies will be granted to producers offering discounts on buses, utility and passenger vehicles, wheeled tractors, etc., manufactured after 1 December 2018 and distributed via dealers or by the manufacturers themselves. The subsidies will be consistent with the size of vehicle-specific discounts.

**Russian Government approves a roadmap towards streamlining the regulation and removal of administrative barriers in the automotive industry**

The roadmap contains 75 initiatives aimed at developing and fostering the driverless transportation, service telematic platforms, navigation technologies, driver-assistance systems, cyber security technologies, cutting-edge wireless technologies, e-transport technologies, alternative fuel usage, and related services.

The document encourages the production of highly-automated transport, sets forth the tax benefits for e-cars and hybrid vehicles, and defines the legal status of big data that will be generated by the automated vehicles.

The roadmap will be implemented gradually during 2018 - 2035.
Recycling fee
Kaliningrad Region’s Russian Government approves list of vehicles exempt from recycling fees in FEZ

To remind, pursuant to Federal Law No. 393-FZ of 5 December 2017, certain vehicles, self-propelled vehicles, and trailers that are older than three years and that are operated in the free economic zones of Kaliningrad Region are exempt from the recycling fee.

The above-mentioned vehicles and trailers include auto concrete pumps, truck cranes, auto cement trucks, dump trucks and trailer (semitrailer) dump trucks, motor graders, bulldozers, excavators, road rollers, agricultural wheeled and crawler tractors, combine harvester, etc.

The exemption will apply until 1 February 2019.

Russian Government clarifies imposition, calculation, payment and recovery of recycling fee on self-propelled vehicles and trailers

Specifically, the following changes were introduced:

- The base fee rate was increased by 15 percent
- The fee will be calculated based on horsepower instead of maximum authorised mass
- The document formalises the procedures and deadlines for filing the documents substantiating the fee calculation or exemption
- The Russian Ministry of Industry and Trade and the Ministry of Agriculture will be monitoring the sales prices of self-propelled vehicles and trailers subject to the recycling fee.

If instances of overpricing are identified, the findings will be used to substantiate the changes in the subsidy policy for these types of vehicles to be developed by 1 March 2019.
Environmental law
Rosprirodnadzor clarified certain statutory production and consumer waste handling provisions

Thus, the regulator advised that:

- The entities that are engaged purely in waste transportation (no waste collection activities) do not have to obtain waste collection licences
- The licensing authority may initiate an extraordinary document check if a company licensed to collect I-IV Hazard Class waste terminates its activities and applies for relicensing
- A licence seeker may apply for the (re)issue of a licence for a particular waste category and hazard class
- Pollution charges will not be imposed for the placement of solid waste in 2016 and 2017
- Pollution charge offsets and overpayment returns will be handled by the territorial branches of Rosprirodnadzor based on payee requests verified by documentary evidence and documents required for payment reconciliation.

Russian Ministry of Natural Resources and Environment to reconsider environmental fee rates

A new list of goods and packaging subject to end-of-life recycling entered into force on 1 January.

The Ministry drafted a government resolution to align the environmental fee rates with the new government list No. 284 of 9 April 2016.

The draft resolution sets the following new rates:

- For Group 37 ‘Non-rechargeable batteries and cells’ — RUB 33,476 per tonne
- For Group 46 “Internal combustion engine filters” — RUB 3,037 per tonne
- For Group 40 “Electronic and electrical wires and cables” — RUB 2,423
- The rates will also be raised for certain other groups of goods and packaging, in particular:
  - For “Hollow glass” — from RUB 2,564 to RUB 2,858 per tonne
  - For “Barrels and similar containers of ferrous metals” — from RUB 2,423 to RUB 2,564 per tonne
EAEU Code and customs issues
**Regulation** on control of declared customs value of goods imported into EAEU approved

The document defines the criteria of misvaluation and sets forth a list of documents and data that can be requested by the customs authorities as part of its customs control activities.

The document lists the information already held by the customs authorities that can be used to verify the value of goods imported into the EAEU. Such information includes data on compatible products, records of transactions involving identical, homogenous, same-class or same-category products, commodity exchange quotes, indices, and auction prices.

The document enables the declarants to explain the causes for non-submission or lack of requested data, including the written explanations confirming that:

- A requested document does not exist or is not used in the particular transaction
- A document and/or information holder refused to provide them or respond to the declarant

The provision will apply to the customs value control procedures initiated both before and after the release of imported goods.

The resolution will enter into force 30 months after its official publication.

**Federal Law No. 289-FZ of 3 December 2018 “On customs regulation in the Russian Federation and on amendments to certain regulations of the Russian Federation” adopted**

The Law was adopted in view of the enactment of the EAEU Customs Code on 1 January 2018 and aims to align the Russian customs regulatory framework with that of the EAEU.

In particular, the Law:

- Enables the use of customs broker security deposits for customs declaration purposes
- Exempts compliant companies from an obligation to hold security deposits
- Enables the issue of customs rulings
- Reduces the timeline for the issue of country of origin and product classification rulings
- Expands the list of exemptions from the customs security deposit obligations
- Allows the advance payment of customs duties, including on imports
- Simplifies the identification of processed products for customs purposes

**EEC target to raise car production localisation to 50 percent may dramatically hamper supplies of cars assembled in Russia into the Customs Union**

The EAEU Resolution No. 72 of 2014 sets forth that, effective 1 July 2018, the movement of cars assembled in one Customs Union member state to the other member states (Russia, Belarus, Kazakhstan, Armenia, and Kyrgyzstan) is conditional upon the localisation of body welding and painting operations and the achievement of an overall localisation rate of 50 percent (formerly, 30 percent). Russia also set a quota for Belarussian passenger cars (10,000 a year).
Track and trace and paperless procedures
Launch of electronic vehicle passports in the EAEU postponed until 1 November 2019

Originally, electronic vehicle passports were planned to be introduced starting from 1 July 2018.

Bill No. 457178-7, streamlining the regulation of road and railway freight transit via Russia submitted to the Russian State Duma

The bills propose using the track and trace technology for controlling the international freight transit by road and rail.

International freight carriers will only be able to transit Russia subject to being equipped with electronic identifiers (navigation seals), registered in the monitoring system.

The breach of the above-mentioned rules will result in penalties.

Russian State Duma to consider postponing labelling of certain products (e.g. tyres)

Article 2 of Federal Law No. 487-FZ of 31 December 2017 authorises the Russian Government to approve the list of goods subject to labelling, companies entitled to label their products, and labelling rules and procedures.

Originally, the Law was scheduled to enter into force on 1 January 2019. Such delayed enactment is required to finalise the relevant legal, economic, organisational, and technical issues.

Labelling was intended to serve the best interest of consumers, business community and the state. Yet, judging by the numerous complaints of business and consumer associations, there are still some loose ends in the proposed regulations, hence the proposal to reschedule their enactment from 1 January 2019 to 1 January 2022.

Russian Government approves track and trace implementation plan

The plan aims to achieve the following objectives:

1) To improve the customs and tax administration efficiency to minimise budget losses and increase revenues

2) To develop and introduce automated track and trace mechanisms, enabling the identification of fraudulent transactions or tax (duty) avoidance schemes, involving the import and sales of goods in the EAEU

3) To improve the state control procedures and timelines

4) To standardise and unify the accounting for movement of goods

5) To enable the authentication of goods, verify the legitimacy of sales by the concrete market participants, and identify the goods sold

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Moscow City Duma adopts a law on profit tax benefits for car manufacturers

Car manufacturers will be exempt from the property tax on assets used in car manufacturing.

The benefits will apply from 1 January 2018 to 1 July 2021.

To remind, in 2018-2020, car manufacturers will also enjoy a lower rate of the regional profit tax component (12.5 percent).

Ministry of Finance clarifies how to determine the “date of manufacture” for property tax purposes

Effective 1 January 2018, the movable property items listed in paragraph 25, Article 381 of the Russian Tax Code, that are not older than three years, as well as the assets classified as innovative high-performing equipment, will be eligible for additional regional tax benefits up to a full exemption.

On 1 January 2018, such benefits were introduced by St. Petersburg and Leningrad Region.

The date of manufacture can be determined based on technical passports, labels, tags, and other documents, or based on technical expert examinations.

For property tax purposes, the month and the year of manufacturing indicated in the manufacturing documentation or vehicle’s passport will be used.

If the documentation does not contain an exact date, the vehicle is deemed to be produced on 1 July of the respective year.

Russian State Duma to take up a bill exempting the electric vehicles from transport tax

Exemptions will be granted at the federal level for a five-year period (from 1 January 2019 to 31 December 2024) regardless of the engine capacity and are aimed at fostering the development of the domestic e-vehicle market.

Russian Ministry of Industry and Trade works on a bill on car auctions

According to the bill, car owners will have to use an e-auction platform to sell their cars to the dealers that will further re-sell them to the end buyers. To participate in e-auctions, the dealers will have to be certified by the state.

Moscow Region plans to open a car certification centre

Russia’s largest car testing and certification centre is planned to be opened in Moscow Region to service all cars requiring a national certification.

Russian Government to require licensing of alluminium wheel imports

The licensing of alluminium wheels imported from the non-EAEU states will be required from 1 July to 31 December 2018.
Russian Ministry of Finance names priorities of the budgetary, tax, and customs policy for 2019 and the planning period of 2020 and 2021

Many of the proposed changes have already been reflected in the pending bills, but some of them are new.

Russian State Duma adopts a law on VAT increase, also allowing VAT refunds to the producers of wheeled vehicles, high-performance self-propelled, and towed machinery

The following changes are proposed:

• To preserve until 1 January the right to seek a refund of VAT paid by producers on the sale of goods/works/services, using government subsidies and/or public investment received in partial compensation of costs attributable to the issue and maintenance of warranty obligations for wheeled vehicles and high-performance self-propelled, and towed machinery

• To raise the general VAT rate from 18 to 20 percent, starting from 1 January 2019

• To raise the VAT rate applied to the sale of an enterprise as a property complex and to the e-services rendered by foreign providers from 15.25 to 16.67 percent

The document also proposes setting a mandatory pension contribution rate of 22 percent for the personal income not exceeding the statutory ceiling and 10 percent for the amounts exceeding it.

The mandatory pension regulations are to be amended accordingly.
Judicial practice
The VAT treatment of bonuses paid by the manufacturer to make up for customer discounts (scrappage discounts)

According to the case records, the Company was reselling vehicles purchased from the manufacturer based on a dealer agreement.

The manufacturer paid bonuses to the dealer, including for the participation in the supplier’s discount campaigns.

As part of these campaigns, the Company committed to offer discounts to the customers that would trade in their vehicles as part of the manufacturer-backed scrappage scheme.

In the tax inspectorate’s opinion, the Company underestimated its VAT base, as the vehicle selling prices were lower than their purchase price, including the discounts. The bonuses are VATable since they are associated with payments for sold cars.

The vehicle replacement discounts and their size are envisaged by the relevant government resolution.

The payment of bonuses is not a reward, as it does not imply any reciprocal obligation on the part of the Company.

The bonuses are not part of the revenue, since the company sold the vehicles it owned and did not render any distribution services to the manufacturer.

A tax inspectorate challenged the non-inclusion of bonuses paid by a car manufacturer into its VAT base

According to the case records, the court, having reviewed the dealer agreement terms, resolved that the funds received by the Company from the manufacturer under a vehicle replacement programme should be treated as a compensation of the profits foregone through the offering of discounts to private customers, i.e. are attributable to the payments for sold vehicles.

In accordance with the reports on vehicles sold and the estimates of bonuses paid for the participation in the discount (marketing) campaigns, the discounts of RUB 50,000 and RUB 20,000 per vehicle offered to the Company as part of the scrappage scheme and marketing campaigns respectively are credited by the manufacturer to the dealer’s bank account or are offset against any receivables due.

The Company recognised the bonuses as non-operating income and did not include them in the VAT base in the period under review.

The case files prove that the Company received bonuses under the manufacturer’s scrappage and marketing campaigns and, therefore, must include them in the VAT base in accordance with Sub-Paragraph 2, Paragraph 1, Article 162 of the Russian Tax Code.

The tax inspectorate challenges the recovery of VAT on warranty repairs performed by the dealer

Based on case records, the tax inspectorate concluded that the company was not entitled to claim a refund of VAT on warranty repairs since the services were not rendered to and, hence, not purchased by, the Company. According to the tax inspectorate, this business operation should be treated as a compensation of the dealer’s repair costs, which is not a VATable event, therefore, the Company was not entitled to reclaim VAT.

The Company as the end-user of warranty repair services rightfully reclaims VAT charged to it with respect to the warranty repair services since it has warranty obligations before its customers, and not the dealers.

The dealers then perform regular repair works for the Company, not warranty-holders.

Therefore, the court acknowledged that the Company procured the dealers’ services to perform its warranty obligations to the end consumers and is entitled to reclaim VAT.
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