# Table of contents

**Introduction**  
5

**Automotive strategy**  
6

Government approves Automotive Strategy-2025  
7

President sets tasks relating to the regulation of passenger transportation  
7

Automotive export strategy approved  
8

Action plan to implement Strategy for Combating Illicit Trafficking of Industrial Goods until 2020  
8

**Government support initiatives**  
9

Government approves budget allocations to support car manufactures  
10

Amendments to Government Resolution No. 719 of 17 June 2015 pending  
10

Ministry of Industry and Trade proposes structuring the government support of the automotive industry through SPIC  
10

Ministry of Industry and Trade develops draft resolution extending the low-interest car loan programme in 2018  
11

Ministry of Industry and Trade expands the subsidised car leasing programme  
11

Government develops large-scale e-transport incentives  
11

Ministry of Industry and Trade develops tyre industry roadmap  
12

The criteria for subsiding leasing companies offering one-off discounts on upfront leasing payments for road construction equipment and utility vehicles clarified  
12

Procedures for partially compensating the Russian car manufacturers’ interest expenses on loans received in 2015 approved  
12

Federal Customs Service and VOLKSWAGEN Group Rus team up to foster exports  
12
Recycling duty

- Draft resolution raising recycling duty on self-propelled vehicles and/or trailers developed
- Ministry of Industry and Trade develops bill expanding the list of recycling duty payers
- Government approves the increase of a recycling duty for new passenger cars
- The list of products subject to recycling duty expanded
- Government sets new recycling multipliers for wheeled vehicles (chassis) and trailers
- The recycling duty for wheeled vehicles to grow 15–18 percent
- Preliminary results of Government’s discussion on recycling duty increase

Environmental law

EAEU Code and customs issues

- EAEU Customs Code enters into force on 1 January 2018
- Bills introducing international transit freight transport traceability system developed

Transportation tax and road toll

- A bill raising administrative penalties for road toll non-payment submitted to the State Duma
- The initiative to introduce zero tax for hybrid and e-cars
- The application of road toll reduction factors extended
- The list of foreign states whose carriers will be subject to the Russian road toll clarified

Excise tax

- Initiative to raise excise tax on passenger cars
- Government to raise excise tax on fuel
# Table of contents

**Automation and paperless technologies**  
24

Rosprirodnadzor approves XML-formation of pollution charges declaration  
25

The regulation for e-filing of the environmental fee developed  
25

Government approves the format and structure of electronic vehicle passports (vehicle chassis passport)  
25

Government approves the regulation governing the use of vehicle e-passports  
25

**Other federal legislation news**  
26

Law on Country-by-Country Reporting (CbC) and Common Reporting Standard (CRS) takes effect  
27

New Double Tax Convention between Russia and Japan released  
27

Constitutional Court objects to the retrospective application of taxpayer-unfriendly laws  
27

FTS clarifies the applicability of beneficial income ownership concept  
27

Investigative Committee and Federal Tax Service developed guidelines for establishing intentional tax avoidance  
28

Moscow suspends corporate movables tax for 2018  
28

**Judicial practice**  
29

Calculation of customs value in instances where the exchange rate is fixed by the parties  
30

The tax inspectorate has challenged the taxpayer’s approach to the period in which the supply bonuses were expensed  
30

Tax inspectorate challenges non-reversal of VAT deduction on bonuses received from supplier  
31

**Deloitte periodicals**  
32

**Contacts**  
33

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In Q1 2018, the Russian automotive market posted growth year-on-year, which suggests that the last year’s trends will continue.

The Russian Government approved the automotive strategy until 2025; apart from the industry development objectives (higher localisation, stronger exports, etc.), it promotes the innovative transport solutions.

The government also approved an automotive export roadmap, which encourages the establishment of a common framework for export-oriented industry segments and supports the Russian car manufacturers in entering foreign markets (read more in the Automotive Strategy section).

The government developed a package of measures to support the industry as one of the priority segments of the Russian economy. Thus, in 2018, RUB 3 billion were allocated to subsidise personal car loans.

Furthermore, the government is working on amendments to Resolution No. 719 of 17 July 2015 that will expand the list of operations needed for products to qualify as local and having no analogues (read more in the Government Support Initiatives section).

In Q1 2018, amendments were introduced to the environmental laws, governing the management of industrial waste (read more in the Environmental Legislation section).

Starting from 2018, the government increased the recycling duty rate for new cars with engines up to three litres. It also continues to encourage industry digitalisation (read more in the Recycling Duty and Digitalisation And Paperless Technologies sections).

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Government approves Automotive Strategy Until 2025 (Strategy-2025)

Strategy-2025 implementation is expected to commence in 2020. Strategy-2025 puts a strong emphasis on fostering the innovative transport solutions, such as e-cars and driverless vehicles.

Special attention is given to the design of a transport telematics system meant to make traffic and transport safer and more user-friendly.

The core objectives continue from Strategy-2020 with certain development priorities adjusted (exports, localisation, etc.).

President sets tasks relating to the regulation of passenger transportation

The following assignments were given to the government:

- To develop a bill on regional passenger transportation that would establish a uniform classification of all types of carriage
- To develop the requirements for taxi and bus service aggregators/operators and the sanctions for their breaches, including website blocking
- To develop a bill envisaging a shift from the subsidised rail passenger service to long-term contracts setting forth effective service tariff
- To approve a package of long-term passenger transport modernisation measures, including the increase of the recycling duty.

Background

Automotive strategy

Government support initiatives

Recycling duty

Environmental law

EAEU Code and Customs issues

Transportation tax and road toll

Excise tax

Automation and paperless technologies

Other federal legislation news

Judicial practice

Deloitte’s periodicals

Contacts
Automotive export strategy approved

The strategy sets forth automotive export priorities, industry support measures, export targets and resourcing, including:

- Creating conditions to foster the development of export-oriented automotive manufacturing
- Supporting the Russian manufacturers’ going global
- Using the existing capacities to accommodate major global export-oriented manufacturing
- Integrating the Russian manufacturers of automotive parts into the global manufacturers’ production chains.

Action plan to implement the Strategy for Combating Illicit Trafficking of Industrial Goods until 2020 developed

The Plan will be aimed at reducing the illicit traffic across Russia in general and by industry, improving controls and establishing a unified monitoring system.

One of the measures includes the expansion of the list of labelled products.
Government support initiatives
Government approves budget allocations to support car manufacturers

On 30 March 2018, the Russian Government released Resolution No. 538 that approves budget allocations from the government’s Reserve Fund to support the automotive industry.

Thus, to foster car sales, RUB 3 billion were distributed to the banks to compensate their profits foregone due to the issue of low-interest (subsidised) personal car loans in 2018.

RUB 0.5 billion were allocated for 2018 to subsidise the transportation of cars produced in the Far-Eastern Federal District to other regions.

Amendments to Government Resolution No. 719 of 17 June 2015 pending

The amendments will increase the number of operations required for industrial goods to qualify as local and having no analogues.

Ministry of Industry and Trade proposes structuring the government support of the automotive industry through Special-Purpose Investment Contracts (SPICs)

Minister of Industry and Trade Denis Manturov said that the investment regime for the automotive industry will be SPIC-based.

The Ministry proposes supplementing SPICs with provisions requiring the use of local car components (the criteria for which have already been developed) and the export of at least 20 percent of the cars.

Under a SPIC, the car manufacturer commits to using certain Russian-produced components, either localised or purchased from an external supplier.

The Ministry defined nine areas that are critical for localisation (engine, transmission, steering system, automated driver assistance systems, hybrid engine installations, battery cells, wheels, reduction gearbox), which are up to the companies to choose.

Each SPIC will be tailored for each particular car manufacturer and will grant fixed ten-year investment benefits. The manufacturer will receive points for each localisation area; the government subsidies will depend on the total score.
Ministry of Industry and Trade develops draft resolution extending the low-interest car loan programme in 2018

In particular, it offers a downpayment discount of 10 percent of the value of a car purchased as part of the programmes for first-time and family buyers.

There are other proposed amendments:

• To increase the permitted price of cars sold as part of the programmes from RUB 1.45 to RUB 1.5 million
• To repeal the loan rate discounts in 2018 due to the decrease of car loan rates to the 2014 values
• To cap the interest rate for participating loans at 17 percent

Ministry of Industry and Trade expands the subsidised car leasing programme

Starting from 25 October 2017, the programme will be expanded to include passenger vehicles. Now the benefits of low-interest leasing will be accessible to any individual, legal entity or sole trader.

The programme will run for a month — from 25 October to 1 December 2017 — and will apply to the Russian passenger cars worth no more than RUB 1.45 million.

The programme originally introduced since 1 January 2017 offers 10 percent off leased cars, but not more than RUB 500,000 per vehicle.

Government develops large-scale e-transport incentives

As part of the sustainable transport and infrastructure roadmap, the Russian Ministry for Economic Development was tasked with analysing the global e-vehicle trends, their impact on the Russian economy, and their possible integration into the national policy by 20 September 2018.

The proposals for extending a zero import duty rate for e-cars, the aligned approach to subsidised car loans, leasing, and car insurance meant to boost the demand for such cars are to be submitted by the Ministry of Economic Development, Industry, and Trade and the Ministry of Finance.

Furthermore, Deputy Prime Minister Arkady Dvorkovich tasked the government agencies with the development of incentives for the sector similar to those already applied for the conventional automotive industry, including the lower loan rates, subsidised leasing rates, public procurement quotas, etc.
Ministry of Industry and Trade develops tyre industry roadmap

The roadmap envisions a 50-percent increase of tyre production by 2020 in an innovative scenario and a 30-percent increase in a realistic scenario.

The share of imports should be reduced to 36.5 percent, while the exports should increase by 36 percent.

The customs and tariff policies, technical regulation, export and tyre recycling support initiatives are also high on the Ministry’s agenda.

The roadmap is planned to be finalised during 2018.

Criteria for subsidies to leasing companies clarified

Leasing companies can receive subsidies if they offer one-off discounts on upfront leasing payments for road construction equipment and utility vehicles. Specifically, the following changes have been introduced:

- The subsidy efficiency indicator and the qualifying size of discounts are refined
- Subsidies will be granted for leasing contracts signed from 1 July 2017 through 1 December 2018
- The subsidy rejection grounds are set forth
- The size and the rules for calculation of the subsidy cap are set.

Procedure for partially compensating the Russian car manufacturers’ interest expenses on loans received in 2015 approved

The Subsidies will be granted to the Russian car manufacturers and their subsidiaries to partially compensate the interest on loans raised in 2015 to refinance and/or buy out loans earlier received by their subsidiaries and associated companies.

Federal Customs Service (FCS) and VOLKSWAGEN Group Rus team up to foster exports

On 23 January 2018, the Russian Federal Customs Service and VOLKSWAGEN Group Rus signed a cooperation agreement to promote car exports.

The purpose of the agreement is to facilitate the export procedures for cars assembled in Russia by exempting their components from import duties. The agreement will foster effective cooperation and communications between the customs authorities and car manufacturers.

The agreement will be governed by the laws of the Eurasian Economic Union and Russia. It is the first step towards the implementation of the Russian Car Export Strategy until 2025.
Recycling duty
Recycling duty on self-propelled vehicles and/or trailers to be raised

A draft resolution to that effect has been developed. In particular, it will be raised for wheeled tractors with engines ranging from 280 hp to 340 hp, 340 hp and 380 hp, and caterpillar tractors with horsepower above 200hp that are older than three years.

The draft proposes setting forth that the documents verifying the accuracy of the recycling duty assessment must be filed with the customs authority no later than 15 days after such self-propelled vehicles and/or trailers had been manufactured or brought across the Russian border.

If adopted, the document will enter into force on 1 January 2018.

Ministry of Industry and Trade develops bill expanding the list of recycling duty payers

In particular, the bill proposes obliging the suppliers of oil and gas equipment to pay the duty for further recycling of such equipment.

The duty will also be introduced for heavy equipment companies, including the manufacturers of equipment utilised in metals, food production, and construction industries.

In the Ministry’s opinion, the duty will prevent the imports of obsolete heavy machinery and foster the domestic production.

A fixed duty of seven percent of the equipment value is now discussed.

The Russian Ministry of Finance is reported to have approved the proposed amendments.

Government approves the increase of a recycling duty for new passenger cars

Effective 1 April 2018, the duty is raised for new cars with an engine capacity of up to three litres, an average increase amounting to 15 percent. The increase for e-cars will average 14.8 percent.

The list of products subject to Recycling duty to be expanded

A bill to that effect suggests charging the duty on certain types of mechanical engineering products imported to or produced in Russia (to be determined by the Russian Government).

The amount of the duty will be based on the year of manufacture, weight, and other properties impacting the cost of disposal.
Government sets new recycling multipliers for wheeled vehicles (chassis) and trailers

According to an updated list, three multipliers will apply to each vehicle/trailer category:

• The lowest multiplier is set for the vehicles based on chassis produced in 2017
• Higher rates are set for the new vehicles, except those based on chassis produced in 2017
• The highest multiplier will apply to vehicles older than three years

The existing list contains only two multipliers that apply to new vehicles and vehicles older than three years.

The recycling duty for wheeled vehicles to grow by 15–18 percent

Recycling duty for trucks will be increased by 17.65 percent on the average and by 15 percent for other vehicles, said Minister of Industry and Trade Denis Manturov.

A relevant draft resolution is pending approval of the Russian Government and is expected to be adopted by the end of March 2018.

Preliminary results of discussion on recycling duty increase

According to the minutes of the meeting held by the Prime Minister on 11 January 2018, the duty will be increased by 16 percent for 1L cars, 90 percent for 1-2L cars, and 49 percent for 2-3L cars, but will remain unchanged for ≥3L cars.

The duty will be raised by 14.8 percent for electric vehicles and 15 percent for light commercial vehicles, except for the 2.5-3.5t category (e.g. Gazelles by GAZ and similar vehicles), for which the increase will be nearly 52 percent.

For trucks, the recycling duty rate is set at 15 percent.

The above-mentioned proposals have not been officially published yet.
Environmental law
Federal Law No. 503-FZ of 31 December 2017 will clarify waste management requirements (more details in LT of 28 December 2017).

The Supreme Court Plenum clarified the applicability of particular provisions of the law requiring the compensation of the environmental damage.

The Federal Service for Environmental Control (Rosprirodnadzor) clarified the statutory waste management requirements.

Amendments have been prepared to Federal Law No. 219-FZ On Amendments to Federal Law No. 7-FZ On Environmental Protection, clarifying the issue of comprehensive environmental permits.

Rosprirodnadzor clarified certain issues relating to waste collection, transport, treatment, recycling, decontamination, and placement.

The Ministry of Transport considers replacing the transport tax with the environmental duty. A bill aimed at streamlining the recycling compliance reporting by manufacturers and importers was developed and proposes changes to the filing rules.

A bill setting forth the environmental duty rates for recyclable packaging has been developed.

The regulators finalised the list of materials banned from landfills.

A draft order regulating the offset and refund of overpaid pollution charges has been developed.

The Russian Ministry of Natural Resources proposes amending limits on waste generation and placement.

The Ministry for Natural Resources clarified on statutory recycling targets for producers and importers of finished goods.

The Government approved the guidelines for the implementation of a risk-oriented approach as part of the environmental control activities.

Rosprirodnadzor clarified the exercise of controls over the recycling targets for importers and producers of goods.

Changes to the environmental fee collection requirements aimed at strengthening controls over the accuracy of assessment and the timeliness of payment have been introduced.
EAEU Code and customs issues
The EAEU Customs Code entered into force on 1 January 2018

On 30 December 2017, the President of Kyrgyzstan signed a law on the ratification of the Eurasian Economic Union’s (the “EAEU”) Customs Code Agreement.

Respective laws had earlier been signed by the Presidents of Armenia, Belarus, Kazakhstan, and Russia.

Thus, on 1 January 2018 the EAEU Customs Code Agreement of 11 April 2017 entered into force, having terminated the previous Agreement of 27 November 2009, as well as a number of international treaties regulating the customs relations within the Customs Union.

The enactment of the Agreement was preceded by important amendments in the customs regulations introduced in the end of 2017 (Federal Law No. 317-FZ of 14 November 2017).

Please note that the EAEU’s Customs Code does not contain all provisions required for its implementation (especially as regards technical regulations). It was to be amended by a new law on customs regulation, which should have been adopted by the State Duma by 1 December 2017 and enter in force on the same date as the Customs Code.

Bills introducing international transit freight transport traceability system developed

In particular, the bills propose tracing goods using GLONASS-based navigation seals (electronic identifiers).

A bill introducing penalties for failure to (duly) install navigation seals on goods transported by road or rail via the territory of Russia was also developed.

The changes are expected to enter into force on 1 July 2018.
Transportation tax and road toll
Bill raising administrative penalties for road toll non-payment submitted to State Duma

The bill proposes increasing the penalties from RUB 5,000 to RUB 20,000 and extending limitation period for breaches of heavy vehicle traffic regulations from two to six months.

Initiative to introduce zero tax for hybrid and e-cars

The Russian Ministry of Transport is discussing the introduction of a zero transport tax for hybrid and e-cars, linking the tax to the environmental class of the car.

Tax benefits will be granted to the owners of the most environment-friendly cars.

The application of lower road toll rates extended until 31 January 2019.

To remind, the lower rates were originally set by Russian Government Resolution No. 590 of 28 June 2016 for the period until 31 January 2018.

The list of foreign states whose carriers are charged the Russian road toll was amended to include Estonia.

The application of lower road toll rates extended until 31 January 2019.

To remind, the lower rates were originally set by Russian Government Resolution No. 590 of 28 June 2016 for the period until 31 January 2018.

The list of foreign states whose carriers are charged the Russian road toll was amended to include Estonia.
Excise tax
Initiative to raise excise tax on passenger cars

According to the explanatory memo to the 2018-2020 federal budget blueprint, the brackets of the Russian excise tax charged based on the engine capacity can be expanded, starting from 2018.

There are currently three categories of car engines; the third category include engines above 150 hp. Excise tax rate for the third category car engines is RUB 437 per 1 hp in 2018.

Four more categories are proposed: cars with engine power of 200–300 hp, 300–400 hp, 400–500 hp, and above 500 hp; the proposed excise tax for them is RUB 897, 925, 965 and 1,084 respectively.

The Russian Government to raise excise tax on fuel

The decision was made at the Government’s budget meetings.

The increase will be implemented in two steps: by RUB 0.5/l starting from 1 January 2018 and by another RUB 0.5/l from July 2018.

The relevant bill has not been officially released yet.
Automation and paperless technologies
Rosprirodnadzor approves XML-based format of pollution charges declaration

The document describes the requirements for electronic data required to calculate pollution charges and file the relevant reports.

All data must be submitted in one XML file that can be generated in a text editor (e.g. Notepad) or in specialised software.

Regulation for e-filing of the environmental fee declaration

The environmental fee declaration is filed electronically by the manufacturers or importers of recyclable goods, using a digital signature.

The declaration is generated and filed using the following software:

• A reporting module hosted at Rosprirodnadzor’s website http://rpn.gov.ru/otchetnost

• The payer’s personal account (lk.fsrpn.ru), an online service enabling the completion and filing of electronic reports and tracking the status of earlier filings

• Other software, provided the required format is used

Payments are received and checked in the single consumer waste information system.

Rosprirodnadzor checks the declaration and posts the result in the declarant’s personal account.

If the proposal is approved, hard copy reports will no longer be accepted.

Government approves regulation on use of vehicle e-passports

In particular, the resolution updates other applicable regulations to accommodate the introduced changes.

Migration to electronic passports was rescheduled to 1 July 2018.

Government approves regulation on use of vehicle e-passports (vehicle chassis passport)

To replace a hard-copy passport with an electronic one, a vehicle owner will have to file a respective application.

The document also approves the e-passport issue fees and additional e-passport data that are included for information purposes only.

Please be reminded that the use of vehicle e-passports is regulated by Government Resolution No. 1215 of 6 October 2017.
Other federal legislation news
Law on Country-by-Country Reporting (CbC) and Common Reporting Standard (CRS) takes effect

The law sets forth the requirements for the CbC reports to be filed by taxpayers with the tax administration. The Law applies to the MNE Groups that report revenues of at least RUB 50 billion under consolidated financial statements for a fiscal year of 12 consecutive calendar months immediately preceding the reporting period.

With respect to the CRS, the law enables the financial institutions of the OECD member states to report client data to their local tax administrations for further exchange.

New Double Tax Convention between Russia and Japan released

The Convention was signed on 7 September 2017 as part of the Eastern Economic Forum agenda.

The new Convention is aimed at protecting the taxpayers against double taxation and is in line with the latest definitions of the corporate and individual residency. It refines the permanent establishment criteria, updates the concepts and principles of tax treatment of associated enterprises and look-through companies and introduces the limitations on benefits.

Constitutional Court objects to the retrospective application of taxpayer-unfriendly laws

This opinion of the Constitutional Court may well trigger the reconsideration of additional tax assessments following the changes in the judicial and administrative practice and safeguard against the retrospective applicability of tax regulations in the future.

FTS clarifies on applicability of beneficial ownership concept to income

The Federal Tax Service (FTS) released Letter No.CA-4-7/9270@ of 17 May 2017 “On the court practice relating to the wrongful application of withholding tax benefits by withholding agents.”

The Letter is meant as a guidance for subordinate tax authorities and formalises the approach applied by the FTS and the courts in tax disputes over the application of the beneficial ownership concept to income.

The Letter sets forth that the OECD’s Model Convention and Commentary thereto may serve as an additional instrument, facilitating the interpretation of applicable provisions of double tax treaties on a case-by-case basis.
Investigative Committee and Federal Tax Service developed guidelines for establishing intentional tax avoidance

In its Letter No. ED-4-2/13650@ of 13 July 2017, the Federal Tax Service released the guidelines for establishing tax evasion intent on the part of taxpayer’s officers. The document was prepared jointly with the Investigation Committee and is meant as a guidance for the lower tax authorities.

The documents outlines the most common and aggressive tax evasion schemes that are indicative of tax offence premeditation by a taxpayer’s officers and contains the guidelines for

1) identifying the intent to commit a tax offence
2) recording the tax audits findings

Attached to the guidelines is a list of questions that the local tax authorities must ask a taxpayer’s employees that are subject to criminal liability on tax offences (Articles 199,191.1 and 199.2 of the Russian Tax Code).

Moscow suspends corporate movables tax for 2018

The relevant law was officially published.
Judicial practice
Calculation of customs value in instances where the exchange rate is fixed by the parties

In the case under review, a company (buyer) and a supplier entered into a spare parts sale agreement denominated in EURO, but allowing payments in either EUR or in RUB.

The parties further signed an addendum, setting forth that the prices can be calculated in EUR or in RUB (at the supplier's choice) at the exchange rate of RUB 49 per EUR 1.

Following a customs audit, the customs authorities reassessed the customs value based on the CBR rate.

In the opinion of the court of appeals, the documents on file confirm that the price that was paid in RUB was based on the contractual exchange rate, therefore, the company rightfully assessed the customs value based on the CBR rate.

Under the circumstances, the customs authorities did not have grounds to adjust the customs value based on the CBR exchange rate.

Tax inspectorate challenges taxpayer's approach to the period when supply bonuses were expensed

In accordance with the case files, the taxpayer recognised the expenses at the time of payment. Having analysed the respective payment orders, the tax authorities concluded that the sales bonuses were calculated and paid to the dealers for a reporting period set by the contract.

Based on the dealer agreements and information received by virtue of Article 93.1 of the Russian Tax Code, the tax inspectorate concluded that the contract did not set a bonus payment date and did not enable determining the date of the settlement in order to establish a period, in which the sales bonuses were recognised as non-operating expenses as per Sub-Item 3, Item 7, Article 272 of the Russian Tax Code.

The courts established that sales target fulfillment by the dealers was confirmed by way of posting relevant information on the dealer's portal, which was a mandatory requirement.

Given the circumstances, the courts concluded that the bonus payment requirements were met as information was duly posted on the dealer's portal in the relevant reporting period, references to which are included in the taxpayer's bonus payment orders.

At the same time, the courts concluded that the respondent did not have grounds for applying the provisions of Sub-Item 3, Item 1, Article 54 of the Russian Tax Code, citing the alleged tax overpayment in the previous periods, in absence of the documented evidence of the respective assessment error and of the fact of its discovery in 2013-2014.
Tax inspectorate challenges non-reversal of VAT deduction on bonuses received from supplier

In this case, the court supported the tax authorities, citing that the payment of a sales bonus by the supplier is a way of incentivising the dealer to sell as many supplied products as possible (i.e., to purchase more products from the suppliers).

If the bonuses payable for achieving the sales targets in a reporting period are directly linked to product supplies, they should be treated as a form of product discounts that affect the VAT base.

Therefore, the sales bonuses paid by the suppliers reduce the value of supplied goods, thus requiring an adjustment of the suppliers’ VAT base and the company's VAT deductions.
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Background

Automotive strategy

Government support initiatives

Recycling duty

Environmental law

EAEU Code and Customs issues

Transportation tax and road toll

Excise tax

Automation and paperless technologies

Other federal legislation news

Judicial practice

Deloitte’s periodicals

Contacts

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