



LT Digest

Be in the know

Legislative initiatives

Amending protocol to tax treaty with Austria enters into force

The Protocol entered into force on 20 June 2019, but the changes it introduces will apply as of 1 January 2019.

For more details, please refer to the LT Digest of [3 – 9 September 2018](#).

[Official Internet Portal for Legal Information](#)

Russian State Duma considers package of bills

In particular, the following bills were heard:

- Bills No. [712768-7](#) and [712769-7](#) **on the ratification of the Basic Treaty with Belize and the Commonwealth of Dominica** passed three readings (for more details on the draft law, please refer to LT Digest of [20 – 26 May 2019](#))
- Bill No. [684672-7](#), granting a personal income tax exemption for gains generated from a mortgage payment holiday passed the third reading
- Bill No. [707989-7](#), providing for another round of “country house amnesty”, passed the first reading

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[EU introduces transparency obligations for online platforms](#)

- Bill No. [715756-7](#), **changing the profit tax benefit rules for the residents of the Advanced Development Territories and the Free Port of Vladivostok**, passed the first reading
- Bill No. [632702-7](#), authorising the Central Bank of Russia to approve the list of **sanctioned non-residents** that are not required to repatriate assets into Russia, passed the first reading (for more details, please refer to LT Digest of [21 – 27 January 2019](#))
- Bill No. [603192-7](#), regulating national payment systems and payment aggregators as banking payment agents, passed the second reading (for more details, see LT Digest of [11 – 17 March 2019](#)); the bill was updated to modify the provisions regulating payment application suppliers and payment aggregators
- Bill No. [649460-7](#), toughening the administrative sanctions for failure to install automated emission control systems, passed the first reading (for more details please refer to LT Digest of [18 – 24 February 2019](#)).

[Official website of the Russian State Duma](#)

Bill addressing unfinished construction projects passes third reading

The bill was updated to introduce a number of changes:

- requirements for residential developers will be extended to the construction companies that build apartment units
- the document enables obtaining government co-financing to complete unfinished construction projects
- any form of indirect attraction of the homebuyers' co-investment, including via mutual funds and securities, will be prohibited
- the document regulates the use of maternity capital to buy real estate, using escrow accounts.

For more details, please refer to LT Digest of [1 – 7 April 2019](#).

[Official website of the Russian State Duma](#)

Legislative package regulating financial transactions via e-platforms passes first reading

The bill regulates the activities of e-platform operators and the use of information technologies to transact with financial institutions.

According to the bill, an e-platform operator enables transaction settlements via a special operator account or quick payment service of the CBR's payment system.

Yet, the operator itself is not a party to the transaction, the rights and obligations under the transaction arising only for the financial institution and financial service recipient.

The bill also provides for the creation of a uniform register of financial transactions that will accumulate data on the financial institutions' consumer obligations.

Another bill - No. [617880-7](#) - regulates certain aspects of using information technologies in transactions with financial institutions.

[Official website of the Russian State Duma](#)

Russian State Duma to consider bill fostering foreign ship owners redomiciliation into special administrative districts

The bill refines the existing provisions on controlling owners, setting forth the requirements for foreign entities seeking the multinational status.

According to the bill, if a foreign entity seeking redomiciliation as a multinational company has received a new controlling owner - a Russian company - after 1 January 2017, it will still meet the requirements, if all shareholders of such Russian company were controlling owners of such foreign entity both as at 1 January 2017 and as at the date of its registration as a multinational in Russia.

The bill also proposes:

- exempting the imports of ships, subject to the registration in the Russian open register of ships (ORS) by the residents of special administrative districts (SAD), from VAT
- excluding the shipowners' revenue from the operation or sale of ships registered in ORS by SAD residents from their taxable profit
- exempting the ships registered in ORS by SAD residents from transport and property taxes
- zeroing social contributions on crew members' payroll for SAD residents through 2027.

The document also envisages tax incentives for civil aviation:

- VAT exemption for the imports of civil aircraft subject to the registration in the State Register of Civil Aircraft (SRCA) into Russia
- VAT exemption for the imports of aviation engines, spare parts, and components used to produce, repair, and/or upgrade civil aircraft in Russia
- zeroing VAT on the sale, building, leasing of SRCA-registered civil aircraft, engines, spare parts, and components used to produce, repair and/or upgrade civil aircraft in Russia.

[Official website of the Russian State Duma](#)

Russian State Duma to consider easing currency transaction restrictions involving foreign bank accounts for residents

In particular, the following changes are proposed:

- to cancel the limits for depositing proceeds from the sale of precious metals that, by virtue of the law of a foreign state, are paid out into a resident's foreign bank account other than via the authorised bank accounts
- to enable the depositing of cash, earlier handed in trust

- to a non-resident trust manager, to an individual resident's bank account in an OECD or FATF member state
- to permit the transfer of foreign currency from an individual resident's bank account with an authorised bank to pay for goods, works or services, information or intellectual property rights provided by unincorporated resident individuals that stay outside Russia in excess of 183 days, to the latter's bank accounts with foreign banks
- to enable unlimited depositing of cash received from non-residents to individual residents' bank accounts in the OECD or FATF member states that exchange information in accordance with the Multilateral Competent Authority Agreement of 29 October 2014 and other Russia's international treaties, regulating the exchange of financial information
- to extend the requirement to notify the local tax authorities of account opening, closing or change to all residents' accounts with foreign financial institutions
- to repeal the mandated filing of cash flow statements for bank accounts opened in the OECD or FATF member states, committed to exchanging financial information, if the aggregate funds credited to or debited from such accounts during a reporting year (or a closing balance) do not exceed RUB 600,000 or its foreign currency equivalent
- starting from 1 January 2010, to cancel the requirement to repatriate currency proceeds from non-resource exports made by Russian residents
- to consider a gradual cancellation of mandated repatriation of proceeds from resource exports.

[Official website of the Russian State Duma](#)

Russian State Duma to undertake bill on electronic exchange of legally binding employment-related communications

If the bill is approved, employers and employees will be able to maintain legally binding communication (exchange requests, petitions, etc.) electronically.

These messages will be considered received upon delivery.

The rules for sender identification have not yet been set out in detail; however, the bill sets forth that identification will be exercised in any manner that enables the reliable establishment of a sender's identity.

According to a note to the bill, this may include the e-mail address indicated in one's employment contract or the use of a digital signature.

Regulatory clarifications

Federal Tax Service comments on calculation of profit tax on copyright infringement compensations paid to foreign right holders

According to the regulator, the Russian-sourced income in the form of compensations for intellectual property breaches and copyright infringement (awarded by court or otherwise) is tax-exempt in Russia.

Employees will be entitled to unilaterally waive electronic communication. The bill also proposes enabling the execution of employment contracts via document or information exchange using electronic and other technical means.

If approved, the law will enter into force on 1 October 2019.

[Official website of the Russian State Duma](#)

Russian State Duma to consider listing unreliable suppliers of IT services to credit institutions

The law is aimed at formalising the market withdrawal of companies that have that have authorized the termination of processing services to Russian credit institutions at least once due to foreign sanctions.

The list of such unreliable suppliers will be published on the Central Bank of Russia's website.

[Official website of the Russian State Duma](#)

Bill on tax incentives for construction and operation of high-speed rail infrastructure developed

The bill proposes zeroing VAT on the services below from 1 January 2025 to 1 January 2060:

- lease of high-speed rail infrastructure
- use of high-speed rail infrastructure
- passenger and baggage carriage by high-speed rail services.

The bill also proposes zeroing the property tax rate for newly commissioned infrastructure.

[Federal draft legislation portal](#)

More foreigners to enjoy easier country entry via Free Port of Vladivostok

In particular, the citizens of Taiwan now will be entering Russia via the checkpoints of the Free Port of Vladivostok, using electronic visas.

In accordance with Government Resolution No. [692-r](#) of 14 April 2017, the simplified entry procedure will be available to the citizens of 18 states, including Algeria, Bahrain, Brunei, India, Iran, Qatar, China, North Korea, Kuwait, Morocco, Mexico, the UAE, Oman, Saudi Arabia, Singapore, Tunisia, Turkey, and Japan.

[Official website of the Russian Government](#)

Furthermore, a permanent establishment will not occur, if Russian persons represent foreign companies in Russia solely in the matters pertaining to the protection of intellectual property rights and do not enter into any contracts or approve any material terms and conditions.

[Garant:Prime](#)

Ministry of Finance clarifies calculation of real estate share in Russian issuer's assets

According to the Russian Tax Code, proceeds from the sale of shares in Russian companies, in which Russian-based immovable property accounts for up to 50 percent of equity (directly or indirectly), may be taxed at a zero percent rate provided that the taxpayer has owned them for over five years at the time of disposal.

The Russian Tax Code does not expressly regulate the calculation of the share of Russian-based real estate in the total asset value.

According to the ministry, this information can be obtained from a share issuer, which obtains it from private or open sources.

"The share of such real estate can be calculated based on the book value of the Russian entity's assets and that of its Russian-based property."

According to the ministry, the requirement for over five years of continuous share ownership is linked to ownership occurrence under the Russian Civil Code.

[Garant:Prime](#)

Ministry of Finance clarifies taxation of foreign airlines' income from aircraft maintenance services

The ministry clarified the cases in which maintenance services can be treated as ancillary to international carriage.

In particular, international airlines can enter into agreements and associations to cut maintenance costs for their aircraft abroad.

For example, if an airline provides parts or maintenance services to peer aircraft landing at a certain destination under a maintenance pool agreement (which enables it to receive similar services at other destination points), the activities under this agreement will be considered ancillary to international carriage services.

Therefore, if the services rendered by the engineers of a maintenance company serving a group of companies are ancillary to the principal carriage activity, the revenue from such services will be subject to the taxation established for international carriage activity by the applicable tax treaty.

[Consultant Plus](#)

Court precedents

Supreme Court to consider dispute on classifying production unit equipment as immovable property

A tax inspectorate classified production unit equipment as immovable property, citing its technological connection with the building, and disallowed the property tax exemption.

Three court instances supported the tax authorities' position.

The Supreme Court escalated the case to its Panel on Economic Disputes.

Classification of property into movable/immovable often sparks disputes with the tax authorities, the courts having no consistent position on the matter.

For more details, please refer to LT in Focus of [23 November 2018](#).

[Electronic Justice: commercial courts files](#)

Media review

Business community calls for reducing minimum shareholding requirements for participation exemption purposes

According to the proposal, the minimum share should be reduced from the current 50 to 25 percent.

The initiative was discussed by the expert taskforce, but has not yet been formulated as a government resolution, the discussions and necessary updates to continue in August–October 2019.

[Vedomosti](#)

Russian government to consider bill changing rules for qualified signature

The bill was submitted to the Government on 10 June 2019 by Deputy Chairman of the Federation Council, Andrey Turchak.

According to the bill, legal entities and individual entrepreneurs will only be able to obtain qualified e-signatures from the Federal Tax Service's certification

centre; financial institutions—from the Central Bank of Russia's certification centre, and civil servants—from the Federal Treasury's certification centre. Certification centres accredited the Ministry of Communications and Mass Media currently have signature issue authority."

According to the new rules, these centres will only be able to issue e-signatures to individuals. Furthermore, the requirements for these centres will be toughened, including by raising the equity threshold to RUB 1 billion and criminalizing the "deliberate misdoings of certification centre employees."

The bill also proposes obliging company directors to put two qualified signatures on a document: one as a company official and one as an individual.

Major retailers and consumer goods companies strongly criticised the amendments in a petition sent to Prime Minister Dmitry Medvedev as creating extra costs for businesses and the state, and involving a risk of business suspension.

[RBC daily](#)

Supreme Court puts cancellation of statute of limitation for tax offences on hold

The issue will not be heard until autumn.

[Vedomosti](#)

Some fiscal data operators charge fees for entering labelling codes to Chestny Znak database

These operators include major players such as Pervy OFD (which processes nearly one fourth of all fiscal receipts in Russia), Astral.OFD, OFD-Ya, Platforma OFD and OFD Taxcom.

The annual tariff will amount to around RUB 1,000 from each cash register, depending on the operator.

Fiscal data operators receive information on labelled goods from online cash registers when the goods are sold and then transmits it to the Federal Tax Service and the labelling system operator.

A labelling fee of RUB 0.50 will be charged for the generation of each code starting from 1 July 2019; however, code transmission service fees are not regulated.

[RBC daily](#)

Ministry of Industry and Trade approves five new SPICs

A meeting of the SPIC Interdepartmental Commission decided to support Volkswagen, GM Avtovaz, Avtotor, PSMA and Volvo projects.

These projects will enjoy the standard scope of SPIC preferences, including grandfather benefits.

[Official website of the Russian Ministry of Industry and Trade](#)

International law

EU extends anti-Russian sanctions

The restrictive measures will be extended until 23 June 2020.

Originally, the sanctions were introduced in 2014 over Russia's annexation of Crimea and were repeatedly extended since then.

[official OECD website](#)

Russia deposits MLI ratification instrument

Russia has deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the Multilateral Convention and the MLI, respectively) of 24 November 2016.

The text of the Convention and the background information on each signatory are available at <http://oe.cd/mli>.

Ministry of Industry and Trade sums up first qualification results of corporate competitiveness programmes

According to the preliminary estimates, nearly 800 companies applied for participation in the corporate competitiveness programmes.

The qualifications were held from 1 April to 17 June 2019 on the federal and regional levels (by the Ministry of Industry and Trade and the regional authorities respectively).

A list of eligible companies will be formed based on the qualification results.

Once the list is approved by the Interdepartmental Commission, the winners will have a year to sign soft loan agreements with one or several banks.

For more details, please refer to LT Digest of [25 February – 10 March 2019](#).

[Official website of the Russian Ministry of Industry and Trade](#)

Entering Russia may soon be easier

President Vladimir Putin has ordered the introduction of electronic entry visas, starting from 2021.

E-visas are part of a tourism roadmap, currently being prepared by the Ministry of Economic Development.

Minister Maxim Oreshkin and heads of the regions have earlier petitioned the President to pilot e-visas in Moscow and St Petersburg.

[Vedomosti](#)

For more details, please refer to LT in Focus of [14 June 2017](#).

To remind, the [Federal Law](#) on MLI ratification was signed on 1 May 2019 and will enter into force for Russia on 1 October 2019.

However, the use of the MLI for Russian treaties will now depend on the instrument's ratification by respective partner states.

[official OECD website](#)

OECD presents MLI Matching Database (beta)

The MLI Matching Database makes projections on how the MLI modifies a specific tax treaty covered by the MLI by matching information from the Signatories' MLI Positions.

The Database also provides an overview of the options chosen and reservations made by each jurisdiction.

[official OECD website](#)

OECD releases new transfer pricing country profiles

The new transfer pricing country profiles for [Chile](#), [Finland](#) and [Italy](#).

These new profiles reflect the current transfer pricing legislation and practices of each country.

[official OECD website](#)

Dominica removed from EU list of non-cooperative jurisdictions for tax purposes

The decision was made by the European Council on 14 June 2019.

Dominica has implemented its commitments and addressed EU concerns regarding the automatic exchange of financial information. Specifically, it completed the necessary steps to sign and ratify the OECD multilateral convention on mutual administrative assistance.

As a result, 11 jurisdictions remain on the EU list of non-cooperative jurisdictions for tax purposes: American Samoa, Belize, Fiji, Guam, the Marshall Islands, Oman, Samoa, Trinidad and Tobago, the United Arab Emirates, the U.S. Virgin Islands, and Vanuatu.

[official OECD website](#)

EU introduces transparency obligations for online platforms

The main aim of the regulation is to establish a legal framework that guarantees transparent terms and conditions for business users of online platforms, as well as effective possibilities for redress when these terms and conditions are not respected.

The online platforms covered by the regulation include online marketplaces, online software application stores, and/or online social media, as well as online search engines, irrespective of their place of establishment, provided they serve business users that are established within the EU and that they offer goods or services to consumers who are also located within the EU.

To improve transparency, platforms are required to use plain and intelligible terms and conditions for the provision of their online intermediation services.

The platforms should disclose publicly the main parameters determining the ranking of business users in search results, as well as any differentiated treatment that they grant to the goods and/or services offered directly by them or through any business falling under their remit.

Furthermore, the regulation obliges all platforms to set up an efficient and swift internal system for handling complaints and to report annually on its effectiveness.

[official OECD website](#)

Deloitte publications

Changes in administrative liability for environmental damages, including extended producer responsibility offences

Federal Law No. 141 FZ "On amendments to the Russian Administrative Offences Code" of 17 June 2019 ("the Law ") introduces new offence elements and administrative sanctions for breaches of extended producer responsibility (EPR) and environmental and waste management offences, involving ozone layer depleting substances and potentially dangerous chemicals.

For details, please refer to Legislative Tracking in Focus of [20 June 2019](#).

The Russian State Duma passes a package of public support measures to foster investment in the Arctic

Today, the Arctic is a territory of utmost geostrategic relevance, prioritised in Russian policymaking. An increased interest in the Arctic region is driven primarily by the region's economic potential and the development of new investment projects.

For details, please refer to Legislative Tracking in Focus of [14 June 2019](#).

Recovery of input VAT on export of work and services with place of supply outside Russia

Federal Law No. [63 FZ](#) ("Law 63 FZ") released on 15 April 2019 establishes new rules for claiming input VAT for recovery on goods (work, services), including the fixed assets and intangibles, utilised by the taxpayers supplying services/work to foreign recipients outside Russia ("Export of work/services").

For details, please refer to Legislative Tracking in Focus of [13 May 2019](#).

Federal Tax Service: clarifications of VAT application with respect to electronic services starting from 1 January 2019

On 24 April 2019, the Russian Federal Tax Service (FTS) issued comments on application of VAT with respect to electronic services starting from 1 January 2019.

Since the publication of Federal Law No. [335-FZ](#) of 27 November 2017, Russian and foreign companies have raised multiple questions regarding the implementation of the provisions that changed significantly the existing business practices.

In its Letter No. [SD-4-3/7937@](#), the FTS declared its position on certain issues, more moderate than those expressed by the Ministry of Finance, so the taxpayers navigating through uncertainty can only hope that the tax authorities will adhere to the FTS's opinion.

For details, please refer to Legislative Tracking in Focus of [26 April 2019](#).

VAT on services to foreign companies: where the place of management does matter!

In March 2019, the Commercial Court of Moscow issued an [adjudication](#) in Case No. A40-142855/18-115-4029 ("the ONEXIM case") – a good example of the methods the tax authorities use to collect evidence of tax offences.

The ONEXIM Group ("the Company") supplied consulting and legal services to foreign entities. It did not pay VAT on the services, deeming the services to be supplied in the service recipient's jurisdiction.

This approach was challenged by the tax authorities, but not in a way that would have been expected, based on other cases: they did not dispute the nature of the services supplied, challenging the place of business of the service recipients instead. They proved that service recipients were effectively managed from Russia, which makes their place of business Russia-based and the services delivered to them – supplied in Russia.

For details, please refer to Legislative Tracking in Focus of [12 April 2019](#).

PAO Uralkali: Round Two of transfer pricing dispute

The dispute arose over the sale of potash fertilisers through a related Swiss trader.

In its transfer pricing documentation, substantiating the arm's length nature of the deal, the taxpayer applied the transactional net margin (TNM) method to determine the market prices. Conversely, the tax authorities applied the comparable uncontrolled price (CUP) method, sourcing price information from the Argus Media agency, which resulted in additional profit tax assessments of over RUB 980 million.

The court of the first instance [adjudged](#) in the taxpayer's favour, the court of appeal awarded the claim to the [tax authority](#), while the court of cassation [sent](#) the case for retrial.

For more details, please refer to LT in Focus of [24 October 2017](#) and [19 July 2017](#).

In the retrial, the court of the first instance took the side of the Federal Tax Service.

For details, please refer to Legislative Tracking in Focus of [24 January 2019](#).

We hope that you will find this edition interesting and informative. Should you have any questions on this subject, please do not hesitate to contact us.

Best regards,
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