



## LT Digest

### Be in the know

#### Legislative initiatives

##### **Federal Tax Service: more tax secrecy restrictions lifted**

A new set of formerly confidential tax data was released by the Federal Tax Service on 1 December 2018, including the data on [tax offences](#) and [arrears](#) accumulated by 31 December 2017 and unredeemed as of 1 October 2018.

As a reminder, the data on [taxes](#) paid and [income and expense](#) as per 2017 financial statements were released on 1 October 2018, while the [average headcount](#), [special tax regimes](#), and CTG participation data as at 31 December 2017 were disclosed earlier, on 1 August 2018.

[Official Russian Federal Tax Service website](#)

##### **Russian State Duma considers package of bills**

The Russian State Duma considered the following bills:

- Bill No. [471381-7](#), enabling residents to carry out currency transactions as part of their performance under/termination of repurchase agreements, passed the third reading

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[Russian State Duma considers package of bills](#)

[Procedures for disclosing investors' beneficiaries and controlling owners approved](#)

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[Central Bank of Russia may extend deadlines for installing biometric capture devices for smaller banks](#)

[Ministry of Economic Development updates bill on greenhouse gas emissions](#)

The bill was updated to introduce a number of changes:

- external securities transactions are allowed, subject to clearing settlements
- credit institutions will post information on foreign currency to rouble exchange rates and/or cross rates for such transactions in accordance with the requirements established by the Central Bank of Russia
- Bill No. [581453-7](#), changing the regulation of co-investment into housing construction, passed the first reading (for more details please refer to LT Digest of [3-11 November 2018](#))
- Bill No. [202184-76](#) introducing administrative sanctions for online sales of alcohol was rejected (for more details, please refer to the LT Digest of [19-25 June 2017](#))
- Bill No. [593998-7](#) offering entrepreneurs additional safeguards against unfair prosecution passes first reading (for more details, please refer to LT Digest of [26 November – 2 December 2018](#)).

*Official website of the Russian State Duma*

### **Procedures for disclosing investors' beneficiaries and controlling owners approved**

The new [rules](#) regulate the submission of the beneficiary, beneficial /controlling owner data to the Russia Antimonopoly Service by foreign corporations, unincorporated entities, and their controlled entities.

The rules were developed for the purposes of controlling the foreign investments in business entities that are of strategic importance for the national defence and security.

The information on the beneficiaries/beneficial and controlling owners will have to be included in the transaction approval requests or notifications.

The Government also [obliges](#) the foreign corporations to report every beneficiary/beneficial owner in their transaction notifications and transaction pre-approval requests.

*[Official website of the Russian Government](#)*

### **New draft hotel classification regulation released**

According to the proposal, hotels will be divided into the following categories: hotels, mini-hotels, apartment hotels, motels, holiday homes, tourist camps, guest houses, service apartments, boat hotels, and hostels.

A hotel classification certificate will be a mandatory prerequisite for operating a hotel service.

The following classification systems are planned to be used:

- stars (provides for six categories: five-, four-, three stars superior, three-, two- and one-star)
- keys (provides for three categories: three-, two- and one-key).

Hotels will have three room categories: superior, standard, and economy, each with several subcategories.

Hotel certificates will be issued according to the following schedule:

- from 1 July 2019 — for hotels and other accommodations having more than 50 rooms

- from 1 January 2020 — for hotels with over 15 rooms
- from 1 January 2021 — for hotels with up to 15 rooms.

Similar [draft](#) regulations were already posted on the Federal Draft Legislation Portal in March 2018.

*[Federal draft legislation portal](#)*

### **Updated bill on Arctic development released**

The bill aims to foster the social and economic development of the Arctic by establishing and fostering backbone development zones, which, unlike single-focus advanced development or free economic zones, will support integrated development projects in a cost-effective and reasonable manner.

*[Federal draft legislation portal](#)*

### **Templates for contracts with residents of special administrative districts developed**

The contract that will be executed between a special economic district operator and a resident will regulate:

- relationships between the operator and the resident
- terms of doing business
- liability of the parties
- dispute settlement.

*[Consultant Plus](#)*

### **Federal Tax Service releases document signing guidance to counter illicit trade**

In particular, the guidance defines the entities that may enter into the agreements, charters, memorandums and other documents, aiming to counter the illicit trafficking in industrial products and sets forth the execution, content, and implementation requirements.

The documents aim to establish an organisational and legal framework for fighting the illicit trade and joining efforts to reduce the volume of counterfeits.

*[Official Russian Federal Tax Service website](#)*

### **Federal Tax Service approves formats for filing register of invoices for crude oil supplies**

The regulator recommended formats for:

- forms of registers of invoices issued by crude oil suppliers to certified oil refineries
- guidelines for maintaining registers of invoices issued by crude oil suppliers to certified oil refineries
- procedures for filing invoice registers with the tax authorities for excise deduction purposes.

The recommended forms will apply until the final versions of invoice registers are approved.

As a reminder, Federal Law No. [301-FZ](#) of 3 August 2018 mandates excising crude oil supplies to refineries, starting from 1 January 2019.

The recommended forms will be used to claim excise deductions.

*[Garant:Prime](#)*

## Clarifications from government bodies

### Ministry of Finance clarifies transitional provisions for winding down regional profit tax benefits

The Ministry reminded that Federal Law No. [302-FZ](#) of 3 August 2018 banned the lowering of profit tax rates by the regions with few exceptions expressly set forth by Chapter 25 of the Russian Tax Code.

There was an obvious gap in the transitional rules, though: lower rates set by the regions before 1 January 2018 were to be applied until expire, but not after 1 January 2023, but what about the rates set **during** 2018?

The Ministry of Finance issued a number of clarifications setting forth that the lower rates set in 2018 will be inapplicable as of 1 January 2019 (see Letter No. [03-03-20/69290](#) of 27 September 2018).

Federal Law No. 424-FZ of 27 November 2018 introduced changes enabling the use of beneficial rates set before the enactment of Federal Law No. 302-FZ until their respective expiration dates, but not after 1 January 2023.

According to the Ministry of Finance, with these changes, the rates set by the regions before **3 September 2018** (the enactment date) will apply until expire, but not after 1 January 2023, which means that the rates set after 3 September 2018 will not apply as of 1 January 2019.

The position is quite controversial since for profit tax purposes Law No. 302-FZ applies only as of 1 January 2019, and it would only be fair if the new provisions

applied from that date as well.

[Garant:Prime](#)

### Federal Tax Service: debt owed to foreign individual shareholder can be treated as controlled

The regulator reminded that the thin capitalisation rules apply to debts owed to related direct or indirect shareholders.

Within the meaning of Article 11 of the Russian Tax Code, foreign shareholders may include both companies and individuals.

Therefore, if a foreign individual shareholder is directly or directly related to a Russian company, a debt owed by the latter to such shareholder will be deemed to be controlled for tax purposes.

[Consultant Plus](#)

### Ministry of Finance clarifies on withholding tax from indirect sale of real estate

The regulator reaffirmed that an individual that acquires a stake in a property-rich foreign entity (that derives 50 percent or more of its value from Russian-based real estate) **is not** obliged to withhold tax at source.

[Garant:Prime](#)

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## Media review

### General labelling policy developed in Russia

The labelling system will be operated by the Advanced Technologies Centre and treated as a state database, thus enabling stricter controls.

The operator will be entitled to make changes in the system, but only subject to the Government's approval.

Businesses will be given non-discriminatory access to the anonymised data on the terms established by the Government.

The policy will set forth the criteria for selecting the goods to be labelled, such as the market size, expert estimates of illicit traffic, structure of potential labelling expenses, price, and the share of imports and small business in the market.

The text of the draft policy has not yet been officially published.

[Vedomosti](#)

### Moscow to raise corporate property tax rate

As of 2019, the corporate property tax rate will be raised from the current 1.5 to 2 percent.

[Vedomosti](#)

### Association of Online Stores calls for expediting bill on online sale of medicine

The Association of Online Stores petitioned Deputy Prime Minister Maxim Akimov, seeking inclusion of the bill on online sale of OTC medicine into the Digital Economy agenda.

The online sale of medicines is now prohibited, but the issue has been an ongoing debate.

The online sale of medicines presumably accounts for up to five percent (RUB 73 billion) of the Russian retail pharma market.

The Association believes that the legal constraints enable illicit trade, thus impeding the civilised development of the online market and the digital economy in general.

[Kommersant](#)

### Russian President's assignments following Delovaya Rossiya conference released

Thus, the following assignments were given:

- to run a pilot, envisaging the execution of agreements with providers of goods (works, services) for the entire investment project term and the establishment of mechanisms preventing compliant providers against state subsidy cuts
- to prepare a feasibility study on the use of electronic powers of attorney
- to consider a possibility of permitting lower tax rates for proceeds from intellectual property exports

- to prepare proposals enabling a decrease of corporate profit tax liabilities for developers that build social infrastructure and utilities for the state (municipalities)
- to develop statutory amendments envisaging the VAT treatment of export of works and services similarly to the export of goods
- to ease the administrative burden for companies engaged in inbound and domestic travel industry and streamline the regulation of catering and hotel facilities
- to provide state support to tourist infrastructure construction projects.

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

### **Government to reconsider valuation of retailers' market share**

Deputy Prime Minister Dmitry Kozak ordered a review of the methods of measuring the retail market operators' market share.

In particular, the proposal calls for excluding partner chains from the market share and redefining the regional borders for share assessment purposes.

New regulations may [ease](#) the supplier compensation cap requirements for large food retailers, in particular, by excluding the fees for logistic services.

[RBCdaily](#)

### **UN General Assembly approves International Code of Conduct for Information Security proposed by Russia**

The resolution "Advances in the Field of Information and Telecommunications in the Context of International Security" was supported by 119 states, with 46 countries voting against and 14 abstaining.

The resolution calls on the states to adhere to 13 principles of using cyberspaces solely for peaceful purposes.

The states shall not blame each other for illegitimate actions on the Internet, unless such claims are substantiated.

The states must not allow the use of their territory and infrastructure for cyber attacks, or attack the critical infrastructures of other countries.

Furthermore, the states commit not to embed hidden tracking codes in their IT products.

Russia has been pushing for the adoption of the document since 1998.

Although not legally binding, the resolution creates a

framework for the development of the information security convention.

[Kommersant](#)

### **EAEU to implement non-compliant goods alert system**

The Eurasian Economic Commission launched a pilot to test the alert system for products that fail to meet the EAEU technical requirements.

The pilot will cover the low-voltage equipment, products for children and teenagers, toys, wheeled vehicles, as well as the dairy and meat products, governed by six technical regulations.

[Official Eurasian Economic Committee website](#)

### **Central Bank of Russia may extend deadlines for installing biometric capture devices for smaller banks**

Originally, the banks were required to start collecting biometric data as soon as their technical infrastructure allows, but no later than the end of 2019.

The holders of the basic licence are mostly the smaller banks, needing more time to prepare and implement the remote identification mechanism; the deadlines for them may be extended until 31 December 2020.

However, as long as they are ready, they will be free to connect to the system before the date.

Biometric data are now collected by over 400 branches of 27 banks across 85 regions.

[Official Russian Central Bank website](#)

### **Ministry of Economic Development updates bill on greenhouse gas emissions**

The bill provides for an array of measures, from tax incentives for companies reducing GHG emissions to excess emission penalties and emission trading.

The government will be able to mandate the filing and verification of emission reports and introduce emission limits and quotas for companies.

The concept does not rule out the imposition of non-tax charges on excess emissions.

According to the GHG emission cut agenda and in view of the planned ratification of the Paris Agreement, the bill must be finalised by June 2019.

The document has not yet been officially published.

[Kommersant](#)



# Deloitte publications

## Russia modernises data privacy legislation

On 10 October 2018, Russia signed Amending Protocol ETS No. 223 to the Council of Europe Convention for Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108). The accession to the Convention will require ratification of the Protocol by the Russian parliament and will entail changes in the Russian data privacy laws and enforcement practices.

For details, please refer to Legislative Tracking in Focus of [28 November 2018](#).

## And yet it moves! Or does it?

Starting from 1 January 2019 movable property would be exempt from taxation.

It creates a shortfall in the regional fiscal revenues, which have been estimated by Minister of Finance Anton Siluanov at up to RUB 181 billion.

This, in turn, may lead to more litigations over the tax authorities' attempts to classify movable property as immovable to collect more tax.

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

## First prosecution for FATCA non-compliance, 12 September 2018

On 11 September 2018 in federal court in Brooklyn, Adrian Baron, the former Chief Business Officer and former Chief Executive Officer of Loyal Bank Ltd pleaded guilty to conspiring to defraud the United States by failing to comply with the Foreign Account Tax Compliance Act (FATCA). The Loyal Bank is an off-shore bank that has offices in Budapest, Hungary and Saint Vincent and the Grenadines.

According to court documents, in June 2017, an undercover agent met with Baron and explained that he was a U.S. citizen involved in stock manipulation schemes and was interested in opening multiple corporate bank accounts at Loyal Bank.

For details, please refer to Legislative Tracking in Focus of [12 September 2018](#).

## Amendments to the Russian Tax Code

Federal Law No. 302-FZ «On amendments to Part I and II of the Russian Tax Code» (The Law) introduced a number of changes aiming to reduce the administrative burden for VAT payers. In particular, the Law optimizes the list of documents to be filed with the tax authorities to justify the application of a zero VAT rate.

For details, please refer to Legislative Tracking in Focus of [23 August 2018](#).

## Increase of Russian VAT rate

Federal Law No. [303-FZ](#) 'On Amendments to Certain Tax Laws of the Russian Federation' of 3 August 2018 (hereinafter, "Federal Law No. 303-FZ" ) has introduced amendments to the Tax Code of the Russian Federation (hereinafter, the "Russian Tax Code"), including an increase of the general VAT rate from 18 to 20 percent.

The raise is expected to generate additional budget revenue of RUB 620 billion p.a., starting from 2019.

Along with the added revenue from the oil and gas 'tax maneuver', the measure is viewed as a source of financing for the national development agenda outlined by the President of the Russian Federation in May 2018.

For details, please refer to Legislative Tracking in Focus of [17 August 2018](#).

## The Convention on the legal status of the Caspian Sea

Meeting at the summit in Aktau on 12 August 2018, the leaders of Russia, Kazakhstan, Azerbaijan, Iran, and Turkmenistan signed a milestone document, which brings the relations among the countries to a new level - the [Convention](#) on the legal status of the Caspian Sea. It has taken the five neighbors more than 20 years to come to an agreement.

For details, please refer to Legislative Tracking in Focus of [17 August 2018](#).

## New approach to tax treatment of transactions between related parties

On 15 June 2018, the Nineteenth Commercial Court of Appeals considered a [dispute](#) between PepsiCO and the Russian Federal Tax Service (FTS) over the tax treatment of intragroup transactions.

Courts of two instances supported the tax authorities in classifying the arrangement between the plant and the trading/holding company as free of charge provision of services.

According to the tax authorities, the plant's advertising and marketing expenses had contributed to an increase in the earnings of the trading/holding company and not the plant itself.

For details, please refer to Legislative Tracking in Focus of [31 July 2018](#).

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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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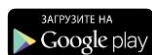


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## TaxSmart app



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