



LT Digest

Be in the know

Legislative initiatives

President of Russia signs package of federal laws

The President of the Russian Federation has signed a package of federal laws:

- Federal Law No. [352-FZ](#) of 3 October 2018 introducing **criminal sanctions for pre-retiree dismissal** (for more details, please refer to LT Digest of [3-9 September 2018](#));
- Federal Law No. [350-FZ](#) on **pension age increase** (for more details, please refer to LT Digest of [18-24 June 2018](#); [27 August – 2 September 2018](#) and LT of [24-30 September 2018](#));
- Federal Law No. [349-FZ](#) of 3 October 2018 on the ratification of **the Social Security (Minimum Standards) Convention**.

Official Internet Portal for Legal Information

Ministry of Finance releases full list of federal and regional tax benefits

The documents released included:

- The [register](#) of federal tax benefits; and
- The [register](#) of regional tax benefits by region.

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[OECD and SAT hold joint workshop on the experience of country-by-country reporting of tax information](#)

The registers set forth the tax benefits applicable in 2015-2017, the assessment of their economic impact and the forecast for 2018–2021.

The documents also contained a reference to the relevant regulatory framework, the benefit terms and size, eligible taxpayer categories, etc.

Official Ministry of Finance website

Government orders fine-tuning of tax maneuver completion parameters

The Russian Ministries of Finance, Energy, and Economic Development and the Russian Antimonopoly Service were mandated to develop a bill shaping the tax maneuver completion parameters.

In particular, the following changes are proposed:

- To zero out a damping component of the excise refund in a respective tax period only if the average wholesale price of AI-92 Class 5 gasoline or diesel increases by no more than 10 percent of their basic prices used to calculate the damping component;
- To reduce the base price of petroleum products used in the calculation of the damping component of the excise refund from RUB 56,000 per tonne to RUB 50,400 per tonne for gasoline and from RUB 50,000 per tonne to 45,000 per tonne for diesel fuel and provide for a compensation of 50 percent of additional budgetary expenses associated with the changes in the parameters of the base price of petroleum products through the mineral extraction tax on crude oil linked to the oil price (without changing the tax rate);
- To set forth that investments in the modernisation of oil refineries in 2015 will also be taken into account for excise refund purposes;
- To introduce mandatory requirements for the supply of petroleum products to the domestic market, including exchange;
- To oblige oil producers to supply at least 17.5 percent of oil to Russian refineries that produce motor fuels compliant with the technical regulations;
- To introduce a logistic coefficient used to calculate the excise refund for production capacities in Khanty-Mansi Autonomous District— Yugra and Kemerovo Region;
- To provide for compensation mechanisms for the Far Eastern Federal District to prevent the decrease of supplies of petroleum products.

The changes are expected to enter into force on 1 January 2019.

Furthermore, the Russian Tax Code might be amended to introduce provisions expanding the maximum reserves of the 4th category deposits from 51 to 150 million for the purposes of tax on added income as well as the changes in the list of licensed deposits.

Official website of the Russian Government

Russian Ministry of Industry and Trade develops perfumery and cosmetic industry roadmap until 2030

In particular, the concept sets forth the following activities:

- To harmonise the circulation of perfumery and cosmetics within the EAEU;
- To foster voluntary certification of natural and organic cosmetics;
- To establish a register of raw material producers and R&D companies as well as a database of cosmetic ingredients;
- To compensate the costs of international conformity certification to perfumery and cosmetic companies;
- To lift a ban to produce excisable perfumery and cosmetics for the residents of special economic zones, advanced development territories and SPIC participants;
- To preserve a zero excise rate for ethanol and certain ethanol-containing perfumery and cosmetics specified by the Russian Tax Code;
- To streamline statistic accounting for perfumery and cosmetics;
- To develop an import substitution plan for the industry and define a list of products with a high import share and industry-specific incentive measures.

Official website of Upravlenye national information system

Ministry of Natural Resources and Environment proposes raising environmental fee rates

The Ministry proposes raising the environmental fee rates for each group of products and packaging that generate recyclable waste (see Russian Government Resolution No. 284 of 9 April 2016).

The increase also applies to a number of new product (package) categories:

- For Group 38 “Lead batteries” — from RUB 2,025 to RUB 27,320 per tonne;
- For Group 46 “Internal combustion engine filters” — from RUB 3,037 to RUB 25,291 per tonne;
- For Group 47 “Steel packaging” and Group 48 “Aluminum packaging” — from RUB 2,423 to 20,000 per tonne.

Furthermore, the rates will be repeatedly raised for certain other groups of goods and packaging, in particular:

- For Group 21 “Plastic packaging” — from RUB 3,844 to RUB 10,432 per tonne;
- For Group 29 “Barrels and similar containers of ferrous metals” — from RUB 2,423 to RUB 20,000 per tonne.

If adopted the changes will apply as of 1 January 2019.

Federal draft legislation portal

Regulatory framework for special administrative district regimes developed

The regulatory documents were prepared by the Russian Ministry of Economic Development and include:

- The special administrative district (SAD) management company performance report [requirements](#) and the deadlines for their release on the Internet;

- A [form](#) of an arbitration agreement on the submission of disputes arising from the SAD arrangement to a tribunal administered by a standing arbitration.

Federal draft legislation portal

Multinationals re-domiciliation to be handled by Ministry of Economic Development

A notice on the development of a respective bill was posted on the Federal Draft Legislation Portal.

According to the document, the Ministry will act as a one stop shop for multinational companies wishing to apply for re-domiciliation in a foreign state (i.e.

surrender its special economic district residency) to the Russian Government.

[Federal draft legislation portal](#)

FTS develops guidance for completing notifications on MNE controlling owners

An obligation to report the controlling owners of multinational enterprises to a local tax authority within 15 days following the incorporation was introduced by Federal Law No. [294-FZ](#) of 3 August 2018.

[Federal draft legislation portal](#)

Clarifications from government bodies

Federal Tax Service clarifies tax treatment of destroyed property

In its Ruling No. [305-KG18-9064](#) of 20 September 2018 in case No. A40-154449/2017 the Supreme Court clarified the tax treatment of property that was destroyed, but not deleted from the real estate register.

The case related to the assessment of the corporate property tax on a building that was demolished, but not deleted from the title register.

Three court instances upheld the tax authority's conclusion that the property must be accounted for as a fixed asset for property tax purposes until the record has been deleted from the register.

The Supreme Court awarded the claim to the taxpayer stating that the tax liabilities may only be charged on the actually existing property that generated income and was thus accounted for as a fixed asset.

According to the Supreme Court, a real estate register record may not in itself serve as grounds for charging the property tax since a title cannot exist in isolation from the property itself.

The Supreme Court ruling was communicated by the Federal Tax Service to the lower tax inspectorate for information and guidance purposes.

[Garant: Prime](#)

Russian Ministry of Finance clarifies provisions banning regional profit tax rates

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

Yet, lower corporate profit tax rates set before 1 January 2018 will apply until they expire, but no later than 1 January 2023.

The lower profit tax rates set by the regions after 1 January 2018 (including retrospective) and not expressly provided for by the Tax Code will be cancelled after 1 January 2019.

[Consultant Plus](#)

Federal Tax Service clarifies difference between movable and immovable property

The Russian Federal Tax Service (FTS) stated that Chapter 30 of the Russian Tax Code did not define movable and immovable property; therefore, definitions offered by other laws shall be used, such as:

- Federal Law No. [384-FZ](#) "Technical regulation on safety of buildings and structures" for definitions of the terms "building", "structure", and "premise";
- Paragraph 38 of Resolution of the Russian Supreme Court Plenum No. [25](#) dated 23 June 2015 for the definition of the term "construction in progress".

According to the regulator, the conclusions made by the Supreme Court in Ruling No. [310-ES15-16638](#) that property can be immovable by nature or by a direct indication of a federal law, must also be taken into account.

Article 131 of the Russian Civil Code requires registration of a title to immovable property; however, such registration is generally not a prerequisite for treating such property as immovable.

In the FTS' opinion, the following aspects shall be analysed to determine whether property is immovable:

- Property registration in the unified state register of real estate;
- If no such record is available the circumstances that verify that the property is attached to land and cannot be moved without alteration in the property should be analyzed based on capital construction projects;
- technical inventory documents; a construction and/or commissioning permit, design documents, expert examination results or other documents that denote the relevant properties of the facilities, etc.

A [bill](#) amending the Russian Civil Code's definitions of movable and immovable property was developed last year.

According to the bill, immovable property will include land, minerals, buildings and structures that are attached to the land.

Only immovable property improvements created through (re) construction will be deemed non-detachable.

The bill has not yet been submitted to the Russian State Duma.

[Consultant Plus](#)

Russian consumers of foreign e-services will not act as withholding agents from 1 January 2019, Ministry of Finance recaps

The Ministry has stated that after 1 January 2019, Russian companies and individual entrepreneurs will not

have VAT liabilities on e-services supplied by foreign providers in Russia **regardless** of such foreign suppliers' Russian tax registration.

[Garant: Prime](#)

Media review

Russian Government works on economy de-dollarization

The Russian Government is considering possibilities for reducing the national economy's dependence on the US dollar, including by creating incentives and settling more foreign trade in roubles.

However, the bill is not going to set any bans or restrictions for dollar-denominated settlements.

The measures will focus on encouraging rouble settlements, simplifying currency controls and liberalising currency regulations.

The [proposals](#) on decreasing the dependence on the US currency were put forward by the Ministries of Finance, Economic Development and the Central Bank of Russia.

In particular, they call for implementing incentives that will make such operations more efficient, simple and convenient for businesses.

[Vedomosti](#)

Chechnya to open first crypto mining farm

Chechnya plans to host the first Eurasian mining pool.

The respective agreement was signed between Chechnya leader, Ramzan Kadyrov, and President of the Russian Association of Cryptoindustry and Blockchain (RACIB), Yuri Pripachkin.

The platform will go live once a bill regulating cryptocurrency in Russia is enacted.

The project features the integration of the computing capacities of miners from Russia, Armenia, Belarus, Kazakhstan and Kyrgyzstan.

The mining pool will be formally regulated by the Central Bank of Russia – a respective application will soon be filed by the project participants.

The project will be implemented by the joint efforts of Russian and foreign blockchain experts, as well as Chechnya leading economists and professionals who have in-depth knowledge of the region's economic potential.

[Rossiyskaya gazeta](#)

Russian data privacy protection initiative

The Digital Economy Council recommended that the government develop proposals on protecting Russians' personal data following the adoption of the US Clarifying Lawful Overseas Use of Data Act (CLOUD Act)).

The Act asserts that US data and communication companies must provide stored data on any server they own when requested by warrant, which entitles countries to request data on Google, Facebook and Microsoft users that are non-US citizens and do not reside in the USA.

The proposal calls for updating the laws and enforcement practices in order to mitigate the threat of unauthorised access and use of Russian internet users' data.

The Council also recommended specifying the definitions of the "digital sovereignty" and "digital state border" to improve the efficiency of interstate cooperation.

[Kommersant](#)

Initiative to reconsider tax treatment of data mining

The Chairman of the State Duma's Financial Markets Committee, Anatoly Aksakov, has put forward an initiative to tax mining as a specific type of business, which requires legislative definition of this type of business.

[RIA Novosti](#)

Return of unsold goods by retailers: proposed amendments

The Russian Ministry of Agriculture proposed amendments to bill No. [364444-7](#) that bans the return of unsold goods to suppliers.

In particular, retailers will not be allowed to return products with a shelf life of up to 20 days.

Producers and retailers will be able to agree on the return of goods with a longer shelf life if the terms of the contract meet the interests of both parties.

The Russian State Duma members had their own proposals.

They lobbied against the return of products of social importance with a shelf life of up to 10 days unless the supplier asks for such return.

The return of other expired products shall be regulated by the government.

Bill No. [364444-7](#) banning retailers from returning unsold products passed the Russian State Duma's first reading on 24 April 2018 (for more details, please refer to LT Digest of [15-21 January 2018](#)).

[RBC](#)

Central Bank of Russia shares smart contract analytics

The report considers key properties and principles of smart contracts, as well as their role in shaping the financial market, and provides examples of smart contract applications globally and domestically.

[Official Russian Central Bank website](#)

32 Moscow developers banned from attracting co-investment from property buyers

The Chairman of the Moscow Construction Investment and Control Committee ("Moskomstroyinvest"), Konstantin Timofeev, said that 32 developers failed to open special accounts with the authorised banks by 1 September 2018, which prevents them from attracting

co-investments from property buyers.

In accordance with the applicable laws, such special accounts must be opened by all developers using the property buyers' co-investment regardless of the date of the construction permits.

[Economica i Zhizn](#)

Court practice

Russian Constitutional Court to determine whether it is legal to limit interest of shareholders with dual citizenship in the Russian media

The Russian Constitutional Court is to consider a claim for a constitutionality review of Article 19.1 of Law No. [212401](#) "On mass media" that limits foreign shareholders' interest in Russian media to 20 percent.

An applicant owning a 41-percent shareholding in a media company tried to appeal the general meeting's

broadcasting licensing ban.

The courts had ruled that he could not participate in the broadcasting company due to having a second citizenship in the Netherlands and could not appeal the decisions of the company.

The matter is currently pending with the Russian Constitutional Court.

[Vedomosti](#)

International taxation news

French government releases its finance bill for 2019

On 24 September 2018, the French government released its finance bill for 2019, which contains measures proposed as part of a global corporate tax reform.

The tax package includes the following legislative proposals:

- To implement the EU anti-tax avoidance directive (ATAD 1);
- To introduce changes to the corporate tax regime;
- To streamline intellectual property regimes;
- To change the tax treatment of dividends.

Public comments on the bill will be received until the end of 2018.

For more details, please refer to World Tax Advisor of [28 September 2018](#).

OECD releases its TIWB Annual Report 2017/18

Tax Inspectors Without Borders is a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the United Nations Development Programme (UNDP) supporting countries in building a tax audit capacity.

According to the report, increased tax revenues directly

attributable to TIWB programmes as of April 2018 are estimated at USD 414 million.

[Official OECD website](#)

OECD and SAT hold joint workshop on the experience of country-by-country reporting of tax information

Tax officials from 21 jurisdictions met at the end of September to share experiences from the first year of country-by-country reporting and explore how information can be used most effectively in the tax risk assessment of MNE groups.

The workshop, organised jointly by the OECD and the Chinese State Administration of Taxes (SAT), also included representatives of large MNE groups headquartered or with major operations in China and the Asia-Pacific region.

Currently, over 70 jurisdictions have implemented comprehensive rules to require the filing of this information by the parent entities in MNE groups with consolidated revenue of at least EUR 750 million in the previous year.

The joint workshop looked at different ways in which the information contained in a country-by-country report can be incorporated into improved tax risk assessment practices as well as issues associated with country-by-country report filing.

[Official OECD website](#)

Deloitte publications

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](#).

Revolution in residential construction: developers obligated to switch to escrow accounts

Federal Law No. [175-FZ](#) (the Law), which changes the rules of funding for the residential construction projects, entered into force on 1 July 2018.

It lays the groundwork for the transition from the joint investment schemes to project financing via escrow accounts.

The new provisions ban raising funds from off-plan buyers for projects where the first 'co-investment contract' (i.e. the first property sale) was filed for state registration after 1 July 2019, and require the use of escrow accounts instead.

At the same time, alongside such rigid funding limitations, developers will be granted certain regulatory easing.

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

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,
Deloitte CIS Partners

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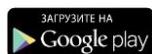


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