



LT Digest

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Legislative initiatives

Russian State Duma to ratify double taxation convention with Ecuador

The convention contains the following provisions:

- Dividends will be taxed at a rate of five percent, if paid to a beneficial income owner, holding at least 25 percent of the voting shares, and at ten percent in other instances
- Interest will be taxed at source at a rate of ten percent
- Royalties will be taxed at source at a rate of ten percent, if paid for the use of industrial, commercial or research equipment, and at 15 percent in all other instances
- Real estate sale proceeds will be taxed at source. The tax treaty also regulates the tax treatment of proceeds from the sale of movable/immovable property and marine vessels/aircraft; to other assets, the national laws will apply the document also envisages limitations on benefits

The double taxation convention between Russia and Ecuador was signed on 14 November 2016.

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

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Russian Ministry of Finance proposes ratifying protocol to DTT with Austria

The Protocol introduces the following important amendments:

- Abolishing one of the qualifying thresholds for the reduced WHT on dividends, a participation interest exceeding USD 100,000 (the other one, a 10-percent interest, will remain)
- Redefining the term "dividends" to encompass income from mutual investment funds or similar collective investment vehicles
- Allowing taxation of gains from the sale of interest in property-rich entities (deriving more than 50 percent of their value directly or indirectly from immovable property situated in the source state) in such source state; this will not, however, apply to such gains derived in the course of a corporate reorganisation or from the sale of shares listed on a registered stock exchange
- Clarifying the exchange of tax information and providing for assistance in collection of taxes. The document also introduces a limitation of benefits clause.
- Any documents and information issued and exchanged by the competent authorities of the agreeing states for DTT purposes will be exempt from the legalisation requirements.

The Protocol was signed in Vienna on 5 June 2018.

[Federal draft legislation portal](#)

Bill streamlining regulation of e-signatures developed

The bill envisages the following changes:

- Advanced e-signatures generated under the foreign laws and international standards will be deemed valid and enforceable in Russia and may be used to evidence any legal relations, provided that their authenticity is confirmed by a third party
- Refusal to accept electronic documents signed using a compliant qualified e-signature for any reason will be prohibited
- Accredited certifying centres must provide individuals with free encryption tools enabling the remote biometric identification
- Accreditation requirements for certification centres will become more strict: the capital threshold will be raised from RUB 7 mln to RUB 1 billion or RUB 500 million, subject to having one or more branches or representative offices at least in 3/4 of the Russian regions
- The accreditation of certification centres will be subject to having a licence to distribute encryption tools and provide data encryption services
- Accreditation procedure has been clarified
- The concept of a "trusted third party" and its accreditation procedure are introduced

The bill regulates the use of the qualified e-signature in transactions between legal entities, individuals, and public authorities.

Criminal prosecution is envisaged for intentional breach of e-signature regulations.

[Federal draft legislation portal](#)

Russian State Duma to consider bill protecting processed fiscal data in Russia

According to the document, all fiscal data received by a data operator must be stored unmodified in a special local database.

The bill also proposes banning the cross-border transfer of fiscal data to foreign public authorities, individuals or corporations, subject to certain exceptions.

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

Individuals may be exempted from criminal liability for CFC non-compliance for another year

A bill that proposes exempting individuals from criminal prosecution for non-inclusion of CFCs' profits into their taxable earnings in 2018, subject to the payment of all respective arrears.

The current regulations grant exemptions for 2016–2017 offences only.

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

Russian State Duma to enhance credit data reliability

A bill submitted to the Russian State Duma proposes assigning identifiers to loan agreements, which will be shown on one's credit report, and banning the credit bureaus from accepting data from lenders without such identifier.

The existing contracts will be assigned identifiers within a year following the enactment of the respective law.

The assignment of identifiers will be regulated by the Central Bank of Russia.

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

Russian State Duma to take up bill on criminal prosecution for firing pre-retirees

The bill proposes adding Article 144.1 to the Russian Criminal Code, providing for criminal sanctions for wrongful denial of employment to or dismissal of pre-retirees, i.e. persons that have up to five years until retirement.

The offence will be subject to a penalty of up to RUB 200,000 or in the amount of the offender's salary or other income for the period of up to 18 months, or to up to 360 hours of community service.

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

Footwear labelling guidelines for pilot participants released

The guidelines set forth the labelling rules and procedures, equipment and database requirements, pilot participants criteria, and database interfaces with

other relevant resources.

The guidelines may be adjusted during the pilot that runs from 1 June 2018 to 30 June 2019.

[Consultant Plus](#)

Russian Government enables use of simple e-signature on public services portal

Applicants will be able to use the simple electronic signature, if their identity was verified during a prior personal visit.

The public services portal now accepts different types of electronic signatures. The simple electronic signature will be used to access one's personal account or other information, e.g. on accrued fines. However, electronic requests for public services can be signed only using a qualified electronic signature, issued on a USB device by a certification centre.

[Official website of the Russian Government](#)

Central Bank of Russia releases report on how VAT raise impacts inflation

The following conclusions were made:

- The increased VAT will add 0.6 pp to 1.5 pp to the annual inflation
- Most of the price hike in response to the VAT increase will be recorded immediately after the rate change, i.e. in the first months of 2019
- A short-term price surge can be substantial, with only a quarter of polled businesses not planning to adjust their prices upwards following the change and the remaining 60 percent planning on a one- to five-percent raise
- To maintain the market volumes and retain the consumers, businesses may agree to bear certain additional expenses without including them into the end price
- Since certain supplies under 2018 contracts will be closed in 1Q2019, the inflation rate will reach its peak in Q1 2019 and will temporarily exceed four percent
- The quarterly price increase is to considerably slow down in 2Q 2019, with the inflation rate returning to four percent in H2 2019

[Consultant Plus](#)

Clarifications from government bodies

Russian Ministry of Finance clarifies applicability of DTT with Cyprus to dividends received by indirect shareholders

According to the Ministry, the lower WHT rate of five percent set by para 2, Article 10 of the Russia-Cyprus DDT will only apply if the beneficial owner of the dividends made **direct** capital investments of at least EUR 100,000 into the dividend-paying company.

If the beneficial owner of dividends (including interest reclassified into dividends based on the thin capitalisation rules) is an indirect shareholder of a Russian company, the lower tax rate **will not apply, given the lack of direct investment into such Russian company.**

[Garant:Prime](#)

Russian Federal Tax Service (FTS) clarifies profit tax charges on sale of Russian real estate by foreign entities

According to the regulator, if such real estate is purchased by a Russian company, the latter will be deemed a withholding agent and will be obliged to withhold the tax.

The foreign seller's property acquisition expenses can be deducted for tax purposes subject to the withholding agent's having documentary evidence of such expenses as of the date when the foreign seller receives the respective proceeds.

The acquisition expenses will be subject to the general deductibility criteria set by Article 252 of the Russian Tax Code.

[Consultant Plus](#)

Media review

Russia to get unified automated residential insurance system

The Russian National Reinsurance Company developed a government resolution on the establishment of a unified automated residential insurance system.

The system will be operated by the All-Russia Insurance Association, which will be responsible for entering insurance programmes into the database, maintaining a register of contracts and claims, building a map of emergency risks reflecting the aggregate liability of insurers, and accumulating policyholders' data.

From 4 August 2019, the database will be available to the federal and regional authorities, the CBR, insurance companies, and the Russian National Reinsurance Company and will allow downloading data on insurance contracts and insurers.

Private individuals will also be able to use the database - however, only to get information about themselves.

Functionally, the database will enable the identification of policyholders and insured property, will be compatible with the public services portal and the Federal Tax Service's portal, and will ensure connectivity with Rosreestr. Its services will include the calculation of insurance rates and payment of insurance premiums, claims payment, personal accounts for clients and insurance companies, etc.

The system is expected to put a start to an earlier announced creation of a national risk office for managing the social and economic risks.

[Kommersant](#)

Russian Customs sum up total tax free reclaimed during FIFA World Cup 2018

The Russian Federal Customs Service (FTS) has registered over 22,000 tax-free receipts worth more than RUB 1 billion, half of them attributable to the FIFA World Cup 2018.

The Sheremetyevo tax refund office handled 15,000 receipts, the Domodedovo and Pulkovo offices - over 3,000 receipts each, and Vnukovo - more than 1,000 receipts.

During the World Cup, tax refunds were claimed by visitors from China (70 percent of all claims), Mexico (three percent), Germany (two percent), and Thailand (one percent).

[Kommersant](#)

Ministry of Russia: commercial property buyers must have same rights as residential co-investors

The Ministry is now working on a bill, entitling the non-residential property buyers to a full compensation in case of a developer's bankruptcy.

According to the current regulations, such compensation can be paid to the residential property buyers only, with other property investors having to wait in line with other creditors.

Non-residential property claims are registered as the fourth-priority monetary claims, which prevents the creditors from receiving the property.

The initiative was followed by a [bill](#), changing the status of commercial (non-residential) space in multifamily buildings to protect the buyers in case of the developer's bankruptcy. The buyers of non-residential space of up to seven square meters and parking spaces will be entitled to a compensation in kind instead of a monetary compensation.

[RBC daily](#)

Russia to establish online platform to sell units of open mutual funds

The Financial Platform project will be developed by Infinitum as part of the Marketplace initiative.

[Kommersant](#)

Tourist tax might be regulated by Tax Code

Starting 2020, Russian regions may be entitled to charge a travel tax of one to two percent of accommodation costs – a proposal currently pending with the Russian Ministries of Finance and Culture.

A similar initiative was earlier put forward by the government of Saint. Petersburg.

[RBC](#)

Digital vehicle certification pilot running in Russia since 1 September

A pentilateral agreement on piloting the electronic type approval certificates was signed at the Moscow International Automobile Salon **2018 by Rosstandart, Electroniy Passport AT, NAMI** Research Centre, Satr-Fond, and Mazda Sollers Manufacturing Rus.

The pilot running since 1 September 2018 is aimed at testing the electronic type approval certification in line with the vehicle conformity attestation requirements.

It will also address the issues relating to the use of e-signature, storage and exchange of e-documents, and the relevant legal framework.

The digital system is expected to minimise the risk of technical errors and intentional breaches.

Electronic conformity certificates will further be integrated with vehicle e-passports and other relevant systems, creating a unified digital database of vehicles.

In 2019, during the second pilot stage, the certification bodies and car manufacturers will be able to voluntarily connect to the system.

The use of the system will eventually become mandatory for all market participants in Russia and later on – in the EAEU.

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

Russia may introduce price floor on beer

The initiative was put forward by the Federal Service for Alcohol Market Regulation.

An algorithm enabling the automatic price adjustment on a case-by-case basis is currently pending.

The initiative will further be submitted to the Ministry of Finance.

[Rossiyskaya gazeta](#)

Russian Ministry of Finance to launch precious stone and metal labelling system

The precious stone labelling pilot will be completed by 1 November 2018, with a relevant bill to be developed based on the pilot's results.

Labelling will enable tracking precious stones and metals along the entire value chain, from production to sales.

Information can be retrieved by scanning the label with a smartphone.

The system is planned to encompass all types of jewellery subject to government control, i.e. the items made of gold, precious metals, and silver (weighing 3 g or more).

At the same time, the Ministry [proposes](#) excluding silver items from the scope of government control, fully or for items weighing up to 100 g.

[Economica i Zhizn](#)

Russian Government to limit foreign employee quotas for construction companies

A cap of 80 percent is planned to be set since 2019.

Currently, no such limitations apply.

The [draft resolution](#) has been approved by the relevant departments and supported by the professional associations of worker and employers.

[Vedomosti](#)

Russia to establish migration management database

The proposal calls for accumulating data on all migrants from CIS and non-CIS countries in a new large-scale database.

The migration processes will be automated and managed by the "Federation" cloud platform, compiling data on each migrant, including the entry date and purpose, registration date and place, patent purchase and fees, language exam results, employer, and offences.

Each migrant might also get electronic migration cards.

The platform is also expected to improve the tourist tax collectability.

[Rossiyskaya gazeta](#)

Citizens to be able to track use of their personal data through special portal

The portal will also enable banning the use of such data.

The new resource aiming to keep the citizens informed about the processing of their personal data is to come out by the end of 2018, the go-live planned a year later.

The initial development stage that is currently underway is to address a number of issues, including how the citizens will learn about the use of their personal data and if the portal will be state-owned.

[Izvestiya](#)

International taxation news

OECD reports on Tax Policy Reforms for 2018

The Tax Policy Reforms 2018 report describes the latest tax reforms across the OECD member states and identifies major tax policy trends and highlights.

[Official OECD website](#)

profiles for [Costa Rica](#), [Greece](#), the [Republic of Korea](#), [Panama](#), the [Seychelles](#), [South Africa](#), and [Turkey](#).

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

[Official OECD website](#)

OECD releases seven country profiles containing key aspects of transfer pricing legislation

The OECD has published new transfer pricing country

Deloitte publications

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](#).

Is audit secrecy a secret?

On 17 July, bill No. [96436-7](#) that entitles the tax authorities to request for documents received by audit

firms during their engagements passed the third reading.

The bill was developed to comply with the OECD recommendations following Phase I of the Russian legislation's peer review in the framework of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

The provisions of the bill reflect the global trends to improve transparency and fight aggressive tax planning.

For details, please refer to Legislative Tracking in Focus of [19 July 2018](#).

VAT increase approved in the first reading

On 3 July 2018, Bill No. [489169-7](#) (the Bill) passed its first reading in the State Duma. It introduces a number of amendments to the Russian Tax Code, most importantly, raises 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 [4 July 2018](#).

Bill on added income tax passes Russian State Duma's second reading

Bill No. 325651-7 introducing a tax on added income from hydrocarbon extraction of ("the AIT") adopted by the State Duma today is expected to dramatically reshape the tax treatment of oil and gas companies.

Starting 1 January 2019, the Russian Tax Code will get a new chapter - Chapter 254. "Tax on added income from hydrocarbon extraction".

The bill proposes redistributing the tax burden towards a later stage of a deposit life cycle and requiring the tax payment once the deposit development project have started to generate returns.

Furthermore, the bill was aligned with the transfer pricing rules for taxpayers that generate income (expense) included in the AIT base. The document also expands the list of expenses that are attributed to the development of natural resources to include the expenses incurred by a taxpayer that provided financing for a foreign exploration project under a loan agreement that meets certain requirements as well as such expense deductibility criteria.

For details, please refer to Legislative Tracking in Focus of [3 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,
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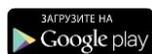


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