



LT Digest

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Legislative initiatives

[Convention on legal status of Caspian Sea signed](#)

Russia, Azerbaijan, Iran, Kazakhstan, and Turkmenistan signed the document during the Fifth Caspian Summit.

According to the convention, most of the water surface remains in common use, while the seabed and the subsoil will be divided between neighbouring states based on their mutual agreements and international law.

Navigation, fishing, scientific research, laying of large-diameter pipelines will be regulated by the rules approved by the parties to the Convention.

Look out for a detailed analysis in a special issue of LT in Focus of [17 August 2018](#).

[Official site of the President of Russia](#)

[MinFin develops bill on environmental tax](#)

The bill suggests adding a chapter on the environmental tax to the Tax Code of the Russian Federation. The tax will be paid by companies and individuals that carry out environmentally harmful activities (commercial or otherwise) in the territory of the Russian Federation, its continental shelf, or exclusive economical zone.

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[IBM, Maersk launch blockchain shipping solution](#)

[WTO issues report on Third Energy Package](#)

[US Congress releases final text of bill on anti-Russia sanctions](#)

For the purposes of the new tax, the following will constitute taxable events:

- Atmospheric release of pollutants by stationary pollution source
- Discharge of contaminated sewage into water bodies
- Generation, storage, dumping, accumulation, and location of production and consumption waste
- The volume of pollutants/waste will be taken as the tax base.

The rates of the new tax will be differentiated by type of pollutant and hazard class. Reduced rates will be made available to the taxpayers that implement anti-pollution measures and best available technologies (BAT). Conversely, the rates will be increased if the discharge limits are exceeded.

Calendar year will be taken as the tax period for the new tax; advance payments of tax will be accepted throughout the tax period.

Taxpayers will be able to expense the cost of their environmental protection measures (up to 70 percent of the total tax assesses for the period).

The new tax will replace the existing pollution charge.

MinFin released an [additional clarification](#), stating that the new tax is introduced to streamline the non-tax payments and will not increase the tax burden as the tax rates will remain the same.

If adopted, the bill will enter into force on 1 January 2020.

[Federal draft legislation portal](#)

Currency control to be eased for foreign bank accounts and repatriation of earnings

A recent bill suggests expanding the list of permitted transactions in foreign currency between accounts of residents and payments from non-residents into foreign bank accounts of resident individuals.

Individuals may be allowed to freely receive payments from non-residents to their accounts with foreign banks, provided that such banks are located in an OECD or FATF member state or in a state that exchanges information with Russia under the **Multilateral Competent Authority Agreement (MCAA)** or other international treaties.

Resident individuals are exempted from reporting cash transactions in their foreign bank accounts (deposits), provided the bank is located in an OECD/FATF member state that is also an MCAA signee and also provided that the total annual transactions/year-end balance in such accounts are under RUB 600 thousand.

Clarifications from government bodies

MinFin clarifies accounting treatment of receivables

According to the regulator, if a part of the receivables has been forgiven, a proportionate part of the acquisition cost will be disallowed for the purposes of Article 270 of the Tax Code as expenses incurred for the gratuitous transfer of property.

As the receivables are repaid, the cost of acquisition will

The bill also suggests expanding the scope to foreign non-banking financial organisations.

Russian residents will be obligated to confirm to the tax and customs authorities rouble payments made to their foreign accounts under foreign trade or loan agreements with non-residents, or other forms of discharge of obligations under such contracts, if such Russian residents elected not to transfer the funds so received to an authorised Russian bank.

The bill updates the reporting requirements of residents for their settlements with non-residents under trade contracts denominated in a foreign currency or rouble loan agreements.

If adopted, the bill will enter into force on 1 January 2020.

[Federal draft legislation portal](#)

MinFin approves rules on using UACS for international shipments

The designated postal operator will report international shipments and their contents to the customs authorities electronically, in the Unified Automated Customs System (UACS), using enhanced qualified electronic signatures.

The Ministry of Finance developed a [bill](#) to pilot an improved mechanism of customs processing of the goods individuals purchase for personal consumption in foreign online stores, from 1 November to 10 December 2018.

[Official Internet Portal for Legal Information](#)

FTS cuts alcohol excise declarations audit time for good-faith taxpayers

From now on, the excise duty declarations for alcohol and alcohol-containing products filed by good-faith taxpayers will be reviewed within two months instead of three.

A [respective order](#) has been cascaded to the branches of the Federal Tax Service (FTS). The document contains a list of requirements for applying the faster procedure.

The reduced timing was made possible by automating the collation of declarations with the data accumulated by Federal Alcohol Market Regulatory Service.

The new procedure will apply to the declarations filed after 1 August 2018.

[Official Russian Federal Tax Service website](#)

be expensed **pro rata the repaid part of the debt.**

[Garant: Prime](#)

MinFin clarifies loss carryforward rules for CFCs

A taxpayer gained control over a CFC in 2018 and requested opinion of the regulator on whether it could carry forward the CFC's losses for 2015; the previous

owner, Rosimuschestvo (the state asset management service), did not file a CFC notice in the respective period.

The regulator reminded that, according to Item 7.1, Article 309.1 of the Tax Code, a CFC's losses cannot be carried forward if the controlling person did not file a CFC notice for the respective period.

Thus, a controlling person that gained control in the current tax period, will not be entitled to loss carryforward under Item 7 Article 309.1 of the Tax Code, unless the previous controlling person submitted a CFC notification for the respective loss-making period.

[Consultant Plus](#)

MinFin comments on confirming coupon nature of payments to foreign bond-holders

The Ministry clarified the requirements for WHT exemption for interest income (coupon) payments made to a foreign holder of a Russian company's traded bonds it holds (Subitem 8, Item 2 Article 310 of the Tax Code).

According to the Ministry, the connection between payments to a foreign company and the bonds it holds can be confirmed by the cash flow reflecting that interest income received from Russian borrowers was transferred to bond-holders, and any of the documents:

- Loan agreement

- Bond Terms
- Prospectus of the respective bond issue

[Consultant Plus](#)

FTS reminds of changes in property taxation legislation

There are several legislation updates that come into effect on 1 January 2019:

- Individuals will be allowed to make advance payments against their future tax liabilities under the transportation tax, land tax, and personal assets tax (Federal Law No. [232](#) of 29 July 2018)
- Individuals will be able to pay personal taxes via the multifunctional centres (ibid)
- Additional land tax and personal assets cannot be charged if the previously assessed amounts have already been paid (Federal Law No. [334](#) of 3 August 2018)
- Movable property is no longer taxed (Federal Law No. [302](#) as of 3 August 2018)
- The use of cadastral value of property as a tax base has been streamlined (Federal Law No. [334](#) of 3 August 2018)

[Consultant Plus](#)

Media review

MinTrans suggests compensating airlines for fuel price increase

This year, airline carriers may lose up to RUB 50 billion due to the higher fuel prices. The Ministry suggests spending RUB 22.5 billion to compensate part of the losses in a bid to prevent airfare price growth.

[Vedomosti](#)

FAS suggests changes to fuel intervention procedure

The antimonopoly watchdog suggests authorising the Ministry of Energy to initiate fuel interventions and reduce the time to completion from two months to a week.

Currently, a fuel intervention can be initiated by a Russian region, if the retail price for fuel has added more than 10 percent within a month.

[Kommersant](#)

Skolkovo Fund prepares bill to amend personal data processing requirements

According to the bill, once an individual's consent to processing is obtained, personal data holders will be able to manage the data and transfer them for processing to third parties without the need to notify the individual (data subject).

The company that first collected the data and obtained

data subject's approval will be liable for their safekeeping. It will be obligated to disclose a full list of subcontracted data processors on its website or notify data subjects otherwise. Data subjects will have the right to know where the personal data are transferred, but no powers to ban further transfer – only to recall the original consent.

Data holders will be permitted to process personal data for their own purposes, not limited to the purposes originally approved by the data subject.

[Vedomosti](#)

Russia, Kazakhstan to pilot tracking of transit cargo shipments with e-seals

The pilot covers road haulage only and is scheduled for 1 September to 1 October 2018. It will be managed by the FTS and operated by OOO RT Invest Transportation Systems.

Road hauliers will be able to join the pilot voluntarily and receive e-seals free of charge.

[Kommersant](#)

Minkomsvyaz puts forward new requirements for SIM cards

Mobile operators will be required to implement domestic cryptographic protection systems on their network, which will require new SIM cards.

According to the draft order of the communications regulator, user identification will have to be supported with FSB-certified cryptography.

The draft has not been officially released yet.

[Kommersant](#)

IBM, Maersk launch blockchain shipping solution

IBM and Maersk announced TradeLens, a blockchain-based shipping solution. It enables the owners and

shippers exchange information and financial documents in a real-time mode.

The platform has signed up 94 members globally, including over 20 ports and terminals and the customs authorities of Singapore, the Netherlands, Saudi Arabia, and Australia.

[Vedomosti](#)

Court practice

WTO issues report on Third Energy Package

On 10 August 2018, WTO issued panel [report](#) in the case brought by the Russian Federation in "European Union and its Member States — Certain Measures Relating to the Energy Sector" (DS476).

The dispute was initiated by the Government of the Russian Federation in 2014, challenging the implementation of the Third Energy Package in the EU and other steps to regulate the EU energy market, which it saw as discriminatory against the Russian gas supplies and the Russian pipeline provider, PAO Gazprom.

Nine WTO members were involved as third parties: China, the United States, Japan, Brazil, India, Columbia, Southern Korea, Saudi Arabia, and the Ukraine.

Russia challenged six categories of measures, both from the Third Package and individual measures of the EU energy policy, and their implementation at the national level by the EU member states.

The panel agreed with Russia that the quantitative restrictions on the supply of gas through the OPAL

pipeline, including (a) the 50-percent capacity cap (limiting the allocation of transport capacity to Gazprom and related companies) and (b) the gas release programme which requires Gazprom and related companies to release three billion cubic metres/year of gas in order to exceed this cap, are wrongful. It also acknowledged the discriminatory nature of the foreign-controlled pipeline operator certification rules in Lithuania, Hungary, and Croatia, as well as the designation of certain infrastructure projects as projects of common interest (PCIs) and the granting of preferences to them, if such projects are aimed at securing non-Russian gas supplies.

The panel rejected the defence of the EU regarding the pipeline operator certifications and PCIs, citing the exemptions provided by GATS and GATT.

The decisions of the panel can be expected to improve access to the EU markets for the Russian gas and equalise competition for the Russian pipeline operators.

[Official site of the Ministry of Economic Development of the Russian Federation](#)

International law news

US Congress releases final text of bill on anti-Russia sanctions

The [bill](#) envisages sanctions against Russian sovereign debt, banning all transactions with the newly issued debt, starting 180 days after the bill comes into force. Also, 'all transactions in all property and interests in property' of Sberbank, VTB, Gazprombank, Promsvyazbank, Rosselkhozbank, and VEB are

prohibited.

Special sanctions are envisaged against individuals that, after the bill comes into force, invest over USD 250 million into foreign energy projects of the Russian state or quasi-state enterprises.

[Vedomosti](#)

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,
Deloitte CIS Partners

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