



## LT Digest

### Be in the know

#### Court practice

##### **Supreme Court reaffirms that purchase of equipment from related manufacturer may qualify for property tax exemption**

The Russian Supreme Court released Ruling No. 310-KG18-8658 of 16 October 2018 in case No. A68-10573/2016 over the applicability of property tax exemption for equipment purchased from a related manufacturer.

The taxpayer believed that the tax benefit could be applied, unless the related manufacturer had recognised such equipment as a fixed asset.

The taxpayer applied the exemption since the purchased equipment was the manufacturer's product and not a fixed asset.

The courts of three instances adjudged in the tax inspectorate's favour, while the Supreme Court supported the taxpayer, citing the following:

- The key objective of a tax exemption for assets recorded after 1 January 2013 was to incentivise investments in new equipment
- The ban to apply the tax exemption to assets received from related parties was aimed at preventing tax evasion through the application of tax relief to old equipment

[Supreme Court reaffirms that purchase of equipment from related manufacturer may qualify for property tax exemption](#)

[Online sales of counterfeit medicine may be penalised by imprisonment](#)

[Proposal to expand list of tax-free retailers put forward](#)

[Federal Tax Services clarifies certain aspects of disclosure of open data on tax authorities activities](#)

[Alcohol retailers may face additional restrictions](#)

[Tax authorities to issue electronic signatures](#)

[Advance pollution charges payment regime might be modified](#)

[Insiders may be exempt from liability subject to agreement with Central Bank of Russia](#)

[Russian Government waives visas with certain jurisdictions](#)

[Federal Tax Service releases answers to CRS questions](#)

[Ministry of Finance clarifies treatment of target audience advertising expenses](#)

[Tax-free retailers may file register of receipts in currently applicable format until relevant order is adopted](#)

[Russian Ministry for Natural Resources calls for establishing universal waste operator](#)

[Advisory board on foreign investment sums up foreign investors' feedback on doing business in Russia](#)

[Administration of VAT on imports might be delegated to Federal Tax Service](#)

[Ministry of Health considers cigarette depersonalization](#)

[Online sale of fine jewellery might be permitted](#)

[Federal Tax Services summarises first tax monitoring results](#)

[Ministry of Economic Development comes up with new currency law liberalisation proposals](#)

[OECD releases report on online cash register workshop held by Federal Tax Service](#)

[Global Forum publishes tax transparency compliance ratings for seven more jurisdictions and welcomes three new members](#)

[OECD releases consultation document on misuse of residence and citizenship by investment schemes to circumvent Common Reporting Standard](#)

[Russia signs Protocol on changes to Convention for Protection of Individuals with regard to Automatic Processing of Personal Data](#)

- The ban will not apply if transactions between related parties do not entail tax offences, i.e. shifting of fixed assets recorded before 1 January 2013 in order to formally meet the tax relief criteria. The relations of the parties should not in itself cause application of a less favourable tax regime
- The disputed equipment was not taxable for the manufacturer, since it did not exist as at 1 January 2013 and was not treated as a fixed asset; therefore, the exemption does not stem from a transfer of assets between related parties
- The fact that the tax authorities disallowed the exemption put the investor to a disadvantage

compared to other taxpayers

- Had the equipment been purchased from an unrelated seller on comparable conditions, the investor's eligibility for the tax exemption would not have been disputed, which attests to discrimination and arbitrary treatment

Given the Supreme Court's position, the taxpayers that did not apply the exemption in similar situations may potentially adjust their property tax returns to recover the overpayment.

[Electronic Justice: commercial courts files](#)

---

## Legislative initiatives

### Online sales of counterfeit medicine may be penalised by imprisonment

A bill to that effect was submitted to the Russian State Duma.

Criminal liability is proposed for the sale (worth over RUB 100,000) of counterfeit, low-quality, and/or uncertified medicine, medical devices and dietary supplements via online stores or social media.

The offence may entail a five- to eight-year imprisonment and a penalty of RUB one to three million or equalling an offender's salary (other income) for one to three years, along with a professional disqualification for up to five years.

Another bill (No. [565355-7](#)) to be taken up by the Russian State Duma provides for administrative penalties for the same offence in amount up to RUB 100,000.

For legal entities, administrative sanctions may include a penalty of RUB two to five million or a business suspension for up to 90 days.

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

### Proposal to expand list of tax-free retailers put forward

The initiative calls for adding new tax-free stores in Moscow, St. Petersburg, Moscow, and Sverdlovsk Regions and extending the tax-free pilot until 31 December 2019.

Further implementation proposals will need to be developed by the Russian Ministry of Industry and Trade by 1 December 2019.

[Federal draft legislation portal](#)

### Federal Tax Services clarifies certain aspects of disclosure of open data on tax authorities activities

In particular, a schedule of data disclosure for the upcoming period will be approved by the Federal Tax Service order.

As a reminder, the amounts of tax arrears, outstanding tax liabilities and tax offences are expected to be released on 1 December 2018.

[Garant:Prime](#)

### Alcohol retailers may face additional restrictions

A bill taken up by the Russian State Duma requires placement of the following warning messages: "Alcohol is harmful to your health" – on wine, beer and other weak alcohol beverages; "Alcohol kills" with graphics placed in a black frame (which must take up at least 50 percent of the label) – on strong liquor.

The bill also proposes:

- Banning retail sales of alcoholic beverages in buildings that can be accessed only from the backyard
- Prohibiting the display of strong alcohol in sales areas (sale at buyer's request only)

If adopted, the law will enter into force on 1 June 2019.

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

### Tax authorities to issue electronic signatures

Russian Government Resolution No. 1181 of 3 October 2018 formalises the Federal Tax Service's authority as a certification centre, issuing digital certificates in the instances stipulated by law.

The document entered into force as of 13 January 2018.

[Official Internet Portal for Legal Information](#)

### Advance pollution charges payment regime might be modified

A bill pending with the Russian State Duma proposes refining the procedures for payment of pollution charges in advance, depending on the selected payment format:

- As 1/4 of the past year's pollution charges
- As 1/4 of the pollution charges calculated based on the total permitted pollutant emissions
- As the amount of pollution charges calculated based on the industrial environmental control emission data for the previous quarter of the current reporting year

Particular advance payment method must be selected by the payers for the upcoming year for each type of pollution charges in their declarations filed with Rosprirodnadzor.

If adopted, the law will enter into force on 1 January 2019.

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

### Insiders may be exempt from liability subject to agreement with Central Bank of Russia

A bill submitted to the Russian State Duma entitles the Financial Oversight Committee of the Central Bank of Russia to enter into agreements that will enable dismissing actions and cancelling administrative sanctions against companies accused of misuse of insider information and market manipulations.

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

### Russian Government waives visas with certain jurisdictions

Visa waiver agreements were signed with the following jurisdictions:

- [Saint Vincent and the Grenadines](#)
- [Jamaica](#)
- [The Republic of Palau](#)
- [Dominica](#)

*Consultant Plus*

---

## Clarifications from government bodies

### Federal Tax Service releases answers to CRS questions

The answers to 46 frequently asked questions on the applicability of Chapter 20.1 of the Russian Tax Code and Government Resolution No. 693 of 16 June 2018 were posted in the [CRS section](#) of the tax regulator's website.

The questions have been collected from financial market players and are broken down by categories.

[Official Russian Federal Tax Service website](#)

### Ministry of Finance clarifies treatment of target audience advertising expenses

According to the Russian Ministry of Finance, when recording advertising expenses, companies should take into account the provisions of Federal Law No. [38-FZ](#) of 13 March 2006.

The Ministry also noted that, according to the Federal Antimonopoly Service (FAS) position set forth in Letter No. [AD/45557/1](#), it depends on the purpose and content of information whether it is recognised as advertising.

Thus, according to the FAS's letter, advertising means a specific **impersonal** information aimed at promoting a

certain item, even if distributed among **concrete recipients**.

In the regulator's, if information meets the criteria of advertising, is intended for a specific target audience (e.g. company clients, TV channel spectators, local residents, etc.), but generates interest of an indefinite number of recipients, it should still be treated as advertising and be regulated by Federal Law No. 38-FZ of 13 March 2006.

[Consultant Plus](#)

### Tax-free retailers may file register of receipts in currently applicable format until relevant order is adopted

To verify the eligibility for a zero VAT rate on the tax refund services to foreign nationals, retailers may submit the registers of receipts in the form established by FTS Letter No. [ED-4-15/16779@](#).

The form will apply until the FTS [order](#) "On approval of receipt register forms and e-filing procedures for tax refund purposes as per Para 3.10, Article 165 of the Russian Tax Code" is adopted.

[Official Russian Federal Tax Service website](#)

---

## Media review

### Russian Ministry for Natural Resources calls for establishing universal waste operator

The Ministry has released a draft order on the establishment of a government operator of solid municipal waste (SMW).

The operator will be financed with asset contributions, income from participation in investment projects and in commercial companies.

It will develop and implement the uniform SMW placement guidelines that would consolidate data on available capacities, storage locations, transportation routes, and potential waste processing, recycling or storage sites.

It will also coordinate waste management by territory, develop incentives and implement the government waste management programmes and proposals.

The new company will handle the allocation of budgetary funds collected from environmental fee,

which may be replaced with an environmental tax in 2020.

[RBCdaily](#)

### Advisory board on foreign investment sums up foreign investors' feedback on doing business in Russia

Most investor complaints have to do with the growth of beer excises, introduction of environmental duty, and the potential raise of import duties on foreign-made equipment.

Thus, the excise increase has caused a loss of 60,000 jobs in the beer industry and RUB 60 billion in losses to the economy.

The Board places special emphasis on the localisation criteria, which are either too tight or unachievable.

The investors also note the lack of consistent e-labelling

standards and a common IT platform and propose labelling only the goods selected based on uniform criteria, such as the share of counterfeit products and labelling cost-effectiveness, which must be openly discussed with the experts and the business community.

[Vedomosti](#)

### **Administration of VAT on imports might be delegated to Federal Tax Service**

The Ministry of Economic Development wants to revise the import VAT payment procedures and hand over tax administration from the customs to the tax authorities.

The proposal is incorporated into the Business Climate Transformation roadmap developed by a joint effort of the Ministry, experts, and the business community.

If the initiative is approved, importers will be able to pay VAT at the end of the quarter and not during the customs clearance procedure.

[RBCdaily](#)

### **Ministry of Health considers cigarette depersonalisation**

Depersonalised cigarette packs will not have company logos and will only bear single-font brand names on them.

[Rossiyskaya Gazeta](#)

### **Online sale of fine jewellery might be permitted**

The Russian Ministry of Economic Development has aligned the draft presidential order legalising online sale of jewellery with the relevant authorities and will shortly submit it to the government for review.

[Izvestiya](#)

### **Federal Tax Services summarises first tax monitoring results**

The number of companies that apply the tax monitoring regime have tripled over the past three years: with seven new participants it will reach 44 by 2019, half of the players being oil and gas companies.

Tax monitoring saves a company one third of related labour costs and brings down the volume of requested documents by 9.4 million pages or 12,000 files annually.

To facilitate communications with the tax authorities as part of the tax regime, the companies either create a special portal (11 organisations) or offer access to their accounting system (16 organisations).

The Federal Tax Service is now working on a new instrument – a standard tax audit file to automate audits of corporate accounting systems.

Further certification of information systems will enable implementing a universal audit mechanism.

[Official Russian Federal Tax Service website](#)

### **Ministry of Economic Development comes up with new currency law liberalisation proposals**

The Ministry proposes cancelling the criminal liability for currency offences and significantly bringing down the administrative penalties.

Initiatives on the further liberalisation of the currency legislation were integrated in the Business Climate Transformation roadmap and include:

- Granting exporters a 30-day grace period, during which they will be able to receive their currency earnings through Russian bank accounts at no penalty
- Reducing the maximum penalties for breaching the currency earnings repatriation obligations to five percent of such earnings or to issue warnings instead
- Repatriation of currency earnings is mandatory for exporters and importers and for all Russian citizens, who are generally prohibited to receive funds to foreign bank accounts
- Cancelling penalties for breaching the currency repatriation deadlines for certain importers and exporters, determined by the government
- Repealing penalties for the banks that perform currency control agent's functions for late filing of reports on export currency transactions
- Cancelling criminal sanctions for currency repatriation avoidance

[RBCdaily](#)

### **OECD releases report on online cash register workshop held by Federal Tax Service**

The Secretariat of the OECD's Forum on Tax Administration released the results of online cash register workshop run by the FTS.

The document outlines the key issues countries may face when developing, implementing, and using online cash registers, as well as the best practices successfully applied by the global tax administrations. The report points out a positive impact the use of online cash registers have had on the country's tax and economic environment.

The report and the survey responses from 17 tax administrations will be integrated into the final report that will contain hands-on guidance for tax administrations. The report will be presented by the FTS at the Forum plenary session in Chili in March 2019.

[Official Russian Federal Tax Service website](#)

---

## **International taxation news**

### **Global Forum publishes tax transparency compliance ratings for seven more jurisdictions and welcomes three new members**

- The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) published seven peer review reports, assessing

compliance with the international standard on transparency and exchange of information on request (EOIR)

- Austria, Aruba, Brazil, Saint Kitts and Nevis, and the United Kingdom were rated "Largely Compliant"

The Global Forum also welcomed Oman as a new member.

[Official OECD website](#)

**OECD releases consultation document on misuse of residence and citizenship by investment schemes to circumvent Common Reporting Standard**

The OECD has analysed over 100 CBI/RBI schemes, offered by CRS-committed jurisdictions, and identified 36 schemes that potentially pose a high risk to the integrity of CRS.

It also published [answers](#) to frequently asked questions on the identification and prevention of CRS avoidance

via such schemes by the financial institutions.

[Official OECD website](#)

**Russia signs Protocol on changes to Convention for Protection of Individuals with regard to Automatic Processing of Personal Data**

The Russian Federation signed the Protocol on 10 October 2018 along with France, Austria, Germany, the Netherlands, Sweden, Norway, Portugal, and other countries.

[Rambler News Service](#)

# 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](#).

\*\*\*\*\*

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**

# Contacts

## Tax & Legal



**Svetlana Meyer**  
**Managing Partner**  
**Tax&Legal, Deloitte CIS**  
[smeyer@deloitte.ru](mailto:smeyer@deloitte.ru)



**Gennady Kamyshnikov**  
**Partner**  
Private and corporate taxation  
[gkamyshnikov@deloitte.ru](mailto:gkamyshnikov@deloitte.ru)



**Oleg Berezin**  
**Partner**  
Pharmaceuticals  
[oberezin@deloitte.ru](mailto:oberezin@deloitte.ru)



**Oxana Zhupina**  
**Partner,**  
Consumer Products  
[ozhupina@deloitte.ru](mailto:ozhupina@deloitte.ru)



**Yulia Orlova**  
**Partner**  
Metals and Processing  
[yorlova@deloitte.ru](mailto:yorlova@deloitte.ru)



**Vladimir Elizarov**  
**Partner**  
Technology, Media, Entertainment &  
Telecommunications  
[velizarov@deloitte.ru](mailto:velizarov@deloitte.ru)



**Artem Vasyutin**  
**Partner**  
Retail, Wholesale and Distribution  
Tourism and Hospitality  
[avasyutin@deloitte.ru](mailto:avasyutin@deloitte.ru)



**Alexander Sinitsyn**  
**Director**  
Global FSI  
[asinitsyn@deloitte.ru](mailto:asinitsyn@deloitte.ru)



**Tatiana Kofanova**  
**Director**  
Automotive  
[tkofanova@deloitte.ru](mailto:tkofanova@deloitte.ru)

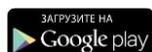


**Alexandra Konova**  
**Director**  
Oil & Gas, Energy & Resources, Mining  
[akonova@deloitte.ru](mailto:akonova@deloitte.ru)



**Yulia Krylova**  
**Director**  
Real Estate  
[ykrylova@deloitte.ru](mailto:ykrylova@deloitte.ru)

## TaxSmart app



## [deloitte.ru](http://deloitte.ru)

### About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 244,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.