



LT Digest

Be in the know

Clarifications from government bodies

Russian Federal Tax Service (FTS) clarifies collection of outstanding corporate taxes from company officers

On 8 December 2017, the Russian Constitutional Court reaffirmed the ban on collection of corporate tax debts from company's officers before the corporate debt is proven uncollectible (see LT Digest of [4-31 December 2017](#)).

The tax authorities are urged to take note of and apply the ruling in their work.

The FTS underlined that the conclusions made by the Constitutional Court will **only** apply to individuals charged with corporate tax crimes or with respect to whom the criminal prosecution for such crimes was ended on non-exonerative grounds.

The regulator provided additional recommendations on the use of the ruling:

- To apply the mechanism in **exceptional** cases and only subject to specific purposes
- If failure to issue an injunction will hamper or render impossible the enforcement of a court order requiring damage reimbursement, to initiate civil action at the stage of pre-trial investigation

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- For pending civil actions, to analyse the defendant's financial position and review the civil actions for compliance with the Constitutional Court's ruling.

The FTS also stressed the fact that its letter serves organisational purposes only and has no regulatory power. In case of differences between the letter and Russian law and regulations, the latter will prevail.

[Garant: Prime](#)

Russian Ministry of Finance clarifies confirmation of CFC profit (loss)

Each CFC's profit (loss) must be verified by its financial

statements for the respective period(s) and tax reports.

In instances when the required information cannot be obtained due to the restrictions set by the CFC's national law, a controlling owner can use the data from the CFC's financial statements or statistical accounting available in open databases and official websites of Russian and/or foreign companies.

[Garant: Prime](#)

Legislative initiatives

Russian State Duma considers package of bills

- Bill No. [69251-7](#) on mandatory classification of tourist facilities passed the third reading (for more details, please refer to LT of [9 January 2017](#) and LT Digest of [9 - 14 January 2018](#)).

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

Draft list of VAT-exempt aircraft maintenance services developed

The list includes the services performed at take-off, landing, and parking, as well as the aviation security, re-fueling, fuel storage, and air navigation services.

In accordance with Sub-Item 22, Item 2, Article 149 of the Russian Tax Code amended as of 1 January 2018 by Federal Law No. [305-FZ](#) of 30 October 2017, the list of such services is determined by the Russian Government. The absence of such list in the past resulted in numerous tax disputes.

The public hearings of the bill will continue until 7 February 2018. The current wording of the document provides for its enactment as of 1 January 2018.

[Federal draft legislation portal](#)

Russian Government approves guidelines for piloting tobacco labelling and sales monitoring

The document addresses the pilot's technical aspects and introduces the participation and performance assessment criteria.

[Consultant Plus](#)

Russian State Duma to take up bill banning retailers from returning unsold products to producers

The measure is meant to replace the existing ban for retailers to impose contractual terms of returns of unsold food products.

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

Russian Federal Tax Service (FTS) develops new forms and procedures for notifying tax authorities on opening (closing) accounts with foreign banks

Federal Law No. 427 FZ of 28 December 2017, aimed at simplifying the currency regulation and controls, came into force on 1 January 2018.

The following forms are introduced:

- Notification of opening (closing) an account with a foreign bank
- Notification of changing details of account (deposit) with a foreign bank
- Notification on accounts with foreign banks opened on the basis of an expired permit

The new order is expected to replace the existing FTS Order No. MMB-7-6/457@ of 21 September 2010.

[Federal draft legislation portal](#)

Russian tax residency confirmations to be issued by Interregional FTS Inspectorate for Centralised Data Processing

The format of such confirmation and the filing procedure were approved by the FTS Order No. [MMB-7-17/837@](#) of 7 November 2017.

For more details, please refer to LT Digest of [27 November - 3 December 2017](#).

[Garant: Prime](#)

Court practice

Commercial Court of Moscow reaffirms Anti-Monopoly Service opinion on legitimacy of “parallel import”

A foreign trademark holder applied to the court to challenge a warning issued by the Russian Anti-Monopoly Service, citing unfair competition on its part because the exclusive rights to import branded products to Russia were granted to official dealers only.

The court of first instance sustained the regulatory warning, citing that by limiting the rights to import legitimately produced and purchased products, the trademark holder intended to increase its gains through the restriction of profits of its potential peers and ousting them from the market.

The court noted that **branded** goods imported into the

territory of the Russian Federation by a business entity, albeit without a consent of the right holder, do not have features of "designations similar to the right holder's trademark", because the goods were actually produced by the holder of the respective trademarks.

In the court's opinion, the distribution of legitimately purchased goods bearing the trademark of a foreign producer (right holder) by different entities does not constitute an infringement of exclusive rights or unfair competition.

According to the [experts](#), this court decision may become a precedent and, hence, foster the legalisation of parallel imports.

[Electronic Justice: commercial courts files](#)

Media review

Second capital amnesty outlook discussed at Gaidar Forum

According to Minister of Finance Anton Siluanov, the second amnesty phase will be implemented during March - December 2018 and will also cover the accounts with foreign banks closed until 1 March 2018.

The Minister informed that the proceeds from the liquidation of companies abroad will remain PIT-exempt until the end of 2018.

[Interfax](#)

Russian Federal Tax Service (FTS) presents interactive tool for confirming Russian tax residency

The tool "[Confirm your Russian tax residency](#)" was launched on 16 January 2018, enabling the individuals, individual entrepreneurs, and corporations to obtain a PDF confirmation online.

Each confirmation now has a unique verification code that allows to check its authenticity via a special tool on the [TWIMC page](#) of the site.

The procedure for obtaining of and the format of residency confirmation certificates were approved by FTS Order No. [MMB-7-17/837@](#) (for more details, please refer to LT Digest of [27 November – 3 December 2017](#)).

[Official Russian Federal Tax Service website](#)

Stakeholders to develop Infocommunications Code

In late 2017, the Russian Association for Media and Communications, where the country's largest telecom companies and media holdings are members, initiated the development of a comprehensive Infocommunications Code, expected to replace the laws "On Telecommunications", "On Information, IT and Information Protection", and "On Personal Data".

The document offers a fundamentally different approach, regulating data transfer and processing

across the entire infocommunications landscape, not by each telecom service separately.

The full version of the Infocommunications Code is planned for release in April 2018.

[RBCdaily](#)

Financial guarantees or insurance might become mandatory for personal data operators

The [IT security](#) strategy as part of the [Digital Economy](#) roadmap obliges companies to insure their personal data-related risks or obtain financial guarantees.

The requirement may apply to nearly all Russian companies, from online stores to banks.

By July 2018, the regulatory authorities must decide whether it would be reasonable to formally oblige the personal data operators to procure insurance or financial guarantees (self- or bank guarantee).

Companies subject to the new regulations will be determined during the law-making process by the Ministries of Finance, Telecommunications and Media, and Roskomnadzor.

[Vedomosti](#)

Russian Ministry of Finance introduces bill regulating Russian operations of foreign (re)insurance companies

To open a branch in Russia, foreign (re)insurers will have to meet the following requirements:

- A track record of at least five years for general insurance and eight years for life insurance, operating a foreign branch network for at least five years
- Net asset value of at least USD 5 billion

The lines of business available to foreign (re)insurers will only be limited by the Russian state secrecy

requirements.

A foreign branch will have to place a security deposit (equal to the statutory capital requirements) of RUB 120 million for general insurers, RUB 240 million for life insurers, and RUB 480 million for reinsurers or provide a letter of guarantee from the parent company.

The document has not yet been officially published.

[Kommersant](#)

Preliminary results of Russian Government's discussion of recycling duty increase

According to the minutes of the meeting held by the Prime Minister on 11 January 2018, the duty will increase by 16 percent for 1L cars, 90 percent for 1-2L cars, and 49 percent for 2-3L cars, but will remain unchanged for $\geq 3L$ cars.

The duty will be raised by 14.8 percent for electric vehicles and 15 percent for light commercial vehicles, except for the 2.5-3.5t category (e.g. Gazelles by GAZ), for which the increase will be nearly 52 percent.

For trucks, the recycling duty is set at 15 percent.

The above-mentioned proposals have not been published yet.

[Kommersant](#)

Russian Government to complete roll-out of mandatory drug labelling in 2018

The Russian Government is working on a resolution to formalise the completion of the labelling initiative for certain medicines in 2018, such as the medicines procured as part of the government support programme for patients suffering from seven cost-intensive disease types and expensive essential drugs, the list of which is not yet finalised.

The FTS [has reminded](#) that the mandatory labelling will commence effective 1 January 2020 in accordance with Federal Law No. [425-FZ](#) of 28 December 2017.

International legislation news

EU to implement new general data protection regulation

All EU member states will have to bring their national laws in compliance with the [General Data Protection Regulation](#) by the end of May 2018.

Owners of non-EU websites targeting the EU residents will have to review their resources for consistency with the new requirements.

Collecting information on data subjects doing product (service) search online will be permitted, provided the use of marketing algorithms and the intended use of collected data are explicitly brought to the attention of the data subject.

Another development is the use of biometrics for employment and insurance purposes and by the banks.

The Law authorises the Russian Government to regulate the monitoring of the medicine circulation, including its timelines. The initiative will primarily apply to the essential medicines used in treating patients with hemophilia, mucoviscidosis, Gaucher disease, etc.

Thus, the mandatory labelling of some medical drugs may commence in 2018.

[Kommersant](#)

Central Bank of Russia (CBR) soft-launches online tool providing access to register of securities issued by non-bank financial institutions

The [new tool](#) will enable all stakeholders (issuers, shareholders, investors, securities market participants, etc.) to receive electronic statements from the register via the CBR's website.

Until now, such statements could be received only by filing an official request with the regulator.

The register contains data on the securities issued by non-bank financial institutions, such as shares, bonds, options, Russian depositary receipts, registered from 1992.

Further plans provide for expanding the register to include securities issued by financial institutions.

[Official Russian Central Bank website](#)

Russian Ministry of Finance proposes repealing repatriation of foreign currency earnings

As part of its currency legislation liberalisation efforts, the Russian Ministry of Finance proposes repealing the obligation to repatriate foreign currency earnings, similarly to rouble earnings. The plan was announced by the Minister of Finance Alexei Moiseev at the Gaidar Forum and is currently discussed with the relevant departments and the Central Bank of Russia.

[Economica i Zhizn](#)

A "right to be forgotten" is one of the most important changes offered by the new regulation: a data subject will now be entitled to have his or her personal data erased.

The General Data Protection Regulation adopted by the European Parliament on 17 December 2017 will enter into force on 25 May 2018 and will replace the EU Data Protection Directive 95/46/EC.

[Rossiyskaya gazeta](#)

European Commission proposes reconsidering VAT rates

On January 2018, the European Commission released the Council Directive amending Directive 2006/112/EC as regards rates of value added tax.

The new rules will allow EU member states to apply reduced VAT rates between zero and five percent or exempt certain transaction types.

The Commission also proposes approving a list of goods and services, to which the reduced rates can be applied.

[*Official website of the European Commission*](#)

Singapore's Ministry of Finance releases order enacting Multilateral Agreement on the Automatic Exchange of Financial Account Information for Tax Purposes (MCAA CRS)

This list of [reportable jurisdictions](#) for 2017 CRS

information reporting was updated accordingly and now contains 50 countries, including Russia.

[*Official website of the Ministry of Finance of Singapore*](#)

Deloitte publications

Federal Law on Tax Free in Russia signed

On 27 November 2017, the President of the Russian Federation signed a [federal law](#) (the "Law") that sets forth the key principles of the tax-free system in Russia. According to the Law, citizens of foreign non-EAEU states will be entitled to a refund of VAT paid on the purchases made in Russian retail stores, provided the purchased goods are then moved outside the EAEU customs territory.

The new regime is primarily aimed at boosting the retail sales and fostering tourism. Tax-free was discussed for quite a while in Russia, but never made it into the legislation until recently. Now the implementation is expected in 2018.

Read on for an overview of the key provisions of the Law and opinions of Deloitte's specialists, who were actively involved in the development of the Russian tax-free system, on its systemic impact on the Russian retail industry and the economy in general.

For details, please refer to Legislative Tracking in Focus of [8 December 2017](#).

Changes in VAT law: electronic services; payers of unified agricultural tax; "5% rule" for input VAT allocation; zero VAT rate for international transportation, freight forwarding services and re-export of goods; and more

Federal Laws No. 335-FZ and No. 350-FZ, introducing amendments to Parts One and Two of the Russian Tax Code and setting forth, in particular, the new rules for

accounting for and payment of VAT with respect to certain transactions, were officially published on 27 November 2017.

Some amendments will enter into force starting from 1 January 2018, some – from 1 January 2019.

For details, please refer to Legislative Tracking in Focus of [30 November 2017](#).

The CbC Law: Overview Of Key Provisions

On 22 November 2017, the Federation Council approved the Federal Law On Amendments To Part One Of The Russian Tax Code (the "CbC Law", or the "Law"), aimed at implementing the international automatic exchange of financial account and multinational enterprise information.

Read on for an overview of the key aspects of the Law that regulates the preparation and the scope of documentation to be filed by multinational enterprise groups ("MNE Group").

In our previous overview we analysed the key provisions of the Draft Law. In this paper we focus on the latest amendments.

For details, please refer to Legislative Tracking in Focus of [27 November 2017](#).

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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