



LT Digest

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Legislative initiatives

Russian State Duma to consider bill clarifying deoffshorisation requirements, tax treatment of CFCs, dividends, shareholder exit distributions, liquidation proceeds

According to the bill, a person will not be deemed a controlling owner of a CFC, if he/she/it participates in such CFC in the following way(s):

- Through a direct and/or indirect interest in one or several Russian public companies
- Through a direct and/or indirect interest in another CFC listed on one or several foreign stock exchanges located in the OECD member states, subject to the following conditions:
 - The direct and/or indirect participation in such other CFC does not exceed 50 percent
 - The share of common stock listed in all such foreign stock exchanges exceeds 25 percent of the CFC's capital formed from the par value of the common stock

For the purpose of exempting active CFCs, active foreign holding and subholding companies, the bill proposes calculating the share of passive income in such companies' total revenues with account of the proceeds from the sale or any other disposal of financial assets.

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The document also calls for simplifying the recognition of individuals and certain categories of legal entities as beneficial income owners.

Thus, the following persons can be recognised as beneficial owners of dividend income on a simplified basis:

- Individuals
- Sovereign wealth funds
- Entities whose common stock is listed on a Russian stock exchange or on one or several stock exchanges of the OECD member states
- Entities, in which the Russian Federation or any other foreign state (except those on the list of states failing to exchange tax information with Russia) holds a direct or indirect interest of at least 50 percent.

There are other proposed amendments:

- To amend the definition of dividends to include income in the form of property and property rights that were received by a member (shareholder) upon its exit from the company or as liquidation proceeds, to the extent that it exceeds the value of shares of such company or foreign company paid to the exiting member/shareholder (regardless of the form of payment)
- To set forth that the corporate profit tax base shall not include cash received from subsidiary to the extent that it does not exceed the cash contributions earlier made to such subsidiary
- To establish that the above cash receipts are WHT-exempt
- To clarify that the liquidation losses incurred by a taxpayer shall qualify as non-operating expenses
- The bill proposes treating taxpayer liquidation proceeds as dividends for tax purposes
- To set forth that the value of member/shareholder's exit proceeds shall be assessed based on the market value of such proceeds (represented by property or property rights) net of the paid value of shares (stock).

For profit tax purposes, such exit proceeds shall be recognised based on their market value determined at the time of receipt

- To repeal the provision setting forth that the PIT and corporate profit tax benefits envisaged for the sale of shares (stock) held by a taxpayer for over five years apply solely to securities (equity stake) acquired by the taxpayer after 1 January 2011.

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

Project to host regional financial centre in Free Port of Vladivostok

According to the project, the Centre is meant to foster the global competitiveness of the free port, improve the quality and accessibility of financial services, and promote international cooperation.

Membership in the Centre will be available to Russian legal entities and the locally registered foreign entities included in the member register.

The Centre will offer a special regulatory framework for the foreign banks, establish a special finance court, and simplify rules for securities transactions. The project will be formalised by a resolution of the Russian Government.

A special fiscal regime for the members of the Centre is envisaged by a dedicated [bill](#). The members will be able to pay a single tax charged by the Centre and will be exempt from corporate income and property taxes. If the bill is adopted, they will also be exempt from VAT, except the VAT on imports and VAT payable under Article 174.1 of the Russian Tax Code.

The single tax will be charged at a rate of six percent of the profit generated by the taxpayer's business within the territory of the Centre.

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

[Federal Draft Regulations Portal](#)

St. Petersburg introduces tax benefits for SPIC participants

SPIC participants will be granted the following tax benefits:

- A five-year exemption from the property tax on real estate qualifying as a SPIC investment worth at least RUB 300 million and generating at least 70 percent of the SPIC's total income
- The regional profit tax component of 13.5 percent (12.5 percent in 2018-2020) for SPIC investors with investment of at least RUB 750 million generating at least 70 percent of the SPIC's total income
- A waiver of the regional tax component for SPIC participants engaged in a particular business (pharma, electrical, and auto manufacturing) with investments of at least RUB 750 million and a share in the total income of at least 90 percent.

The law will apply as of 1 January 2017.

[Official Internet Portal for Legal Information](#)

Moscow Region to grant tax benefits to business centre buyers

The companies acquiring business centers and/or offices in such centres will be granted the following tax benefits:

- A 4.5-percent reduction of the corporate profit tax rate

- A four-year exemption from the corporate property tax.

The benefits will be granted both to the investors into construction/redevelopment worth at least RUB 50 million and to the first owners that buy such business centres or offices for the same price.

To be eligible for the tax benefits, investors must comply with the following requirements:

- Have a headcount of at least 50 employees working in Moscow Region
- Pay salaries higher than the Moscow Region's average
- Re-invest tax savings into the company or to redeem target loans.

The law also sets forth the corporate profit tax benefit criteria:

- The total tax savings shall not exceed 35 percent of the business centre and/or office initial recognition value, per annum
- The corporate profit exemption amount for the whole period of operation shall not exceed the investment into/purchase price of the building/premises
- Tax savings caps may vary depending on the headcount (RUB 500 million for companies with the headcount of 50 and above and RUB 1 billion for

companies with the headcount of 500 and above).

The tax benefit will be granted with respect to the business centers commissioned from 1 January 2018 to 31 December 2025.

[Official Moscow Regional Duma website](#)

Russian Government approves rules for storage of user messages by mobile network operators

Phone call recordings and text messages will have to be kept for six months on the servers of local and long-distance mobile network providers and will be automatically deleted after that.

Social network and messenger correspondence, attachments, and other user content will have to be stored for 30 days. Until 2023, the server capacity will be annually increased by 15 percent.

The texts, voice, video, sound and other user messages must be stored on the local servers only. Subject to the approval of the Russian Federal Security Service, operators will be able to keep the required data on a third party's server.

An obligation to store the above-mentioned content was introduced effective 1 July 2018 both for mobile network and online operators.

[Official Internet Portal for Legal Information](#)

Clarifications from government bodies

Russian Federal Tax Service (FTS) clarifies refund of VAT on tax-free operations

In particular, the FTS has clarified the issues relating to VAT recovery by foreigners moving goods outside the EAEU customs area:

- If a retailer engages a third-party operator to issue tax-free vouchers, such voucher must contain information about the retailer (name, INN, address)
- The Russian Tax Code does not require retailers to stamp tax-free vouchers for tax refund purposes
- Tax-free vouchers approved by the customs are submitted to the chosen tax-free operator
- The tax-free operator will deliver the original tax-free voucher to the relevant retailer for VAT recovery purposes and will keep the copies
- For goods (less the value of returned items) worth at least RUB 10,000 including VAT, adjustments to tax-free vouchers can be made either by striking out the returned item(s) or by issuing a new document subject to the cancellation of the original voucher; if a foreigner fails to produce the original voucher, he will be issued a new document excluding the returned item(s)
- For goods (less the value of returned items) worth less than RUB 10,000 (VAT inclusive), the original VAT voucher must be returned to the issuing retailer.

[Consultant Plus](#)

Russian Ministry of Finance: information on US taxpayers must be disclosed according to standard international exchange procedures

According to the Ministry, the Russian Tax Code does not exempt tax residents of any country from being reportable persons as defined by Item 1, Article 142.4 of the Russian Tax Code.

Therefore, financial institutions must collect and submit information on all their clients (beneficiaries and their (in)direct controlling owners) having no Russian tax residency. The tax legislation provides for no special treatment of the US tax residents that would exclude them from the scope of the international automatic exchange of financial account information.

The Ministry underlines that no consent of the clients, beneficiaries, and their (in)direct controlling owners to the disclosure of financial account information to the Russian Federal Tax Service as part of automatic exchange is required.

[Consultant Plus](#)

Media review

Russian Ministry of Energy to clarify eligibility criteria for oil companies to tax on added income pilot project

In particular, Category 1 deposits (greenfields operated for up to five years) might be granted a higher reserves quota that will enable including larger fields in the pilot.

The quota is proposed to be increased to 150 million tonnes (vs. the current 50 million tonnes for the entire category).

The Ministry also proposes raising the quota for certain Category 4 fields from 10 to 20-30 million tonnes.

The proposal is being discussed with the Russian Ministry of Finance and is expected to be introduced for the second hearing of the added income tax bill.

Bill No. [325651-7](#) on the added income tax passed the Russian State Duma's first reading on 3 April 2018 (for more details, please refer to LT Digest [of 27 November – 3 December 2017](#)).

[Rossiyskaya Gazeta](#)

Russian Ministry of Natural Resources to raise tax deductions for oil companies promoting field exploration and development

The Ministry proposes introducing an additional source of financing for the development and exploration of onshore projects.

According to the existing law, tax deductions can be claimed only with respect to the specific offshore drilling location.

The Ministry proposes raising compensations 1.5-3.5 times, but obliging the companies to re-invest the savings into exploration activities.

If a company wants to continue offshore operations, the deduction will increase by 3.5 times and by 1.5 times for onshore operations.

[Vedomosti](#)

Federal Ministries to ban retailers from returning unsold produce to suppliers

The Russian Ministries of Agriculture, Economic Development, and Finance and the Federal Antimonopoly Service approved a bill banning the retailers from returning unsold produce to suppliers. The measure is meant to replace the existing ban for retailers to impose contractual terms enabling the return of unsold food products to suppliers.

[Izvestiya](#)

Business angels to get tax preferences

As part of the digital economy regulation development effort, Skolkovo experts developed a bill offering tax

preferences for business agents.

A business angel will be able to claim back half of its investment in high-tech startups that would pass examination by technology experts.

Such business angel's taxable income in the future tax periods will decrease by 385 percent of the total investment and by 13 percent of the tax amount.

The authors of the bill expect the business angels' ROI to grow by 19 percent and the investment to increase 10 times over five years.

[Vedomosti](#)

Federal Council to amend bill on Russia's response to foreign sanctions

Federation Council Speaker Valentina Matvienko said the upper chamber's committees will cooperate with the State Duma's experts in developing the countermeasures in response to the hostile actions of the USA and other foreign states.

The amendments are expected to be finalised by 30 April 2018.

The bill will be considered by the State Duma on 15 May 2018 after the expert discussions.

A [bill](#) enabling the Russian Government to implement reciprocal (counter) measures in response to the hostile actions of the USA and other foreign states towards Russia was submitted to the Russian State Duma on 13 April 2018.

For more details about the content of the draft, please refer to LT in Focus of [17 April 2018](#).

[Kommersant](#)

Association of Online Stores calls for introducing VAT and cancelling duty-free thresholds for online purchases from hostile states

The measure is proposed as a response to the hostile policy of the foreign states and is expected to foster domestic production, industry, and trade.

[Parlamentskaya Gazeta](#)

Russian Ministry of Energy announces timing for excise refund introduction

According to First Deputy Minister of Energy Alexey Texler, the excise refund for oil refineries will not be introduced until the export duty is repealed, i.e. not before 2023-2025.

The Ministry is not developing any other incentives for oil refineries, advocating for the stability of the tax regime for oil companies.

[Vedomosti](#)

Court practice

Russian Constitutional Court sustains ban to claim excise deductions by alcohol producers in case of product return

The Russian Constitutional Court considered the rightfulness of an excise deduction claimed by an alcohol producer following the return of an earlier sold product.

The excise deduction was challenged by the tax authorities.

In accordance with the applicable laws, producers of excisable alcohol products are not entitled to a recovery of paid excise tax if the sold products are returned by the buyers.

The courts sustained the tax authorities' position, citing the taxpayer's right to claim an excise tax refund for excisable goods other than alcohol.

According to the taxpayer, the provisions of Item 14, Article 187 and Item 5, Article 200 of the Russian Tax Code deprive the producers of excisable alcohol products of the right to claim an excise tax refund if the sold excisable goods are returned. In the taxpayer's opinion, this leads to the double taxation of one and the same operation, thus breaching the principle of equality and prejudicing the alcohol producers' legitimate rights as compared to the producers of other excisable goods.

The Russian Constitutional Court noted that the excise tax is charged on a sales operation, not on the goods. Each sale of alcohol/other excisable goods by the producer is subject to the excise tax, regardless of whether the producer sells a new or an earlier returned product. Hence, no double taxation occurs.

[Official website of the Russian Supreme Court](#)

Dispute between VKontakte and Double Data on big data ownership to be considered by court on intellectual property rights

By filing an appeal, Vkontakte sought the acknowledgment of the fact that VKontakte user data extraction by Double Data is a breach of database developer's exclusive rights. Double Data was accused of using the profiles of VKontakte users for its own business purposes, for instance, for further resale to banks for creditworthiness analysis.

A first instance court ruled in Double Data's favour, citing the use of open data that were owned by the users and did not require data extraction from restricted databases.

The Court of Appeals acknowledged Vkontakte as the database developer and admitted the breach of the latter's exclusive rights by Double Data.

The next court hearing is scheduled for 22 May 2018. For more details, please refer to LT Digest [of 29 January - 4 February 2018](#) and [12 - 18 February 2018](#).

[Electronic Justice: commercial courts files](#)

Deloitte publications

The Russian State Duma to consider a bill on reciprocal measures against the USA and other foreign states

A bill enabling the Russian Government to implement reciprocal (counter) measures in response to the hostile actions of the USA and other foreign states towards Russia was submitted to the Russian State Duma on 13 April 2018.

For more details, please refer to Legislative Tracking in Focus of [17 April 2018](#).

Streamlining non-tax charges: incorporation in the Tax Code or a separate law?

In their effort to put together a uniform list of non-tax charges, the Russian Ministry of Economic Development and Russian Ministry of Finance developed a draft law that would regulate the mandatory payments charged on legal entities and individual entrepreneurs and bring consistency to the non-tax charges framework.

The legislative initiative is meant to improve the business environment and improve transparency of non-tax payments administration. Including the non-tax charges into the Tax Code is another option currently on the table. The draft law that is going through the public hearings now will introduce a number of important developments.

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

The Customs Code of the Eurasian Economic Union (EEU) enters into force

The EEU Customs Code (the "Code") entered into force on 1 January 2018 and replaced the Customs Code of the Customs Union.

The Code contains quite a few references to the resolutions of the Eurasian Economic Committee (the "EEC"), thus expanding its authority. Some of the EEC resolutions were enacted together with the Code (e.g. those that regulate the automatic release of goods and introduce the form of application for release of goods prior to filing of customs declaration).

The new Code is intended to considerably simplify the customs formalities and improve the efficiency of cooperation between the customs authorities of the EEU member states, in particular, due to the improvement of electronic document flow systems and implementation of unified customs regulations. At the same time, closer cooperation between the customs authorities of the EEU member states will allow them to analyse the information available (e.g. on customs values of identical/similar goods imported into different EEU member states) and to increase control over the intra-EEU transactions (e.g. via track&trace mechanisms).

For details, please refer to Legislative Tracking in Focus of [6 February 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



Gennady Kamyshnikov
Managing Partner
Government Relations
gkamyshnikov@deloitte.ru



Oleg Berezin
Partner
Pharmaceuticals
oberezin@deloitte.ru



Oxana Zhupina
Partner,
Consumer Products
ozhupina@deloitte.ru



Yulia Orlova
Partner
Metals and Processing
yorlova@deloitte.ru



Vladimir Elizarov
Partner
Technology, Media, Entertainment &
Telecommunications
velizarov@deloitte.ru



Artem Vasyutin
Partner
Retail, Wholesale and Distribution
Tourism and Hospitality
avasyutin@deloitte.ru



Alexander Sinitsyn
Director
Global FSI
asinitsyn@deloitte.ru



Tatiana Kofanova
Director
Automotive
tkofanova@deloitte.ru

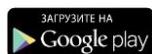


Alexandra Konova
Director
Oil & Gas, Energy & Resources, Mining
akonova@deloitte.ru



Yulia Krylova
Director
Real Estate
ykrylova@deloitte.ru

TaxSmart app



deloitte.ru

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