



LT Digest

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Legislative initiatives

President of Russia signs package of federal laws

The President of the Russian Federation signed a package of federal laws:

- Federal Laws No. [208-FZ](#) and [207-FZ](#) of 19 July 2018, aimed at **eliminating the duplication of powers of labour protection authorities**
- Federal Law No. [217-FZ](#) of 19 July 2018, enabling the execution of **joint wills and inheritance agreements** effective 1 June 2019.

Official Internet Portal for Legal Information

The Federation Council approved a package of bills:

- Bill No. [249505-7](#) that repeals transfer pricing control over transactions between related Russian entities and **exempts movable property from tax** (for more details, please refer to LT Digest of [9-15 July 2018](#).)
- Bill No. [96436-7](#), enabling the tax authorities to **access information and documents that constitute audit secrecy** (for more details, please refer to LT in Focus of [19 July 2018](#))

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- Bill No. [276391-7](#), **streamlining the currency control** rules for transactions, in which Russian exporters secure performance of non-residents' contractual obligations
- Bill No. [371795-7](#), introducing the **mandatory tobacco labelling** from 1 March 2019
- Bill No. [939349-6](#), streamlining the regulation of insurers' financial recovery
- Bill No. [126869-7](#), **regulating the online aggregators** (for more details, please refer to LT Digest of [9-15 July 2018](#).)
- Bill No. [384817-7](#), **optimising the international traffic settlements of Russian mobile network operators, passed the second reading.**

Official Federation Council website

Russian State Duma considers package of draft laws

The Russian State Duma has considered a package of draft laws:

- Bill No. [372830-7](#), regulating the organic production, passed the third reading
- Bill No. [168566-7](#), regulating the distribution of biomedical stem cell products, passed the third reading
- Bill No. [226620-7](#), enabling the **online sale of wines by manufacturers and wholesalers**, passed the first reading
- Bill No. [455221-7](#) on customs regulation passed the third reading.

Official website of the Russian State Duma

Bill on creation of special administrative districts in Kaliningrad Region and Primorskiy Territory passes third reading

The bill was updated to introduce a number of changes:

- The procedure regulating the redomiciliation requests of foreign entities was amended
- Companies will be entered in the register of residents based on the public registration of their redomiciliation
- The content of the contract for carrying on business in a special administrative district was clarified
- The provisions establishing special procedures for hiring foreigners in the special administrative districts were excluded.

For more details, please refer to LT Digest [of 18-24 June 2018](#).

Official website of the Russian State Duma

Package of bills on regulation and tax treatment of multinationals passed third reading

Amendments were introduced to the tax treatment provisions of Bill No. [488869-7](#):

- The document defines the multinational group as a multinational corporation registered by way of continuation of a foreign entity that was established under its governing law before 1 January 2018, subject to the submission of relevant registration paperwork and provided its current controlling owners had gained control before 1 January 2017
- The provision setting forth that the multinational groups registered by way of continuation will be treated as Russian companies for taxation purposes was excluded
- A multinational company will be obliged to report its interests in foreign corporations as at the date of its registration and its controlling owners
- The document clarifies the valuation of assets of multinational groups and foreign companies, qualifying as tax residents
- Lower profit tax rates will apply, if a multinational company is recognised as a multinational group as at the time of income payment (or at the time such confirmation is provided to a withholding agent)
- The first tax (reporting) period for multinational companies and foreign corporations qualifying as Russian tax residents will start from the date of a foreign corporation's registration as a multinational company or from the date when a foreign corporation is recognised as a Russian tax resident
- The bonds issued by the Russian companies under foreign laws will be deemed equal to the bonds issued by foreign corporations prior to their redomiciliation into multinational companies
- The provisions regulating the discontinuation of the multinational group's status are clarified.

Bill No. [488870-7](#), establishing currency regulations for the multinationals, was amended to enable FX or rouble cash settlements between non-residents within the limits set by the Russian laws.

Amendments to Bill No. [488862-7](#) that establishes a legal framework for the multinational companies were purely technical.

For more details, please refer to LT Digest of [18-24 June 2018](#).

Official website of the Russian State Duma

Bill raising developers' mandatory contributions to compensation fund drafted

The document envisages the following changes:

- To set forth that contributions under contracts for mass construction of residential properties, development of built-up areas, and integrated land development will depend on the total value of built multi-family residences pro rata to the total payments under the contracts
- Developers and their beneficial owners that are able to influence the developers' activities, including through instructions given to the CEOs or management bodies, will bear subsidiary liability for damages they cause to the home buyers (co-investors)

- To raise the developers' compensation fund contributions:
 - From 1.2 to 3 percent of the value of each co-investment contract with the home buyers — starting from 1 October 2018
 - From 1.2 to 6 percent of the value of each co-investment contract with the home buyers — starting from 1 January 2019
- To set forth that the size of contributions to the compensation fund might change only subject to the enactment of a federal law to that effect
- To clarify the bankruptcy procedures for residential construction cooperatives.

[Federal draft legislation portal](#)

Russian State Duma to consider easing penalties for currency breaches for Russian exporters and importers

According to the proposal, administrative fines will be imposed only if earnings in a foreign currency were remitted to the authorised banks more than 30 calendar days late.

Furthermore, the penalties for not transferring the payments under import/export contracts and loan agreements to the authorised banks and failure to transfer funds paid to non-residents for non-delivered goods, works or services might be lowered and will range from 5 to 30 percent of the amount outstanding.

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

Russian State Duma to consider bill on profit tax benefits for sponsors of professional sports clubs

The bill enables the regions to lower the regional profit tax component for the companies sponsoring professional sports clubs by the percentage calculated as the ratio of sponsorship contributions to the taxable profit base, but not more than by 4.5 percent.

However, the applicable profit tax rate may not be lower than 12.5 percent, and the tax reduction amount may not exceed the total sponsorship contributions under the contract.

The lower tax rate will apply subject to all of the requirements below:

- A sponsored professional sports club must be a member of the Russian Football Premiere League, the Football National League, or a professional sports league on the list approved by the federal sports authority
- The sponsored professional sports club must be based in the respective region
- The sponsorship contract must be signed for at least three years and provide for annual contributions
- The document also proposes entitling the taxpayers to expense their free-of-charge donations to professional football clubs.

If adopted, the Law will apply as of 1 January 2018.

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

Russian Ministry of Industry and Trade to pilot labelling of certain dairy products

The Ministry proposes to run a voluntary pilot from 1 September 2018 to 31 December 2019.

The list of labelled dairy products will include:

Milk (except raw milk); cream; powdered milk, freeze-dried skimmed milk (not more than 1.5 percent fat content); freeze-dried powdered milk and cream, including whole milk; butter, butter pastes, melted butter, milk fat, spreads and mixtures of melted butter and vegetable oils; cheeses, cheese products and cottage cheese; milk and cream, condensed or with sugar/other sweetening additives (not powdered); sour-milk products (other than cottage cheese and its products); dairy whey; and others.

[Federal draft legislation portal](#)

EAEU approves new rules of origin of goods from developing and least developed countries subject to customs preferences

The rules set forth new criteria and procedures for determining and confirming the origin of goods, the tariff preference requirements, and the grounds for denying such preferences.

The template of the certificate of origin and the fill-out rules are attached to the document.

The resolution will enter into force 180 months after its official publication and will replace the agreement on the rules of origin of goods from the least developed countries of 12 December 2008.

[Consultant Plus](#)

Bill repealing VAT refunds on exports of commodities submitted to Russian State Duma

If adopted, the law will come into force upon its official publication.

Please note that a bill repealing the zero VAT rate on commodity exports is already pending the Russian State Duma approval (for more details, please refer to LT of [22 June 2018](#)).

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

Russian Ministry of Finance to address adverse impact of sanctions

The powers of the Russian Ministry of Finance were expanded to include the interdepartmental coordination of measures aimed at mitigating the adverse impact of financial sanctions against Russia and Russian companies.

The Ministry will also cooperate with the foreign public authorities and international organisations in respect of the restrictions imposed on Russia.

[Consultant Plus](#)

Clarifications from government bodies

Russian Ministry of Finance clarifies repatriation of currency earnings from framework contracts with electronically agreed performance deadlines

According to the Ministry, if a framework contract between a resident and non-resident permits the approval of performance deadlines by e-mail (while the contract itself does not expressly regulate the subject matter, price, and payment dates), such framework contract with a duly certified printout of the e-mail correspondence setting forth the material terms and conditions will be deemed compliant with the requirements of Part 1.1, Article 19 of Federal Law No. [173-FZ](#) of 10 December 2003.

This law requires that to comply with the requirement to repatriate foreign and national currency earnings from the import/export contracts between residents and non-residents and/or loans issued by residents to non-residents, such contracts must set forth the obligation discharge dates.

[Consultant Plus](#)

Russian Federal Tax Service (FTS) comments on assessment of profit tax on additional capital contributions made by Russian parent company into Swiss affiliate

The FTS noted that the double tax treaty with Switzerland does not list income received in the form of contributions to additional paid-in capital or capital reserves.

At the same time, paragraph 1, Article 21 sets forth that items of income of a resident of a contracting state, wherever arising, not dealt with in other articles the treaty, shall be taxable only in that contracting state.

Therefore, income of a Swiss entity received from a Russian entity in the form of additional paid-in capital (capital reserve) contributions made to increase the net asset value will not be taxable in Russia, subject to compliance with the double taxation treaty

requirements and Article 312 of the Russian Tax Code, including the beneficial income ownership criteria.

The regulator also underlined that a capital reserve contribution qualifies as a donation of property to such foreign entity.

Therefore, the Russian entity's expenses on contributing to the paid-in capital (capital reserve) of the foreign subsidiary cannot be deducted for corporate profit tax purposes.

[Consultant Plus](#)

Russian Ministry of Finance clarifies assessment of profit tax on additional equity distributed between shareholders without stock dilution

According to Item 4, Article 10 of the Russia-Finland income tax treaty, the term 'dividends' means income from shares or other rights, other than debt claims, participating in profits, as well as income from other corporate rights, which is subject to the same taxation treatment as the income from shares by the laws of the State, of which the company making the distribution is a resident.

According to the Commentaries on the Articles of OECD Model Tax Convention, payments regarded as dividends may include not only the distributions of profits decided on by the annual general meeting of shareholders, but also other benefits in money or money's worth, such as bonus shares, bonuses, or profits from the liquidation or redemption of shares.

In the Ministry's opinion, if a company increases its equity out of the retained earnings without diluting the stock, a shareholder of such entity, which is a Finnish resident, will be deemed to have received income in the form of newly issued equity, which should be treated as dividends and, hence, taxed under Article 10 of the income tax treaty.

[Consultant Plus](#)

Media review

Russian Ministry of Economic Development launches accelerator to foster Russian export

As part of the national agenda to improve labour productivity and employment rates, the Russian Ministry of Economic Development has joined efforts with the Russian Export Centre's school of export to create the first export accelerator – 'Export Marathon'.

The accelerator aims to assist its members with entering the foreign markets and will provide a full training, mentorship, and expert support throughout the entire process up to the signing of an export contract.

Each member enterprise will be assigned a mentor that will provide hands-on advice on customer search and assessment, pre-export preparation of the enterprises and products, and the export marketing specifics.

Successful accelerator graduates will have to sign new export contracts within six months following the programme completion.

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

Russian Ministry of Industry and Trade calls for charging recycling fee on gas turbines

The fee might be charged to producers of gas turbines of up to 32MWt at a rate of seven percent of the turbine's value.

Russian producers will have their costs partially compensated through two new subsidies to be introduced in 2018-2020 for the purchase of spare components and use of energy resources by the energy-efficient enterprises.

The recycling fees will be accumulated in a special fund, created to support the Russian machinery manufacturers.

[Kommersant](#)

Outlook for cancellation of customs duties for parties to CKD agreements

According to the WTO accession requirements, starting from 1 July 2018, Russia must cancel the customs

benefits for car components imported for the CKD purposes.

Russia initiated aligning the import duties on CKD car components with the rates required by the WTO.

The proposal was considered by the Eurasian Economic Commission, yet no decision has been made so far.

[Vedomosti](#)

Food producers seek deferral of maximum residue limits in EAEU

The National Meat Association, Soyuzmoloko, the Retail Companies Association, and other food producers call for deferring the introduction of maximum residue limits in the EAEU.

The resolution of the Eurasian Economic Commission

(‘EEC’) on maximum residue limits of veterinary medicines in foodstuffs obtained from animals enters into force on 14 August 2018.

The resolution sets forth a list of 70 of substances and their permitted content in meat, raw milk, eggs etc.

Such limits are now set by the Customs Union’s technical regulations for six product categories only.

According to the producers, the implementation of the new limits will be challenging as they will need to be controlled with more precise and expensive methods.

While the EEC’s resolution expands the list of antibiotics, the express check methods are not yet in place and neither are the clinical trial results, allowing to see how soon the substances leave the animal’s system.

[Vedomosti](#)

Court practice

Court on intellectual property rights considers dispute between VKontakte and Double Data on big data ownership

On 17 July 2018, the court on intellectual property rights considered a lawsuit filed by VKontakte against Double Data over the misuse of VKontakte’s user data.

The social media company sought the acknowledgment of user data extraction by the defendant as a breach of its exclusive rights.

Double Data was accused of using the profiles of VKontakte’s users for its own business purposes (e.g. selling to banks for use in credit scoring models).

The first instance court awarded the claim to Double Data, while the court of appeal resolved in favour of VKontakte.

The court on intellectual property rights overruled the decision of the court of appeal and sent the case for re-trial.

For more details, please refer to LT Digest of [29 January-4 February 2018](#) and [12-18 February 2018](#).

[Electronic Justice: commercial courts files](#)

Russia wins its first WTO dispute

On 20 July 2018, the WTO secretariat released the

Arbitration Panel's report on the dispute between Russia and the Ukraine over the anti-dumping measures against Russian ammonium nitrate (DS493).

The dispute was initiated by Russia in May 2015 over the violation of the WTO’s rules by the Ukrainian authorised bodies during an anti-dumping investigation of Russian ammonium nitrate, which resulted in an extension of the anti-dumping measures for another five-year period in 2014.

In particular, instead of applying the Russian energy prices to calculate the cost of ammonium nitrate, third-country prices were applied as part of the so-called ‘energy adjustments’.

The Arbitration Panel acknowledged most of Russia’s claims, citing the breaches of the WTO’s requirements by the Ukraine and recommended that the latter rectify the violations.

If neither party appeals the resolution, the report can be submitted to the WTO’s dispute settlement body, which must approve it within 60 days, starting from 20 July 2018.

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

International taxation news

OECD releases report for G-20

The report provides an update on the following matters:

- The status of the OECD/G20 Inclusive Framework on BEPS
- The progress report made by the Global Forum on Transparency and Exchange of Information for Tax Purposes (AEOI)
- The development of the Platform for Collaboration on Tax (PCT)

- The tax challenges arising from the digitalisation of the world economy.

Other releases included an [update](#) on tax certainty and the BEPS progress [report](#) for July 2017 – June 2018.

The summit will take place from 30 November to 1 December 2018 in Buenos Aires, Argentina.

[Official OECD website](#)

Deloitte publications

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](#).

Thin capitalisation rules: going easy on foreign investors

On 3 July 2018, Bill No. [325651-7](#) that exempts controlled loans raised to finance investment projects in Russia from the thin capitalisation rules passed the Russian State Duma's second reading.

The bill was initiated by the Russian Government and is highly likely to be adopted by the end of the legislators' spring session.

If adopted, the bill will exempt the foreign investors that finance the long-term investment projects of their subsidiaries from the thin capitalisation rules.

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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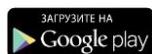


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