



## LT Digest

### Be in the know

#### Legislative initiatives

##### **Capital amnesty bill is signed by the Russian President**

The bill proposes a second round of voluntary asset and bank account declaration from 1 March 2018 to 28 February 2019.

The second round will:

- Enable the declaration of both the existing and closed accounts (deposits) with foreign banks, provided the closed accounts were opened before 1 January 2018
- Permit the first-round declarants to file another declaration
- Forgive tax debts that arose before 1 January 2018 (except for taxation of CFC profit).

[Official Internet Portal for Legal Information](#)

##### **Russian President signed the bill extending time for tax-exempt CFC liquidation**

The bill envisages the following changes:

- To extend the tax-exempt liquidation of CFCs to 1 March 2019

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- To include cash in the list of tax-exempt assets
- To set forth that CFC notifications will not be deemed overdue if they are submitted along with a special declaration
- To clarify that no tax is charged if a tax liability arose before 1 January 2018 from transactions involving the purchase, use or disposal of a CFC's property, opening of a bank account or crediting cash to an account reported in a special declaration filed from 1 March 2018 to 28 February 2019. However, this provision will not apply to the tax charged on the CFC's profit. We note that the bill leaves 2017 tax period open for reporting and tax obligations in 2018
- The provisions of Item 60, Article 217 of the Russian Tax Code, granting a PIT exemption for CFC liquidation proceeds (now including cash) to a taxpayer who is a beneficial owner of such proceeds, as well as Item 10, Article 309.1 of the Russian Tax Code will apply to legal relations arising from 1 January 2016
- The tax base for the disposal (redemption) of securities received by their beneficial owner from a nominal owner, if such securities and their nominal owner are reported in a special declaration, will be deemed to amount to the verified value of such securities in accordance with the transferor's accounting data as at the date of transfer, but may not exceed the market value
- We note that these provisions were not extended for legal entities. Thus, such extension is only applicable to the Russian tax residents – Individuals.

[Official Internet Portal for Legal Information](#)

### **Protocol to Russia-Belgium tax convention signed**

The Protocol, introducing amendments to the Convention between the Kingdom of Belgium and the Russian Federation for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed in Brussels on 19 May 2015 (the "Convention"), was signed on 30 January 2018.

The Convention is supplemented to enable the taxation of gains from the alienation of shares deriving more than 50 percent of their value, directly or indirectly, from immovable property.

The Convention has not yet been ratified, with respective Bill No. [1127359-6](#) pending approval of the Russian State Duma. Until the ratification, the [Convention](#) of 16 June 1995 applies.

[Official Ministry of Finance website](#)

### **Bill changing excising of ethanol-containing perfumes, cosmetics, and household products updated**

The bill envisages the following changes:

- To envisage the issue of special permits to producers of non-excisable ethanol-containing perfumes and

cosmetics

- Receipt/recognition of ethanol by a company holding a certificate to produce ethanol-containing perfumes, cosmetics or household products in aerosol cans and a certificate to produce non-excisable ethanol-containing perfumes and cosmetics will be subject to excise charges (at a rate of RUB 523 per litre for ethanol and RUB 107 per litre for denaturated alcohol in 2019)
- To differentiate the excise rates for transactions involving ethanol and denaturated alcohol and raise ethanol excise rates to RUB 523 per litre in 2019 (for certain transactions)
- A zero excise rate on the sale of ethanol to producers of ethanol-containing perfumes, cosmetics or household products in aerosol cans and/or non-excisable ethanol-containing perfumes and cosmetics will apply only if the buyer holds a relevant permit

[Federal draft legislation portal](#)

### **Draft list of commodity codes for VAT purposes developed**

Starting from 1 July 2016, in accordance with Item 3, Article 172 of the Russian Tax Code as amended by Federal Law No. [150-FZ](#) of 30 May 2016, VAT on goods (works, services, property rights) used in the sales of exported zero VAT goods can be reclaimed, once the purchased goods (works, services, property rights) are accounted for and VAT invoices are received from suppliers.

This does not apply to commodities where VAT is deducted at the time of taxable base calculation. The commodity codes are to be determined by the Russian Government.

The list is expected to be introduced in two stages:

- At the first stage, the list will not include cement, inorganic chemicals, certain compound organic chemicals, fertilisers, certain types of wood products, diamonds and other precious stones, precious metal products, jewellery, coins, ferrous and non-ferrous metal products
- Products from coal and peat, petroleum products, including gasoline and diesel fuel, refined petroleum products (petroleum jelly, paraffin wax, petroleum wax, coke, bitumen, etc.), bitumen and electric power mixtures, cement copper and copper matte, nickel matte and nickel middlings will be additionally excluded from the list one year after the government resolution enters into force.

Thus, the list will permanently include salt, sulfur, earth and stone, plastering materials, lime (except cement), ore, slag, and ash; mineral fuel (coal, peat, crude oil, and natural gas); bitumen and natural asphalt; certain compound organic chemicals; wood fuel and some types of unprocessed timber; pearls, semi-precious stones (processed and unprocessed), non-ferrous and ferrous scrap metal and waste.

[Federal draft legislation portal](#)

## Bill limiting interest for late payment of taxes developed

According to the bill, late payment interest may not exceed the original tax debt amount.

The document also clarifies that the interest is charged inclusive of the date of payment.

[Federal draft legislation portal](#)

## Central Bank of Russia releases bill on crowdfunding

On 26 January 2018, a similar bill was released by the Russian Ministry of Economic Development (for more details, please refer to LT Digest of [22 - 28 January 2018](#)), the key difference between the two being the investment ceiling for individuals.

The Ministry proposes capping the annual investment at RUB 1.4 million for individuals other than qualified investors and individual entrepreneurs, while the CBR believes such cap must not exceed RUB 500,000 or RUB 50,000 per project per month.

[Official Russian Central Bank website](#)

## Russia to introduce international electronic consignment notes

By virtue of Russian Government Resolution No. 83 of 30 January 2018, Russia joined Additional Protocol to the Convention on the Contract for the International

Carriage of Goods by Road (CMR) of 19 May 1956.

The Additional Protocol aims at facilitating and expediting the performance of the contracts of carriage by using electronic communications, including electronic consignment notes that will be considered equivalent to paper consignment notes referred to in the Convention.

[Official website of the Russian Government](#)

## Airlines may face higher delay penalties

The Russian State Duma is to consider a bill proposing a four-fold increase of flight delay penalties – to RUB 100 per each hour of delay, but no more than 50 percent of the total cost of carriage (vs. the current 25 percent of the minimum wage, i.e. RUB 25 per each hour of delay, but not more than 50 percent of the fare).

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

## Russian Government calls for permitting advertising of EAEU wines in Russian mass media

A bill proposing to permit the advertising of wines originating from Armenia, Belarus, Kazakhstan, and Kyrgyzstan was submitted to the Russian State Duma.

The document is aimed at aligning the provisions of Article 21 of Federal Law No. 38-FZ "On Advertising" with the Eurasian Economic Union Agreement of 29 May 2014.

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

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## Court practice

### Court bans collection and analysis of VKontakte users' open data for commercial purposes, including credit profiling

On 29 January 2018, the Ninth Commercial Court of Appeals [partially sustained](#) the claim filed by VKontakte against Double Data, developer of big data solutions.

VKontakte accused the software developer of uncontrolled commercial use of social media profiles (last names, employment, educational institutions and other open data), e.g. selling them to banks which further use them for credit scoring.

According to the plaintiff, all user data are aggregated in a separate automated database, therefore, any data extraction and use are subject to the right holder's consent.

A first-instance court ruled in Double Data's favour, citing that the developer used open data that were owned by the users and did not extract information from restricted databases. Also in the court's opinion, VKontakte failed to prove the development of databases meeting the criteria of Article 1260 of the Russian Civil Court.

The Court of Appeals awarded the claim to VKontakte and banned the software developer from using the social network profiles for its own purposes.

The Plaintiff was denied a notional compensation of

damages of RUB 1.

Experts fear the ruling may become a dangerous precedent for the big data market as any open data research may now be potentially banned.

[RBCdaily](#)

### Supreme Court supports Sberbank in denying deposit cash withdrawal over money laundering suspicions

On 30 January 2018, the Supreme Court Panel for Civil Disputes [resolved](#) in favour of PAO Sberbank, which denied withdrawal of deposit in cash to a private client, suspecting him of money laundering activities.

Nearly RUB 56 million were transferred to the client's account with Sberbank from his account with AO City Invest Bank in 2015. The day after, the client attempted to withdraw the money.

The bank requested that the client provide documentary evidence of the origin of that money and, having studied the documents, denied the withdrawal.

The client subsequently opened a number of term deposit accounts with PAO Sberbank, where he transferred the funds and re-attempted to withdraw them on maturity, but the bank denied withdrawal again.

The client filed a lawsuit seeking the return of his money, including interest and penalties.

The courts supported the bank, citing the client's failure to provide documentary evidence proving the bona fide origin of the money.

Yet, the client was not barred from disposing of his funds by wire transferring them to his other accounts.

[Kommersant](#)

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## Clarifications from government bodies

### Federal Tax Service reminds that Article 54.1 of Tax Code applies only to field tax audits scheduled after 19 August 2017

A number of court decisions that re-affirmed the inapplicability of Article 54.1 of the Russian Tax Code to tax audits scheduled before the enactment of Federal Law No. [163-FZ](#) of 18 July 2017, i.e. 19 August 2017, were cascaded to the lower tax authorities.

They are: [Resolution](#) of the Commercial Court of Urals District of 15 November 2017 in case No. A60-49834/2016; [Resolution](#) of the Commercial Court of Moscow District of 16 November 2017 in case No. A40-

235036/2016; [Resolution](#) of the Commercial Court of Urals District of 13 October 2017 in case No A76-2131/2017; and [Resolution](#) of the Commercial Court of North-Western District of 16 November 2017 in case No. A56-3105/2017.

Federal Law No. 163-FZ of 18 July 2017 supplemented Part 1 of the Russian Tax Code with Article 54.1 "Limits on taxpayer rights in calculation of taxable base and (or) taxes, levies, and social contributions" (for more details, please refer to LT in Focus of [7 July 2017](#)).

[Consultant Plus](#)

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## Media review

### Bill introducing electronic employment record books to be developed by end of 2018

The information was confirmed by Chairman of State Duma's Committee for Economic Policy Sergey Zhigarev.

[Accounting. Taxes. Law](#)

### Belarus fails to comply with EEC demand to stop import checks

The Russian associations of manufacturers of consumer goods sent a letter to Prime Minister Dmitry Medvedev, complaining that Belarus does not comply with Item 2, Article 53 of the EAEU Agreement, obliging member states to enable the unhampered circulation of qualifying products without any additional checks. The breaches were acknowledged by the Eurasian Economic Commission Panel in November 2017.

Despite the Commission's demands, Minsk continues to apply examination procedures to 150 product types.

According to the letter, such conduct encourages unfair competition and is detrimental to the EAEU's internal market.

[Kommersant](#)

### Russian Anti-Monopoly Service develops bill on competition in digitalised economy

The bill envisages the following changes:

- To introduce the concept of "pricing algorithm", a software used to monitor, calculate, and control product prices or to participate in trading activities
- To introduce the concept of "network effect",

whereby the increasing number of users of a trading platform generates additional benefits for platform owners, including from data collection and processing

- To acknowledge that a company can dominate the market based on the network effect, even if its market share is below 35 percent
- To expand the powers of the Russian Anti-Monopoly Service: if a company requesting a transaction approval fails to comply with a warning issued by the regulator, the latter may seek a judicial ban for such company to operate in Russia, or, in case of foreign companies, may permit the use of their intellectual property in Russia without their consent "based on terms and conditions the anti-monopoly authority may deem appropriate"
- The use of price robots will aggravate administrative sanctions for abusing the market dominance, price manipulations, and other violations

The document has not yet been officially published.

[Kommersant](#)

### Global Blue and Ruben Vardanyan to operate tax free in Russia

Global Blue, the world-known tax refund operator, and the former co-owner of the Troika Dialog investment firm Ruben Vardanyan have announced the launch of a joint venture "Global Blue Russia", which will operate the implementation of tax free in Russia.

The tax-free regime was enabled by Federal Law No. [341-FZ](#) of 27 November 2017 (for more details, please refer to LT in Focus of [8 December 2017](#)).

[Vedomosti](#)

### **Russian Ministry of Finance proposes setting up offshore zones for cryptocurrency trading**

The Russian Ministry of Finance considers establishing special offshore zones in Vladivostok and Kaliningrad to set up cryptocurrency exchanges.

As a reminder, the Russian Ministry of Finance earlier developed a bill on digital assets (for more details, please refer to LT Digest of [22-28 January 2018](#)).

[\*Rossiyskaya gazeta\*](#)

# 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](#).

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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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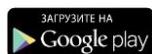


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## TaxSmart app



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

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