



LT Digest

Be in the know

Legislative initiatives

Russia-Belgium tax convention was ratified

To learn more about the Convention, please refer to LT in Focus of [28 May 2015](#).

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

Moscow City Duma adopts tax benefits for car manufacturers

The following tax benefits are adopted for the companies qualifying as car manufacturers:

- A [reduction](#) of the regional profit tax component to 12.5 percent in 2018–2020
- An [exemption](#) from corporate property tax for the assets used in car manufacturing.

The car manufacturer status will be assigned and reaffirmed by the Moscow Government.

The benefits will apply effective 1 January of a tax period preceding the calendar year when the company had its status reaffirmed.

The document will apply from 1 January 2018 to 1 July 2021.

[Official Moscow Duma website](#)

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Russian Federal Tax Service (FTS) approves format and electronic filing procedures for CbC reports

To remind, in accordance with Federal Law No. [340-FZ](#) of 27 November 2017, a taxpayer that is a parent company or a surrogate parent company of a multinational enterprise ("MNE") group must submit a country-by-country ("CbC") to the FTS.

The CbC report of an established format is filed electronically no later than 12 months of the last day of the reporting fiscal year of such MNE group's parent company.

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

[Official Internet Portal for Legal Information](#)

Moscow Region to incentivise acquisition of office centres from developers

The first buyers of business centres and/or office premises will enjoy the following benefits:

- A 4.5-percent reduction of the corporate profit tax rate
- A property tax exemption.

The benefits will be subject to the following conditions:

- The property must be built and commissioned over the period from 1 January 2018 to 31 December 2025
- The title shall be registered within one year of commissioning
- The property must meet the requirements of Item 3, Article 378.2 of the Russian Tax Code (for assessment of tax as per cadastral value)
- The purchase price must be at least RUB 50 million as at the time of asset recognition tax savings must be re-invested (e.g. in new construction) or used to repay business development loans
- The average headcount in Moscow Region shall be at least 50 during each period when the benefits applied
- The personal income tax payable to the Moscow Region's consolidated budget for each tax period when the benefit applied must be higher than the previous period
- An average pay of employees engaged in Moscow Region must be higher than the region's average.

The profit tax benefit can be applied, starting from the period following the commissioning period, but no later than after three subsequent tax periods.

The property tax benefit can be applied, starting from the month following the month of commissioning.

The benefit is subject to the following limitations:

- It can only be applied for four consecutive tax periods
- The total profit tax benefit in each tax period cannot exceed 35 percent of the property acquisition cost
- The total profit tax benefit for the entire benefit period cannot exceed the property acquisition cost or RUB 1 billion, if the average headcount in Moscow Region during each benefit period is at least 500 people, or RUB 500 million for the average headcount of 50 to 500 people.

The benefit will terminate in the period, in which the property title ceases.

If the title ceases within seven years, the taxes shall be paid in full for the entire period.

The document clarifies the use of benefits by the companies purchasing business centres/office premises for capital investment purposes (the wording of the existing Article 26.18 of Moscow Region's Law No. 151/2004-O3 "On Tax Benefits in Moscow Region" has been amended).

In particular, if an investor transfers the title to a property within a year following the commissioning, the benefits will not apply.

[Official Rosstandard website](#)

Russian Government finalises list of tax-free pilot checkpoints

The list now includes one road checkpoint, 14 airport checkpoints, and three seaport checkpoints in St. Petersburg, Vladivostok, Moscow, Volgograd, Yekaterinburg, Kazan, Kaliningrad, Nizhny Novgorod, Rostov-on-Don, Samara, Saransk, Sochi, and Moscow Region.

[Consultant Plus](#)

Russian Ministry of Industry and Trade expands tax free shopping pilot

The list of participating regions was expanded to include Mordovia, Tatarstan, Volgograd, Kaliningrad, Nizhniy Novgorod, Rostov, Samara, and Sverdlovsk Regions.

The document also specifies the locations of participating retailers and the participation eligibility criteria, one of them now being the absence of outstanding tax liabilities at any day within 30 calendar days prior to applying for joining the tax-free system.

[Official Internet Portal for Legal Information](#)

President of Russia names key targets and strategic objectives until 2024

In particular, the following targets and objectives are set:

- Boosting the country's technology development and increasing the number of tech innovation companies by 50 percent
- Expediting the digitalisation of the economy and the social sector
- Establishing high-performance export-oriented technology-driven sectors in basic industries staffed with highly qualified specialists
- Improving the funding mechanisms of residential construction, including through the mortgage securities market and gradual transition from 214-FZ construction projects to other financing models, ensuring the protection of consumer rights and mitigation of risks
- Modernising the construction industry and improving the quality of residential construction, including by limiting the outdated and promoting the cutting-edge design technologies and streamlining the government incentives for standard construction projects
- Easing the administrative burden for developers; improving the legal framework and the regulation of residential construction
- Creating the cutting-edge infrastructure to ensure a safe management of hazardous wastes (Hazard Classes I and II) and liquidation of highly polluting facilities
- Fostering the use of the best available technologies by all unsustainable companies
- Gradually increasing the share of POL excise tax payable to the regional budgets to 100 percent
- Ensuring a flexible industry-specific digital economy regulation and the digitalisation of commercial activities
- Transforming the high-priority economic and social sectors, such as health, education, industry, agriculture, construction, municipal utilities, transport, energy, and finance, through digital technologies and platform solutions.

[Official website of the President of Russia](#)

Russian State Duma to consider imposition of administrative sanctions for distribution of banned products

Penalties will be imposed for the distribution of sanctioned agricultural produce, raw materials, and food originating from the USA, EU, Canada, Australia, Norway, Ukraine, Albania, Montenegro, Iceland, and Lichtenstein and banned in Russia until 31 December 2018.

The penalties will range from RUB 3,000 to 5,000 for individuals and RUB 70,000 to 100,000 for businesses.

Furthermore, unless there are applicable destruction regulations, the sanctioned products will be confiscated.

The sanctions will be imposed by the Russian Federal Customs Service (FCS).

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

Russian State Duma to consider bill on VAT treatment of educational activities

According to the bill, the implementation of primary and/or additional educational programmes will not be treated as a sale of products or services and, hence, will not be subject to VAT.

Furthermore, the bill calls for exempting tuition programmes from VAT.

At the same time, VAT exemptions granted to non-profit educational facilities licensed to run primary or additional education programmes are proposed to be withdrawn.

In practice, this will mean that VAT exemptions can be sought not only by non-profit organisations, but other educational program providers as well.

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

Russian State Duma to consider bill banning deduction of bonuses paid by sellers for VAT purposes

In accordance with the existing laws, a bonus paid by a supplier for the achievement of certain contractual targets does not decrease the VAT base except when the contract expressly provides for the reduction of the value of shipped goods by the bonus amount.

The bill proposes setting forth that the bonus will not reduce the VAT base regardless of the contractual provisions.

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

Bills streamlining regulation of road and railway freight transit via Russia submitted to Russian State Duma.

The bills propose using the track and trace technology for controlling the international freight transits by road and rail.

International freight carriers will only be able to transit Russia subject to being equipped with electronic identifiers (navigation seals) registered in the monitoring system.

The breach of the above-mentioned rules [will result](#) in penalties.

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

Bill setting forth corporate disclosure procedures developed

The bill expands the government's authority to exempt companies from disclosure obligations and restrict the scope of disclosure, including the shareholding (membership), management, and restructuring data.

According to the bill, this restricted information cannot be released or posted on a registration authority's website and can be provided solely to the public authorities, courts, and social security funds in the instances and in a manner determined by the government.

[Federal Draft Regulations Portal](#)

Bill on enforcing licensing for export purposes

The bill was developed further to the Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights, according to which, subject to the conditions set in the Agreement, a compulsory licence can be issued for exporting the patented medicines to a WTO country.

The changes proposed by the bill imply that the compulsory export licences will be issued based on the courts' decisions.

[Federal Draft Regulations Portal](#)

Federal Service for Alcohol Market Regulation might be authorised to block websites offering alcohol online

The regulator is working on [a draft](#) government resolution that expands its powers, in particular, entitling it to block online liquor websites without a court order.

[Consultant Plus](#)

Regulatory clarifications

Russian Ministry of Finance: contribution of trademark rights to charter capital by foreign shareholder does not entail VAT liability

According to the Ministry, the transfer of the exclusive trademark rights from a foreign person to a Russian company are deemed to be supplied in Russia.

At the same time, the provisions of Item 2, Article 38, Sub-Items 1 and 4, Item 3, Article 39, Sub-Item 1, Item 1 and Item 2, Article 146, Articles 149 and 170 of the Russian Tax Code considered in aggregate imply that the transfer of the exclusive trademark rights (including by foreign entities) made as a capital contribution is VAT-exempt.

[Garant:Prime](#)

Russian Ministry of Finance clarifies timeline for claiming VAT recovery on intangibles

Citing Ruling of the Russian Supreme Commercial Court No. [VAS-17962/12](#) of 11 January 2013, the Ministry has advised that VAT related to acquisitions of intangible assets is subject to a recovery once such intangibles are recognised in Account 04 "Intangibles", provided the conditions of Articles 171 and 172 of the Russian Tax Code are met.

The refund can be claimed within three years following the recognition of the intangibles on the basis of VAT invoices **regardless of their dates**.

The Ministry's position is debatable. Thus, in Cases No. [A40-137153/2016](#) and [A40-117021/2016](#) (which were denied escalation to the Supreme Court's Panel on Economic Disputes) the courts arrived at an opposite conclusion, citing that a VAT refund can be claimed starting from the date the respective works performed to produce the intangibles are recognised in accounting.

[Garant:Prime](#)

Russian Ministry of Finance clarifies accounting for income from contributed capital in OOs

The Ministry has reminded that Chapter 25 of the Russian Tax Code treats the increase of the nominal value of the stockholding resulting from a capital increase made from retained earnings as shareholder's (member's) income.

At the same time, in accordance with Sub-Item 15, Item 1, Article 251 of the Russian Tax Code, only a **shareholder** may exclude this income from its taxable base (subject to certain conditions).

Therefore, a member of an OOO the nominal value of whose participatory interest increases from retained earnings is deemed to be generating taxable income for profit tax purposes.

[Garant:Prime](#)

Russian Federal Tax Service (FTS) clarifies legal status of agricultural distributors' charter

According to the FTS, the agricultural distributors' charter was initiated by the agricultural market players in an effort to foster fair competition and establish the transparent and economically justified risk-free procurement environment.

With 2,700 signees already, the charter is open for joining; grain producers, agricultural exporters, starch, flour, dairy, sugar, oil extracting and other processing plants, poultry and pig-breeding factors selling their products domestically are among the members.

The FTS is not a party to the charter; however, it points out that the initiative strengthens the fiscal revenue while having no adverse effect on the market players' revenues from exports and domestic sales.

The companies applying unjustified tax optimisation schemes will be subject to sanctions envisaged by the Russian Tax Code.

[Garant:Prime](#)

Judicial practice

Commercial Court of Moscow reaffirms inclusion of cryptocurrencies in individual debtor's bankruptcy estate

In its ruling of 7 May 2018 in Case [A40-124668/2017](#), the court of appeal adjudged on including the crypto-assets into the bankrupt's estate and providing the cryptowallet access details to the bankruptcy receiver.

As a reminder, the court of the first instance denied the inclusion of cryptocurrencies in an individual's bankruptcy estate and denied the granting of access to his cryptocurrency wallet (for more details, please refer to LT Digest of [5 – 18 March 2018](#)).

[Kommersant](#)

International taxation news

OECD invites public comments on future revision of TP Guidelines

The OECD has released the updates of:

- Chapter IV "[Administrative Approaches to Avoiding and Resolving Transfer Pricing Disputes](#)"
- Chapter VII "[Special Considerations for Intra-Group Services](#)".

The public discussion of the updates will continue until 20 June 2018.

[Official OECD website](#)

OECD releases additional guidance on attribution of profits to permanent establishment

This [additional guidance](#) sets out the high-level profit distribution principles and considers particular examples of the attribution of profits to permanent establishments.

For more details on the development stages, content, and key provisions of the document, please refer to the Global Transfer Pricing Alert of [1 May 2018](#).

Media review

FCS to create register of unreliable businessmen and companies

The owners of companies performing suspicious cross-border cash or product transfer transactions will be automatically blacklisted.

If the same founders establish a new company, it will be at risk from the very start, red-flagged for checks by the Russian Federal Tax Service and the authorised banks.

The blacklisted individuals may be denied the registration of new companies, while shell companies may be excluded from the State Register of Legal Entities.

The authorised banks may terminate banking contracts with such companies and reject their foreign currency operations.

[Economica i Zhizn](#)

The courts, though, are inconsistent in their position on the matter.

Thus, in Case [A40-159212/2017](#), the Commercial Court of Moscow acknowledged the legitimacy of parallel import in Russia, citing that the distribution of legitimately purchased goods bearing the trademark of a foreign producer (rightholder) by different entities did not constitute an infringement of exclusive rights or unfair competition practice.

At the same time, the Russian Constitutional Court in its Ruling No. [8-P/2018](#) of 13 February 2018 acknowledged that Russia's statutory principle of exhaustion of IP rights that bans importation of trademarked goods without an owner's consent does not contradict the Russian Constitution (for more details, please refer to LT Digest of [12 – 18 February 2018](#)).

The Constitutional Court also called for the differentiation of the liability for parallel import and import of the counterfeit merchandise.

[Kommersant](#)

Parallel import legalisation initiative in Kaliningrad Region

Speaking at the IPQuorum 2018, Governor of Kaliningrad Region Anton Alikhanov proposed setting up a platform for testing a parallel import in Kaliningrad Region.

Russia is currently applying the statutory principle of exhaustion of IP rights that bans the importation of trademarked goods without an owner's consent. The ban applies to many industries, including the distribution of pharmaceuticals, household appliances, and car parts.

The removal of the parallel import ban has long been advocated by many stakeholders, including the Russian Antimonopoly Service, which believes that the transition to the international exhaustion principle will improve competition and restrain price growth.

Rospotrebnadzor sets timeline for colour labelling of food products

The pilot provides for the voluntary labelling of food products with colour identifiers – green, yellow, and red – depending on the product's health benefits.

Rospotrebnadzor has already discussed the pilot with food producers and retailers and developed the labelling guidelines.

The pilot may be launched in summer 2018.

[Rossiyskaya Gazeta](#)

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

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