



## LT Digest

### Be in the know

#### Legislative initiatives

##### **Federation Council approves bill on added income tax, several other bills**

The Federation Council has approved a package of bills:

- Bill No. [325651-7](#), introducing a tax **on added income from the extraction of hydrocarbons** (for more details, please refer to LT in Focus of [3 July 2018](#))
- Bill No. [387044-7](#), obliging the **inviting party to ensure the foreign invitee's compliance with the stated objective** and period of stay in Russia (for more details, please refer to LT in Focus of [4 July 2018](#))
- Bill No. [387276-7](#), amending Article 18.9 of the Russian Administrative Offences Code to **expand the responsibilities of the inviting party for immigration purposes**
- Bill No. [204628-7](#), improving **the corporate governance and minority shareholder protection mechanism**
- Bill No. [481297-7](#), clarifying the assessment of personal income tax on income from transactions with **Russia's sovereign bonds**

[Official Federation Council website](#)

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[Bill repealing control of domestic transactions with related parties and exempting movable property from tax approved in second reading](#)

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[OECD releases economic scenarios until 2060](#)

[Digest of tax adjudications of Constitutional and Supreme Courts for Q2 2018 released](#)

## Bill repealing control of domestic transactions with related parties and exempting movable property from tax approved in second reading

The [bill](#) introduces the following changes:

- Transactions between the Russian related parties will no longer be deemed controlled (except when the parties apply different tax rates to their respective profit from such transactions — the transactions will be deemed controlled if their total volume with one related party exceeds RUB 1 billion per year)
- Transactions with a foreign related party will be treated as controlled subject to a minimum annual threshold of RUB 60 million
- Detailed regulation for additional tax control procedures is introduced
- The duration of desk VAT audits is reduced to two months
- Waybill stamped by a customs authority will no longer need to be submitted to justify the applicability of a zero VAT rate for exports
- The threshold for the declarative procedure of VAT recovery is lowered
- The powers of the regions to charge the regional profit tax component at lower rates will be limited to the instances envisaged by the Russian Tax Code; the existing rates set before 1 January 2018 will apply until 1 January 2023 at the latest
- The concept of a consolidated taxpayer group (CGT) will be abolished since 2023 with no new contracts to be registered, registrations completed in 2018 to be deemed void, and the existing CGTs to operate until their expiration date, but no later than 1 January 2023.

The Russian State Duma also considered the following bills:

- Bill No. [371795-7](#), introducing the **mandatory labelling of tobacco products** starting from 1 March 2019, passed the third reading
- Bill No. [939349-6](#), **streamlining the licensing of insurance companies, passed the third reading** (for more details, please refer to LT Digest of [30 June - 8 July 2018](#))
- Bill No. [276391-7](#), **streamlining the currency control** rules for transactions, in which Russian exporters secure performance of non-residents' contractual obligations, passed the second reading (for more details, please refer to LT Digest of [30 June - 8 July 2018](#))
- Bill No. [425725-7](#), **improving the automated control over emissions and discharges of pollutants**, passed the third reading
- Bill No. [96436-7](#), enabling the tax authorities to **access information and documents that constitute audit secrecy**, passed the second reading (for more details, please refer to LT in Focus of [19 July 2018](#))
- Bill No. [346805-7](#), enabling individuals to discharge their tax liabilities with a single **payment**
- Bill No. [489370-7](#), exempting the **electronically**

**filed company registration applications** from registration fees, passed the second reading.

*Official website of the Russian State Duma*

## Bill regulating online aggregators updated for second reading

The updated version provides for the following distribution of duties and responsibilities between an aggregator and a seller:

- The aggregator provides own information and references the seller's information (e.g., by posting a link to the seller's website)
- The seller provides its business profile to the aggregator/posts it on the aggregator's website, updating the information within one business day after the changes
- The aggregator that misinforms/provides incomplete information about a product (service) and/or the seller will be liable for the losses caused to consumers by such misrepresentation
- The aggregator will be exempt from liability if incorrect/incomplete information was provided by the seller and was not further modified by the aggregator
- Unless otherwise agreed by the owner of the aggregator and the seller, the seller is liable for performance under the contract with a buyer
- The owner of the aggregator must return the payment if a product/service was not supplied on time and the buyer has given a contract termination notice to the seller (aggregator).

If adopted, the law will enter into force on 1 January 2019.

*Official website of the Russian State Duma*

## Counter-sanctions extended until 31 December 2019

A presidential order to that effect has been signed and officially released.

*Official Internet Portal for Legal Information*

## Russian Ministry of Natural Resources and Environment to reconsider environmental fee rates

A [new list](#) of goods and packaging to be recycled after losing consumer value entered into force on 1 January 2018 (for more details, please refer to LT Digest of [9-14 January 2018](#)).

The Ministry drafted a government resolution to align environmental fee rates with the new government list No. [284](#) of 9 April 2016.

The draft resolution sets the following new rates:

- For Group 37 'Non-rechargeable batteries and cells' — RUB 33,476 per tonne
- For Group 46 'Internal combustion engine filters' — RUB 3,037 per tonne

- For Group 40 'Electronic and electrical wires and cables' — RUB 2,423.

The rates will also be raised for certain other groups of goods and packaging, in particular:

- For 'Hollow glass' — from RUB 2,564 to RUB 2,858 per tonne
- For 'Barrels and similar containers of ferrous metals'— from RUB 2,423 to RUB 2,564 per tonne.

[Federal draft legislation portal](#)

### Russian Government raises import duties for US goods

Russian Government Resolution No. 788 of 6 July 2018 raises the import duties on certain trucks, road construction machinery, oil and gas equipment, metalworking and hard rock drilling equipment, and optical fibers produced in the USA from 25 to 40 percent.

[Official website of the Russian Government](#)

### Caspian states agree on trade and economic cooperation

The signing of the agreement with Azerbaijan, Iran, Kazakhstan, and Turkmenistan on behalf of the Russian Federation was assigned to the Russian Ministry of Economy and Trade (by Russian Government Resolution No. 1389-p of 6 July 2018).

The agreement is expected to foster the implementation of joint investment projects and programmes, exchange of best legislative practices and standards, creation of joint ventures, and digital economy initiatives.

[Official Internet Portal for Legal Information](#)

### Russian Ministry of Finance raises minimum prices for vodka and spirits

The minimum retail price of 0.5l of vodka with 38% - 39% of alcohol by volume (inclusive VAT and excise) was raised to RUB 205 (vs. the current RUB 201).

The document entered into force on 20 June 2018.

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## Clarifications from government bodies

### Russian Ministry of Finance clarifies applicability of thin capitalisation rules to companies with several (in)direct shareholders

According to an inquiry sent to the Ministry, a Russian company has controlled debt and several foreign (in)direct shareholders.

The question was which shareholder's interest should be used to calculate the capitalisation ratio.

According to the Ministry, if any of the foreign shareholders has a 100-percent interest, such interest should be used for calculating the capitalisation ratio.

A situation where none of the shareholders holds a 100-percent interest was not commented upon.

The question whether a shareholder with a bigger/smaller interest or the ultimate shareholder in a vertical structure should be taken into account for thin capitalisation purposes remains open.

[Consultant Plus](#)

### Russian Ministry of Finance clarifies tax treatment of shareholder's income from foreign subsidiary's capital reduction

The Ministry has reminded that the profit tax base does not include income in the form of property or property rights received by a shareholder from capital reduction, where such reduction is the realisation of a right or performance of an obligation **set by the laws of Russia**.

Since capital reduction of foreign entities is out-of-scope of the Russian law, income tax exemptions do **not apply**.

At the same time, a shareholder's capital contribution to a subsidiary is **similar to a free-of-charge transfer of funds** and their repayment to the shareholder.

Therefore, a Russian taxpayer may apply the provisions

of Sub-Item 11, Item 1, Article 251 of the Russian Tax Code that exempts the funds received free-of-charge from a subsidiary, in which the shareholder holds an interest exceeding 50 percent.

Thus, the Ministry treats the proceeds received by the Russian shareholder from a foreign subsidiary's capital reduction similarly to a free-of-charge receipt of funds regardless of whether they exceed the shareholder's capital contribution, which means that such transactions should be taxed at 20 percent, except when a shareholder owns more than 50 percent of its foreign subsidiary.

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### Russian Ministry of Finance comments on forgiveness of subsidiary's debt purchased from third party

According to the Ministry, a forgiveness of a subsidiary's debt purchased from third parties (original creditors) does not qualify as a free-of-charge receipt of funds from the forgiving shareholder.

Therefore, income received from a Russian company in the form of a forgiven debt will not be eligible for the tax exemption envisaged by Sub-Item 11, Item 1, Article 251 of the Russian Tax Code.

[Consultant Plus](#)

### Russian Ministry of Finance clarifies assessment of taxable base for gains from alienation of securities received free-of-charge as property contribution

The Ministry has noted that, pursuant to Article 329 of the Russian Tax Code, if a security was received free-of-charge or identified during stocktaking, its selling cost for tax accounting purposes should be valued based on its market value calculated in accordance with

Article 280 of the Russian Tax Code.

At the same, according to the Ministry, the provision only applies where the free-of-charge receipt of securities was recorded in the taxable profit.

Therefore, the value of contributed securities will be deemed to be zero for corporate profit tax purposes.

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### **Russian Ministry of Finance explains unjustified tax benefit considerations for relocating businesses**

Responding to an inquiry concerning a business that relocated to Moscow Region (which offers property tax benefits for movables in 2018–2020), the Ministry said that taxpayers are free to choose the region for their business, based on the economic, financial and other factors. Their decision may well be driven by the preferences, benefits, and other incentives offered by a particular region.

This approach fosters fair competition among the

regions in terms of investment appeal.

According to the Ministry, the use of preferential tax rates for movable property cannot be classified as an unjustified tax benefit.

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### **Central Bank of Russia: Russian financial firms may not act as intermediaries between foreign financial firms and Russian consumers**

Respective [instructions](#) were cascaded to the banks, non-credit financial institutions, and self-regulated financial companies.

According to the regulator, a situation where an investor, by contacting a broker or visiting its website, receives information on services of a foreign finance firm's operating outside Russia and may enter into a contract with such firm through the actual mediation if a Russian company, is unacceptable.

[Official Russian Central Bank website](#)

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## **Media review**

### **Special administrative districts to kick in since autumn 2018**

Special administrative districts (SAD) on the Far Eastern Russky Island and Oktyabrsky island in Kaliningrad Region, whose corporate residents will be treated as multinational companies, will operate since autumn 2018, said Minister of Economic Development Maxim Oreshkin.

The [bill](#) on the SADs is pending consideration by the Russian State Duma (for more details, please refer to LT Digest of [18-24 June 2018](#)).

[Kommersant](#)

### **Russian Federal Tax Service (FTS) plans to request information on accounts of individuals outside tax audits**

The proposals to that effect were submitted to the Russian Ministry of Finance. The FTS plans to upload the data on all transactions carried out by the Russian citizens into a special programme, enabling the identification of illegal business operations.

The initiative is underpinned by FTS Letter No. [ED-4-2/12467@](#) of 28 June 2018, which calls for a legislative expansion of the tax authorities' powers to request for personal bank account data.

The Ministry of Finance, however, [denies](#) the plans to expand the FTS authority.

[Kommersant](#)

### **Russian Government puts new SPICs on hold**

The pending 63 applications will be thoroughly reviewed. According to the government officials, the existing SPIC signing mechanism lacks transparency and will be modified during the autumn legislative session.

One of the earlier [proposed](#) measures was to award

high-tech SPICs via a bidding procedure.

[Kommersant](#)

### **White list of crypto firms developed**

The Russian Association of Cryptocurrencies and Blockchain developed a [register of trustworthy companies](#) offering ICO services.

The 'white list' will help to fight fraud in the industry.

The Association plans to track down the fraudulent ICO projects and 'whiten' the 'grey' cryptocurrency market in Russia.

[Izvestiya](#)

### **OECD releases economic scenarios until 2060**

A long-term forecast covers 46 countries, including 35 OECD members, eight G20 non-OECD countries (Argentina, Brazil, China, India, Indonesia, Russia, Saudi Arabia, and South Africa), and three partner states (Columbia, Costa Rica, and Lithuania).

The authors wished to better illustrate the potential benefits of reforms for the global economy, leaving such factors as environmental changes and financial markets out of scope.

[Official OECD website](#)

## Court practice

### Digest of tax adjudications of Constitutional and Supreme Courts for Q2 2018 released

The digest summarises the courts' opinions expressed in disputes:

- The sales of subsidiaries' shares via a related foreign intermediary disguised by a contribution of subsidiaries' shares into such intermediary constitutes an unjustified tax benefit (Case No. [A55-11332/2016](#), AO SMARTS)
- A foreign shareholder that pays for the shares of a Russian company using promissory notes that are not fully paid cannot be deemed eligible for the tax treaty benefits for dividends (case No. [A53-25996/2015](#), PAO TNS Energo Rostov-On-Don)
- The Russian legislation does not provide for the assignment of energy efficiency classes to non-residential properties, which prevents the application of the lower corporate property tax rates envisaged by Item 21, Article 381 of the Russian Tax Code (case No. [A41-90181/2016](#), OOO Prosperity)
- If a service provider was unaware that the goods were intended for export and was contracted to transport (forward) the goods domestically, VAT will be charged at a rate of 18 percent by virtue of Item 3, Article 164 of the Russian Tax Code (case No. [A53-30316/2016](#); OOO Eldako Yug Trading House)
- Investors can claim VAT refunds with respect to commissioned construction projects on the basis of VAT invoices issued not only by contractors, but also recharged by developers in a manner envisaged by Item 3, Article 168 of the Russian Tax Code (case No. [A79-8152/2016](#); Staratel Housing Cooperative)
- The difference between a price normally charged by a taxpayer and the prices usually charged for identical/homogeneous goods/works/services by other market participants does not in itself evidence an unjustified tax benefit (case No. [A04-9989/2016](#))
- A reorganised legal entity remains entitled to the special tax regime(s) applied prior to the reorganisation (Case No. [A47-164/2017](#), OOO Orenburgkniga)
- A company was denied the use of a lower MET rate in a tax period, in which the relevant legal provisions were repealed. The company challenged the decision on the grounds that the state had actually defaulted on its earlier assumed long-term obligations. The Constitutional Court dismissed the claim, stating that the legislative changes were introduced as part of the fiscal overhaul of the oil industry, implying the raise of MET rates with a simultaneous reduction of export duties and introduction of reduction coefficients (Russian Constitutional Court Ruling No. [841-O](#) of 12 April 2018).

[Official Russian Federal Tax Service website](#)

# Deloitte publications

## 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](#).

## CRS: the time to act is now

The Russian Government Resolution "On Implementation of Automatic Exchange of Financial Account Information with Foreign Competent Authorities ("The Resolution")" was officially released on 19 June 2018 and will enter into force a month after its publication.

The adoption of the Resolution has raised many practical questions since the provisions of the document are not fully aligned with the CRS model rules.

For details, please refer to Legislative Tracking in Focus of [20 June 2018](#).

## The Russian Federal Tax Service (FTS) further clarifies the applicability of the concept of beneficial ownership of income

On 31 May 2018, the FTS released Letter No. [CA-4-9/8285@](#) 'On consideration of disputes over the application of the concept of beneficial ownership of income'.

The Letter is meant as a guidance for the tax authorities and formalises the approach applied by the FTS and the courts in the tax disputes over the application of the concept of beneficial ownership of income (the Concept).

The Letter contains a number of important comments that should be taken into account by the taxpayers.

For details, please refer to Legislative Tracking in Focus of [6 June 2018](#).

## Highlights of anti-sanctions regulations in Russia

On 22 May 2018, the law on reciprocal measures against the USA and other foreign states (the Law) passed the Russian State Duma's third reading, having changed dramatically compared with its first and second versions (for more details, please refer [to LT in Focus of 17 April 2018](#) and [LT Digest of 14 - 18 May 2018](#)).

Bill on criminal prosecution for compliance with anti-Russian sanctions faces major overhaul.

For details, please refer to Legislative Tracking in Focus of [28 May 2018](#).

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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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## TaxSmart app



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