



## LT Digest

### Be in the know

#### Legislative initiatives

##### President of Russia signs package of federal laws

The President of Russia has signed a package of federal laws:

- Federal Law No. [163-FZ](#) of 18 of July 2017, formalising the concept of unjustified tax benefit in the Russian Tax Code (for more details, please refer to LT in Focus of [7 July 2017](#))
- Federal Law No. [166-FZ](#) of 18 of July 2017, refining the tax treatment of intangibles and R&D
- Federal Law No. [161-FZ](#) of 18 of July 2017, granting a VAT exemption for medical equipment leasing
- Federal Law No. [169-FZ](#) of 18 of July 2017, specifying the list of employee training expenses
- Federal Law No. [168-FZ](#) of 18 of July 2017, aimed at promoting the recreational and tourism business in the Far East (for more details, please refer to LT Digest of [3 – 9 July 2017](#))
- Federal Law No. [158-FZ](#) of 18 of July 2017, on the ratification of the protocol extending the fur labelling pilot until the end of 2018

*Official website of the President of Russia*

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## Russian State Duma considers package of draft laws

The Russian State Duma has considered the following draft laws:

- Draft Law No. [134683-7](#), which proposes expanding the list of criteria of medium businesses, passes third reading
- Draft law No. [67484-7](#), which proposes entitling the municipal authorities to challenge the decreased cadastral value of land plots, passed the second reading (for more details, please refer to LT of [9 January 2017](#))
- Draft law No. [129791-7](#), which proposes prohibiting company liquidation during field customs audits, passes the second reading (for more details, please refer to LT Digest of [17 – 26 March 2017](#))
- Draft Law No. [208840-7](#) on the ratification of the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and on the Financing of Terrorism passes the third reading (for more details, please refer to LT Digest of [26 June – 2 July 2017](#))
- Draft Law No. [179671-7](#), proposing the adoption of the protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights with respect to compulsory medical drugs production licences passes the third reading (for more details, please refer to LT Digest of [15 – 19 May 2017](#))
- Draft Law No. [3171-7](#), simplifying the lifting of temporary travel restrictions for debtors and increasing the minimum travel ban threshold to RUB 30,000 passes the third reading
- Draft Law No. [558976-5](#), restricting minority shareholders' access to corporate information, passes the second reading

*Official website of the Russian State Duma*

## Moscow City Duma considers package of draft laws

Moscow City Duma has adopted a package of draft laws:

- [Draft Law](#) on tax treatment of regional investment projects implemented in Moscow (for more details, please refer to LT Digest of [3 - 9 July 2017](#))
- [Draft Law](#) expanding the scope of tax benefits for residents of Moscow R&D hubs (for more details, please refer to LT Digest of [3 - 9 July 2017](#))
- [Draft Law](#) expanding the scope of corporate property tax benefits for sports facilities

*Official Moscow Duma website*

## Draft Law on tourism levy pilot updated for second reading

The original [Draft Law](#) passed the State Duma's first reading on 23 June 2017.

In accordance with the amendments, the levy will not be imposed until 1 May 2018, with all necessary regional laws to be adopted by 1 December 2017.

The levy rate will be limited at the federal level: in accordance with the amendments, the levy will not exceed RUB 50 in 2018 and RUB 100 further on.

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

## Russian Ministry of Finance develops tax, budgetary, and customs roadmap for 2018-2020

The document prioritises the following activities and objectives:

- Streamlining the CFC tax treatment by
  - Simplifying the reportable data
  - Refining the procedure for determining losses from certain operations incurred prior to the enactment of the CFC rules for loss carryforward purposes
  - Specifying and adjusting certain CFC criteria
- Introducing an investment tax deduction for taxpayers that purchase (create) or upgrade (modernise) fixed assets
- Granting corporate profit, MET, and regional tax benefits to entities implementing investment projects in the Far East which involve the creation of external infrastructure
- Refining the profit and MET tax benefit applicability term for participants of the Far East regional investment projects depending on such project's payback period: 10 years or until the project investment matches the credited tax amount
- Implementing the tax maneuver: raising the VAT rate while reducing the social contribution rates
- Introducing the added income tax for pilot oil and gas fields, including the greenfields and brownfields
- Improving the digitalisation of tax administration
- Imposing VAT on agricultural producers abusing the single agricultural tax benefits
- Combating the abuse of tax patents
- Combating the abuse of VAT exemptions on sale of ferrous and non-ferrous metals scrap and waste

[Official website of the Russian State Duma Committee on Budget and Taxes](#)

## **Russian State Duma to consider draft law expanding grounds enabling tax payment in instalments**

The Draft proposes enabling the taxpayers to pay taxes assessed during tax audits in instalments, provided the taxpayers do not challenge the assessed amounts.

This mode of payment will be subject to the provision of a bank guarantee as a performance security and a number of other conditions.

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

## **Amendments to draft law restricting minority shareholders' access to corporate information**

The original [Draft Law](#) passed the State Duma's first reading in 2011.

According to the amendments made before the second reading, a shareholder owning less than 25 percent of voting shares of a company may be denied access to such company's documents and data unless he discloses a business purpose underlying his request.

Furthermore, access is granted conditional on signing a confidentiality agreement.

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

## **Initiative to abolish charges for domestic roaming and roaming with Belarus**

The Russian State Duma is to consider a draft law proposing to abolish the charges for domestic roaming, including the mobile Internet charges, as well as the roaming charges for calls with Belarus.

If adopted, the document will enter into force on 1 January 2018.

Another draft law calling for the abolishment of domestic roaming was submitted to the Russian State Duma on 28 June 2017 (for more details on the draft, please refer to LT Digest of [26 June – 2 July 2017](#)).

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

## **Government's initiatives to support automotive and machinery industries**

The Russian Government has approved a number of initiatives:

- Resolution No. [1455-r](#) of 7 July 2017 approves the Agricultural Machinery Strategy until 2030 (the "Strategy").
- Resolution No. [808](#) of 7 July 2017 approves the Guidelines for subsidies aimed at making up for the banks' earnings foregone through private car loans in 2015-2017. New car loan programmes will offer an additional one-off discount of 10 percent of car's value to individuals having two or more minor children ("The family car" programme) and to the first-time buyers ("The first car" programme)
- Resolution No. [809](#) of 7 July 2017 approves the Guidelines for making up for the Russian leasing companies' revenues foregone through granting discounts for upfront payments under wheeled vehicle leasing contracts. The new subsidised leasing programmes will offer an additional one-off 12.5-percent discount to individuals and legal entities leasing semi-trailer trucks (the "Russian semi-trailer truck" programme), agricultural producers (the "Russian farmer" programme), and SMEs (the "One's own business" programme).

[Official website of the Russian Government](#)

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## **International legislation news**

### **OECD releases 2017 edition of Transfer Pricing Guidelines**

The OECD has released an updated edition of the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations as part of its BEPS initiative, the largest update since its release in 1979.

The updated Guidelines are even more relevant for the Russian taxpayers as the document now applies not only to the OECD countries, but also to all BEPS associates, including Russia.

[Official OECD website](#)

### **OECD releases beta version of MLI matching database**

The tool makes projections on how the Multi-lateral Instrument (MLI) modifies a specific tax treaty covered by the MLI by matching information from the Signatories' MLI positions.

The release is a preliminary (beta) version of the tool that will be improved over time.

As a reminder, Russia joined the MLI on 7 June 2017 (for more details, please refer to LT in Focus of [14 June 2017](#)).

[Official OECD website](#)

## Court practice

### Statement of reasons to first positive TP judgment released

The court's statement of reasons in case No. A40-29025/17-75-227 ("Uralkali") over adjustment of prices in the transactions with the related trader has been released.

LT in Focus offering a detailed analysis of the decision will follow shortly.

[Electronic Justice: commercial courts files](#)

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## Clarifications from government bodies

### Russian Ministry of Finance clarifies calculation of CFC profit (loss)

In particular, the Ministry has advised that, to be used for profit tax deduction purposes, a CFC's loss carryforwards must be denominated in Russian rubles.

However, the document does not specify the year, the average exchange rate for which should be used to calculate such loss carryforwards: the one in which the loss was reported or the one in which the profit was calculated.

The Ministry also noted that a CFC's residency confirmation is only required for the purposes of Sub-Item 1, Item 1, Article 309 of the Russian Tax Code. Certificates of incorporation and tax residency, extracts from incorporation documents, and other documents envisaged by the normal business practices of a jurisdiction such CFC is a resident of can be used for the purpose.

[Consultant Plus](#)

### Russian Ministry of Finance clarifies concept of control for CFC purposes

The Ministry has advised that, taking into account the provisions of Item 7, Article 25.13 of the Russian Tax Code, **any** details of a business relationship that affect or may affect the decisions governing the distribution of after-tax profits, including the **right to block such decisions regardless of the shareholding**, shall be considered for the purpose of defining the concept of "exercising control".

Following the logic above, trust protectors, mainly having the veto powers only, may (subject to other conditions) be treated as the trust's controlling owners.

[Consultant Plus](#)

### Russian Ministry of Finance clarifies how to fill in tax returns on income paid to foreign corporations

According to the Ministry, income payable to foreign corporations qualifying as Russian-sourced as per Article 309 of the Russian Tax Code, including the income that is tax-exempt by virtue of a respective tax treaty, shall be reported in a tax return filed by the withholding agent.

The Ministry previously expressed a similar position (see Letters No. [03-08-05/58776](#) of 10 October 2016 and [03-08-13/56982/56982](#) of 30 September 2016).

[Consultant Plus](#)

### Russian Ministry of Finance clarifies payment of VAT on electronic services rendered by foreign providers to Russian businesses and individual entrepreneurs

According to the request for clarifications, a foreign taxpayer renders online broker services aimed at facilitating the contacts between the carriers and their customers in Russia.

The services are purchased by the carriers, including Russian businesses and individual entrepreneurs. The payments are made electronically to such foreign taxpayer that further forwards the required amount to the carrier net of its fees.

The foreign taxpayer obtained a Russian tax registration certificate and plans to assess and pay VAT on electronic services, including the services rendered to Russian businesses and individual entrepreneurs.

The Ministry advised that in the situation in question, the obligation to assess and pay VAT is borne by the Russian entities (individual entrepreneurs) that act as withholding agents.

However, if a foreign entity pays VAT itself, the withholding agents shall not be required to make repeated tax payments.

[Consultant Plus](#)

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## Media review

### Federation Council proposes tax benefits for hotels

The initiative calls for reducing the VAT rate from 18 percent to 10 percent and the land tax rate to 0.3 percent.

The proposal also provides for subsidising investment loans taken out to build or upgrade hotels and purchase tourist transport.

[Kommersant](#)

## **Mobile users might be forced to share costs of implementing Yarovaya law**

The working group of the Russian Union of Industrialists and Entrepreneurs (RSPP) has proposed a package of amendments to the Yarovaya Law, introducing "special charges for mobile users that may reach up to three to five percent of their average monthly mobile phone bill (an average of RUB 9 -15 per user).

The current version of the Yarovaya Law mandates the storage of metadata, such as the information on the time and date of messages, for at least a year for Internet providers and for three years for mobile network operators. The messages themselves, including text, voice, and videos, will have to be stored for up to six months.

To bring down the costs, RSPP also proposes to implement the requirements gradually.

The text of the amendments has not yet been released.

[Kommersant](#)

# Deloitte publications

## **Kazakhstan becomes the second government to embrace the cryptocurrency market system**

Astana International Financial Center has announced the creation of a working group together with Deloitte, Waves, Juscutum, and Kesarev Consulting to develop an ecosystem to enable blockchain solutions for the CIS region.

The AIFC's working group is aimed at development of legislation regulating cryptocurrency transactions; establishing the ecosystem for the use of Blockchain technology, cryptoassets and blockchain based projects; formation of a favorable environment for innovative development of Kazakhstan and elaborating the dialogue among business, citizens, and government and improving the investment climate in Kazakhstan for development and support of innovative technologies.

Read more in our [press release](#).

## **Real Estate Highlights The News Kit, May-June 2017**

We are pleased to present our regular [digest](#) of real estate news. The News Kit contains an overview of recent developments, most important legislative initiatives, clarifications from regulatory authorities, and court decisions on real estate disputes for May-June 2017.

## **The Russian State Duma approved a draft law formalising the concept of unjustified tax benefit in the Russian Tax Code**

The [respective draft law \(the "Draft"\)](#) passed the third reading on 7 July 2017. These amendments are a much welcomed and long-awaited implementation of one of the most broadly discussed recent initiatives.

Until now, the application of the concept has been governed solely by Resolution of the Russian Supreme Commercial Court Plenum No.53 of 12 October 2006 (the "Plenum Resolution"), the most cited ruling in tax disputes.

As the disputes over the applicability of this concept constitute the bulk of all tax litigations in Russia and their share keeps growing, the importance of giving a formal definition to unjustified tax benefit is hard to overestimate.

Read on for more details in Legislative Tracking in Focus of [7 July 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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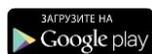


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## TaxSmart app



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