



LT Digest

Be in the know

Legislative initiatives

[Draft law on implementation of CRS and country-by-country reporting submitted to Russian State Duma](#)

The Russian State Duma is to consider draft law “On introducing amendments to the Russian Tax Code (as part of implementation of the international automatic exchange of financial accounts and MNE information)”. The draft regulates the fulfillment of CRS, CBC reporting, and MNE participation notification requirements by the Russian financial institutions.

The draft is expected to enter into force on 1 January 2018, but its voluntary application to earlier CBC reports and MNE participations is allowed.

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

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

[Draft law on implementation of CRS and country-by-country reporting submitted to Russian State Duma](#)

[Federation Council approves package of draft laws](#)

[Draft Law requiring inclusion of producers of alcohol-containing medical drugs and appliances in USAIS passes State Duma’s third reading](#)

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[Russian State Duma’s working group discusses draft law on cryptocurrency investments](#)

[Russian Government rejected postponement of enactment of Yarovaya Law from 2018 to 2023](#)

[Russian Federal Tax Service proposes reducing timeline for checking compliant taxpayers’ VAT refund eligibility](#)

Federation Council approves package of draft laws

- Draft Law No. [47571-7](#) on the safety of the critical information infrastructure (for more details, please refer to LT of [7 December 2016](#));
- 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 (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 licensing of medical drugs production (for more details, please refer to LT Digest of [15 – 19 May 2017](#))
- Draft Law No. [134683-7](#), proposing broader criteria for medium businesses.

[Official Federation Council website](#)

Draft Law requiring inclusion of producers of alcohol-containing medical drugs and appliances in USAIS passes State Duma's third reading

Draft Law No. [66697-7](#) passed the first reading on 24 March 2017.

The draft was updated for the second reading to include the following important amendments:

- The production and distribution of ethanol, alcohol, and ethanol-containing products will need to be declared in instances specified by the law, which will eliminate most of information duplication in the USAIS data
- The requirement to install the equipment designed to automatically measure and record the volumes of supplied pharmaceutical or regular ethanol will not apply to pharmacies, medical, and veterinary clinics subject to the annual purchase and usage limits of 200 dekalitres
- The production (other than for export) of alcohol-containing energy drinks, containing less than 15 percent of ethanol, will be banned (the list of banned drinks to be specified by a separate regulation)
- A repeated underestimation of excisable base during the year as compared with the USAIS data for distributed alcohol products, identified during desk or field audits, may lead to denying the offender the special federal stamps.

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

Draft Law on telemedicine passes Russian State Duma's third reading

The updated draft sets forth that remote patient monitoring can only be allowed after a face-to-face encounter with the respective medical practitioner.

Some players [see](#) it as a restriction of the telemedicine capacities.

For more details, please refer to LT Digest of [15 – 19 May 2017](#).

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

Russian State Duma considers package of draft laws

The Russian State Duma has considered the following draft laws:

- Draft Law No. [169585-7](#), regulating the pilot launch of tourism levy, passed the third reading (for more details please refer to LT Digest of [10 – 16 July 2017](#))
- Draft Law No. [206576-7](#), proposing the indexation of excise tax, banning the retrospective excising of imported PDO/PGI wines, and amending the MET calculation procedure passed the third reading (for more details, please refer to LT Digest of [19 – 25 June 2017](#))
- Draft Law No. [114141-7](#), entitling the Russian Government to ban the imports of certain categories of goods in Russia (for more details, please refer to LT Digest of [27 February – 5 March 2017](#))
- Draft Law No. [558976-5](#), restricting minority shareholders' access to corporate information, passes the third reading
- Draft Law No. [129791-7](#) that proposes prohibiting company liquidation during field customs audits, passed the third reading (for more details, please refer to LT Digest of [17 – 26 March 2017](#))
- Draft Law No. [204679-7](#), establishing the legal framework for syndicated loans, passed the first reading
- Draft Law No. [184222-7](#), regulating online messenger operations, passed the third reading
- Draft Law No. [195446-7](#), banning the Internet resources allowing to access blocked websites, passed the third reading (for more details, please refer to LT Digest of [5 – 18 June 2017](#))
- Draft Law No. [139186-7](#) on protection of rights of home buyers in 214-FZ construction projects passed the third reading (for more details, please refer to LT Digest of [3 – 9 April 2017](#))
- Draft Law No. [168566-7](#), regulating the distribution of biomedical stem cells products, passed the first reading
- Draft Law No. [195567-7](#) lifting restrictions on beer filling in PET bottles of up to 1.5 litres for export purposes passed the first reading.

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

Russian Ministry of Economic Development proposes legislative amendments to streamline performance and management of special economic zones

[The original Draft Law](#) passed the first reading in 2014.

The updated Draft introduces the following changes:

- Substitution of imports is added as one more permitted objective of setting up a SEZ
- The list of excise-exempt goods that can be produced and processed in a SEZ is expanded to include motor gasoline, diesel, motor oil for diesel and/or gasoline engines, straight-run gasoline, medium distillates, benzene, paraxylene, orthoxylene, aviation fuel, and natural gas
- The definition of permitted activities for SEZ and R&D hubs has been expanded
- The provision permitting industrial and R&D production in an R&D hub with the board of experts' consent has been excluded
- The provision permitting R&D activities in an industrial production SEZ with the board of experts' consent has been excluded
- The scope and timelines of production activities in port-based SEZ have been set: a SEZ resident is required to invest at least RUB 120 million (exclusive of intangibles), with at least RUB 40 million (exclusive of intangibles) to be invested within three years of signing a SEZ residency agreement
- The list of documents that must be attached to the request for signing a SEZ residency agreement has been changed, replacing the business plan with investment project passport
- The procedure for changing an investment project passport has been changed

The procedure for imposing penalties for the early termination of a SEZ residency agreement in the event of material breach by a SEZ resident has been revised: the penalty will now be imposed only if the resident refuses from signing a termination agreement and the residency agreement has to be terminated by court.

If adopted, the federal law will come into force 30 days after the official publication.

The draft also provides for a two-year transition period.

[Federal draft legislation portal](#)

Draft law on winemaking regulation to be considered by Russian State Duma

The draft law offers detailed definitions of winemaking, wine distribution, and industry's technical terms and establishes a common approach towards winemaking and viticulture.

Furthermore, the document sets forth the priorities and the recipients of the governmental wine industry incentives.

The State Duma is also to consider [a Draft Law](#) proposing the following changes in the government regulation of wine production and distribution:

- To permit online sale of wines by wine producers and wholesalers
- To set forth that the alcohol retail restrictions will not apply to wines or sparkling wines (champagne) produced by the growers from own grapes and sold at specialised wine fairs, exhibitions, and festivals
- To exclude wine materials and grape must from the list of alcohol-containing products; to distinguish between "unaged brandy" and "ethanol" and to revise certain winemaking terms
- To permit the use of mobile wine-bottling equipment.

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

List of exported goods/works/services prioritised for support approved

The list now includes the civil engineering, metals, chemical, pharmaceutical, light, medical, agricultural and timber industry produce as well as tourism, education, healthcare, engineering, construction, maintenance and repairs, and IT and computer services.

[Official website of the Russian Government](#)

International legislation news

OECD releases additional guidance on country-by-country reporting

The [additional guidance](#) addresses two specific issues: how to treat an entity owned and/or operated by two or more unrelated MNE Groups, and whether aggregated data or consolidated data for each jurisdiction are to be reported.

The previous guidance update was released in April 2017 (for more details, please refer to LT in Focus of [Z April 2017](#)).

[Official OECD website](#)

Amendment of term "Cyprus tax resident individual"

On 14 July 2017, the Parliament of Cyprus approved a bill that amended the definition of the Cypriot tax residency status.

For more details, please refer to the new issue of [Prosperoscope](#) of 19 July 2017.

Clarifications from government bodies

Russian Federal Tax Service clarifies definition of direct interest in case of "look-through" approach

A Russian company wholly owned by a Cyprus resident distributed dividends that were actually transferred to two Cypriot entities each holding a 50-percent interest in the said Cypriot resident.

The Russian company received a letter from the shareholder confirming that the latter was not a beneficial owner of the dividends.

The company asked if it could apply a lower dividend tax rate envisaged by Item 2, Article 2 of the Russia-Cyprus DTT.

The Ministry advised that the Russian company acting as a withholding agent may apply a lower tax rate envisaged by Item 2, Article 10 of the DTT in instances when one foreign company (the dividends recipient) has an indirect interest in the Russian company that pays out such dividends via another foreign entity which is not the beneficial owner of these dividends and does not claim the application of the DTT.

In the Ministry's opinion, the five-percent tax rate may be applied, if as at the date of the dividend payment, the Cypriot shareholder's capital investment in the Russian company amounts to the equivalent of at least EUR 100,000 and complies with Article 312 of the Russian Tax Code.

Even though the letter leaves room for alternative interpretation, we believe, following its logic, that to apply the five-percent tax rate envisaged by the DTT, the direct investment requirement applies to the beneficial income owner.

Please note that with respect to other DTTs setting forth similar, but not identical requirements (e.g. a DTT with Germany), the Russian Ministry of Finance made an indirect [conclusion](#) that a five-percent withholding tax rate might apply in case of the "look-through" approach.

Therefore, we believe that if the look-through approach is used, the application of lower rates shall be assessed on a case-by-case basis with account of the DTT's provisions and intentions of the parties to such DTT.

[Consultant Plus](#)

Media review

Russian Federal Tax Service to disclose open corporate data

The Russian Federal Tax Service [has approved](#) the timeline for posting open corporate data.

The open data will be split into several blocks and will display:

- The amount of past due tax payments and late payment charges (per each tax)
- Tax offences and imposed sanctions
- Special tax regimes applied by taxpayers
- Taxpayer participation in consolidated groups
- Company's average headcount per calendar year
- Income and expenditure data as per annual financial statements

Russian Ministry of Finance clarified documents that can verify beneficial ownership of dividend income

According to the Ministry, to verify beneficial ownership of the dividends to apply the lower tax rates envisaged by a DTT, a foreign shareholder can submit the following documents (information):

- The documents confirming/disproving the income recipient's right to dispose of the dividends, including
 - The documents confirming/disproving any obligations towards third parties (resident or registered in a state that Russia has no DTT with), which would limit the income recipient's rights to dispose of the dividends
 - The documents verifying/disproving the pre-agreed transfer of dividend income to third parties (resident or registered in a state that Russia has no DTT with)
- The documents confirming the occurrence of tax liabilities of the income recipient, resident or registered in a state that Russia has a DTT with, which would attest to the lack of the tax optimisation purpose pursued through the further transfer of the dividends to third parties, resident or registered in a state that Russia has no DTT with
- The documents confirming that the income recipient actually performs business activities

The Regulator also pointed out that if the Tax Code does not expressly name a certain document required to determine the beneficial income owner, it means that the list of such documents is not exhaustive and that it is the contents of the documents received by a withholding agent that matters.

The Ministry earlier cited the same list of documents (see Letter No. [03-08-05/78852](#) of 28 October 2016).

[Consultant Plus](#)

Amount of taxes paid in a calendar year (per each tax) net of taxes on imports into the EAEU customs territory as well as the taxes paid by a withholding agent.

Information on late payment charges and outstanding penalties, tax offences and sanctions, special tax regimes and participation in consolidated taxpayer groups will be posted on the Federal Tax Service's website on a monthly basis, while the average headcount, income and expenditure and total taxes paid in a calendar year will be disclosed annually.

The first portion of open data will be posted on 25 July 2017 and will cover tax offences enforced during the period from 2 June 2016 to 30 June 2017.

[Official Russian Federal Tax Service website](#)

Russian State Duma's working group discusses draft law on cryptocurrency investments

The Russian State Duma's interdepartmental working group for assessment of cryptocurrency risks is discussing the amendments to the civil legislation enabling ICO in Russia.

ICO is a project-funding instrument similar to the initial public offering. Bitcoins, or ethereums, are sold in exchange for tokens, a cryptocurrency that entitles the buyers to a certain issuer's product.

[Vedomosti](#)

Russian Government rejected postponement of enactment of Yarovaya Law from 2018 to 2023

The Russian Government has declined the proposal to postpone the enactment of the Yarovaya Law from 2018 to 2023.

However, according to the Ministry, the gradual implementation of the law may be introduced by the resolutions of the Russian Government that may set the procedures, timeline, and the scope of mandatory data storage and to gradually increase the volumes of such storage.

The government resolutions are expected to be adopted in 2017.

[Kommersant](#)

Russian Federal Tax Service proposes reducing timeline for checking compliant taxpayers' VAT refund eligibility

The timeline for consideration of VAT refund claims from bona fide taxpayers is to decrease from three to two months.

To be eligible for an expedited VAT refund, a company shall hold the status of a low- or medium risk taxpayer assigned in the VAT information system (NDS-2), must not claim for excessive VAT amounts (exceeding total tax paid for three years), and have at least 90 percent of low-risk vendors.

The measure is expected to enable exporters to generate additional working capital.

The letter has not yet been officially published.

[Vedomosti](#)

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](#).

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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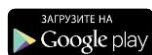


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