



LT Digest

Be in the know

Tax disputes

[Court of appeals releases statement of reasons to resolution on Uralcali's transfer pricing case](#)

A court of appeals reversed a first instance court's judgement and supported the decision of the Russian Tax Service to assess additional tax liability to Uralkali following a transfer pricing audit.

For more details, please refer to LT in Focus of [24 October 2017](#).

[Electronic Justice: commercial courts files](#)

Legislative initiatives

[Russian State Duma considers package of draft laws](#)

The Russian State Duma has considered the following draft laws:

- Draft Law No. [223287-7](#), simplifying the return of excessively charged taxes, fines, and late payment penalties, passed the third reading;
- Draft Law No. [225063-7](#), expanding the grounds for tax deferrals, passed the third reading (for more details, please refer to LT Digest, [10 - 16 July 2017](#));

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[Russian State Duma considers package of draft laws](#)

[Legislative Commission approves draft law refining tax treatment of CFC's profit](#)

[Draft law regulating tax treatment of unspent loan loss provisions in banks with revoked licences](#)

[Draft law refines procedure for SPIC signing and implementation](#)

[Russian State Duma to consider draft law combating unauthorised online banking transactions](#)

[CBR's key rate lowered](#)

[Russian Government approves draft agreement on exchanging information on customs value of goods among CIS countries](#)

[Russian Government approves list of essential medicines for 2018](#)

[Russian Ministry of Justice releases roadmap towards regulation of professional legal services market](#)

[Russian Government expands product sanctions](#)

[Russian Government amends list of banned agricultural produce, raw materials, and food products from Turkey](#)

[Telegram appeals court-adjudged fines for non-disclosure of decoding keys](#)

[Amendments to Information Law triggers concern of European Business Association](#)

[President of Russia gives assignments following meeting on financial industry digitalisation](#)

[Russian Ministry of Finance refutes stricter currency regulation plans](#)

[Russian special economic zones \(SEZ\) acknowledged among world's best](#)

[Banks start collecting clients' biometrics](#)

[Results of third regional meeting of Inclusive Framework on BEPS for Eastern Europe and Central Asia countries](#)

[OECD delivers implementation guidance for collection of VAT on cross-border sales](#)

- Draft Law No. [1166026-6](#), combating currency violations, passed the third reading (for more details please refer to LT of [6 September 2016](#) and LT Digest, [16 - 22 October 2017](#));
- Draft Law No. [126887-7](#), regulating activities of collective rights management organisations, and Draft Law No. [126943-7](#), introducing penalties for non-disclosure of financial statements and auditor report by collective rights management organisations, passed the third reading;
- Draft Law No. [274632-7](#), extending the current social contribution rates for 2020, passed the second reading;
- Draft Law No. [240980-7](#), refining the term of profit tax benefits for residents of advanced development territories and The Free Port of Vladivostok, passed the second reading (for more details, please refer to LT Digest, [31 July - 8 August 2017](#));
- Draft Law No. [229418-7](#), aimed at protecting minority shareholders' rights, passed the first reading;
- Draft Law No. [264271-7](#) on the ratification of the European Economic Union's Customs Code Agreement passed three readings (for more details on the draft law, please refer to LT Digest, [11 - 17 September 2017](#));
- Draft Law No. [1098704-6](#), changing the PIT treatment of savings on loan interest, passed the first reading;
- Draft Law No. [274622-7](#), establishing the contribution rates for mandatory social occupational accident and disease insurance for 2018 and planning periods of 2019 and 2020, passed the first reading;
- Draft Law No. [275060-7](#) on out-of-court blocking of websites, containing information on 'unwelcome' organisations, passed the first reading.

Official website of the Russian State Duma

Legislative Commission approves draft law refining tax treatment of CFC's profit

Following a public discussion, a number of [amendments](#) have been introduced to the draft:

- The applicability of the approach to foreign consolidated taxpayer groups proposed by the draft has been refined
- For purposes of acknowledging a foreign entity's Russian tax residency, the scope of planning and control over a foreign entity **can, where applicable**, be regulated by a Russian company's local policies that would be mandatory for such foreign entity (the original draft envisaged the mandatory adoption of such internal policies)

- The provisions regulating the deductibility of expenses on securities transactions will apply starting from 1 January 2016 (vs. 1 January 2017 in the original version).

[Official website of the Russian Government](#)

Draft law regulating tax treatment of unspent loan loss provisions in banks with revoked licences

According to the draft, if a bank's licence is revoked, loan loss provisions that were not fully used to cover uncollectible debts prior to such revocation will not be treated as income.

Such provisions will be suspended and used in accordance with the Russian Central Bank's guidelines.

According to the existing judicial practice, loan loss provisions are treated as non-operating income if a bank's licence is revoked, which entails considerable additional tax assessments (e.g., cases No. [A40-52321/17-108-438](#), [A40-13277/2017](#), [A40-13271/2017](#), [A40-9591/2017](#), [A55-17819/2016](#)).

[Federal draft legislation portal](#)

Draft law refines procedure for SPIC signing and implementation

The draft envisages the following changes:

- To expand the scope of eligible special investment contracts (SPIC) parties by including the industrial companies that enter into SPIC to engage in industrial production and technology operations and other companies engaged by investors as engineering centres, industrial product distributors, financial centers or which are otherwise involved in the investment project
- Apart from deciding on the regional SPIC signing requirements, Russian regions will be able to monitor and control SPIC investors' performance
- To refine the procedure for reimbursing losses from default on SPIC obligations by the parties
- To differentiate the investor's liability based on the volume of obligations already discharged.

The draft also proposes extending the state subsidies for SPICs beyond 2025 and authorising the government to regulate the procedure for SPIC termination and alteration.

If adopted, the law will come into force 180 days of its official publication.

[Federal draft legislation portal](#)

Russian State Duma to consider draft law combating unauthorised online banking transactions

The draft envisages the following changes:

- To establish the criteria of money transfers, unauthorised by clients, and the actions to be taken by money transfer operators upon identification of such transfers
- The unauthorised money transfer criteria will be established by the Central Bank of Russia (CBR)
- To enable the credit institutions, depending on the type of business, to establish additional money transfer criteria in accordance with the CBR requirements
- To oblige the credit institutions to immediately request transaction confirmation from a client, if an unauthorised money transfer is suspected
- To establish the money return policies for credit institutions servicing both the paying company and the recipient after receiving the former's notice of unauthorised money transfer
- To set forth that the information on (attempted) unauthorised money transfers must be reported by credit institutions and payment system (infrastructure) operators to the CBR.

If adopted, the law will come into force 90 days after the official publication.

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

CBR's key rate lowered

On 27 October 2017, the Central Bank of Russia announced a decrease of its key rate from 8.50 to 8.25 percent.

[Official Russian Central Bank website](#)

Russian Government approves draft agreement on exchanging information on customs value of goods among CIS countries

The draft agreement sets forth a mechanism that regulates the provision of information required to exercise control over the customs value of goods from the database of e-copies of export declarations and the use of such information.

[Official website of the Russian Government](#)

Russian Government approves list of essential medicines for 2018

The list is supplemented with 60 new medicines and eight new dosage forms for the medicines already on the list.

[Official website of the Russian Government](#)

Russian Ministry of Justice releases roadmap towards regulation of professional legal services market

The roadmap provides for a three-stage reform of the legal services market.

Revisiting the tax treatment of advocates and firms of advocates, enabling the advocates to choose the legal form for their activities (firms), and banning foreign entities from having a direct or indirect controlling interest in such firms are scheduled for Stage One, planned for 2018.

The legal framework regulating a provisional (until 1 January 2023) simplified licensing procedure for lawyers wishing to qualify as advocates will be developed as part of the second stage planned for 2019.

Admission to practice for such lawyers is scheduled for 2020 - 2022, including via the simplified licensing procedure.

It is expected that, starting from 1 January 2023, legal representation at court will be permitted only to advocates, public officials, legal representatives, business and NGO executives, as well as other parties involved in rendering free legal aid sponsored by the state, while paid court representation will be permitted only to advocates and firms of advocates.

The for-profit law firms that wish to continue rendering legal services will have to align their trade names, incorporation documents, partnership agreements, employment contracts and service contracts with the new rules and obtain the status of a firms of advocates.

[Official Website of the Russian Ministry of Justice](#)

Russian Government expands product sanctions

The banned agricultural produce now includes live pigs, certain by-products, and fats of farm animals.

[Official website of the Russian Government](#)

Russian Government amends list of banned agricultural produce, raw materials, and food products from Turkey

In particular, the position described by the EAEU's Foreign Economic Activity classification Code

0702 00 (fresh or chilled tomatoes) is supplemented with a footnote, permitting the import of the above-mentioned products within the limits set by the Russian Ministry of Agriculture (50,000 tons).

The Resolution enters into force on 1 November 2017.

[Official website of the Russian Government](#)

Media review

Telegram appeals court-adjudged fines for non-disclosure of decoding keys

Telegram is reported to have appealed the fines imposed as part of administrative proceedings for non-disclosure of decoding keys to the Russian Federal Security Service.

For more details, please refer to LT Digest, [16 - 22 October 2017](#).

[Vedomosti](#)

Amendments to Information Law triggers concern of European Business Association

The European Business Association (EBA) applied to the Russian Ministry of Communication and Media and Roskomnadzor, expressing its concerns over the adoption of amendments to the Law on Information, Information Technologies, and Information Security, entering in force starting from 1 November 2017 and restricting the use of IP anonymisers (VPN services).

According to the EBA, the VPN and proxy server technologies employed by the anonymisers are also used by the majority of multinational companies in Russia as one of the information security measures.

Therefore, the law, if interpreted broadly, can be applied to internal IT systems and processes applying VPN technologies and proxy services solely for internal business purposes, not intending to obtain the information restricted in Russia.

The response from the regulatory authorities is expected shortly.

The amendments prohibit the use of VPN services to enable access to the information resources banned in Russia. Roskomnadzor will be in charge of controlling the VPN services' compliance with the statutory requirements.

[RBC daily](#)

President of Russia gives assignments following meeting on financial industry digitalisation

Thus, the following assignments were given:

- To determine the status and definition of digital technologies applied in the financial industry (such as "distributed registers technology", "digital credit note", "digital mortgage deed", "cryptocurrency", "token", "smart contract") on the assumption that rouble is Russia's only legal tender
- To establish the requirements to payment networks that operate cryptographic protocols and record transactions into distributed registers ("mining"), including the registration of such network operators and relevant tax treatment procedures
- To introduce regulations for token-based ICOs (similar to those for IPOs)
- To develop proposals:

- on creating a CBR-based special regulated platform ("sandbox") to test innovative financial technologies, products, and services prior to regulating them in financial markets
- on establishing a single payment platform for the EAEU countries that would employ new financial technologies, such as distributed registers.

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

Russian Ministry of Finance refutes stricter currency regulation plans

Minister of Finance Anton Siluanov has denied any [plans](#) to introduce currency restrictions in Russia.

The information about the Ministry's initiative to introduce currency restrictions in Russia.

The information about the Ministry's initiative to liberalise currency regulations subject to regulatory clampdowns in crisis periods appeared in the media earlier this week.

[Economica i Zhizn](#)

Russian special economic zones (SEZ) acknowledged among world's best

Four Russian SEZ were ranked among the best free economic zones globally in 2017 by the Financial Times' fDi magazine.

The ranking assesses the SEZ against several parameters: the number of residents, resident support measures, global coverage, accessible infrastructure, etc.

The winning SEZ are Alabuga, Lipetsk, Togliatti, and The Titanium Valley.

[Official website of the Ministry of Economic Development of the Russian Federation](#)

Banks start collecting clients' biometrics

Some of the Russian banks started preparations to collecting their clients' biometrics. The preparatory procedures are implemented by VTB, Binbank, Ak Bars, Vostochny, Otkrytie, and the Ural Bank for Reconstruction and Development.

The full-scale collection of facial images and voice samples will commence next year.

[Izvestiya](#)

International legislation news

Results of third regional meeting of Inclusive Framework on BEPS for Eastern Europe and Central Asia countries

Delegates from 20 countries and 11 organisations gathered in Bratislava for the third regional meeting of the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) in the Eastern Europe and Central Asia region.

The participants [shared](#) the steps and actions taken in their respective jurisdictions to implement the BEPS measures.

A range of capacity-building initiatives to support countries in implementing the BEPS package were discussed. The meeting offered an opportunity to discuss recent developments in transfer pricing and tax treaties, including country-by-country reporting and MLI implementation.

[Official OECD website](#)

OECD delivers implementation guidance for collection of VAT on cross-border sales

The new [VAT guidance](#) incorporates effective approaches used by different jurisdictions to promote the collection of VAT on cross-border sales.

The document focuses on the implementation of the recommended approaches included in the 2015 Final Report on Action 1 "Addressing the Tax Challenges of the Digital Economy" of the BEPS project. These recommended approaches, which are also included in the International VAT Guidelines, have already been successfully implemented by a large number of countries.

[Official OECD website](#)

Deloitte publications

Court of appeals decides in favor of Federal Tax Service in Uralkali's case

In 2012, Uralkali (the "Company") exported potash fertilisers through a related Swiss trader (the "Trader"). The Company prepared transfer pricing ("TP") documentation to substantiate the pricing in those controlled transactions, using the transactional net margin method (TNMM). However, when auditing the transaction, the Russian Federal Tax Service (the "FTS") applied the comparable uncontrolled price (CUP) method, sourcing price information from the Argus Media agency and, having discovered a price underestimation, recalculated the Company's revenues and assessed an additional profit tax liability of RUB 980 million and imposed penalties. The Company challenged the regulator's decision in court, seeking its invalidation; the appeal was sustained by a [resolution](#) of the Moscow Commercial Court of 16 June 2017.

The FTS disagreed with the resolution and challenged it with a court of appeals. The court of appeals [reversed](#) the judgement of the lower court and denied the Company's claim.

For details, please refer to Legislative Tracking in Focus of [24 October 2017](#).

Russian Government releases draft resolution on CRS (Common Reporting Standard)

The [Draft](#) Resolution of the Russian Government On the Implementation of International Automatic Exchange of Financial Account Information for Tax Purposes (the

"Draft Resolution"), aimed at complying with Russia's international obligations regarding CRS requirements implementation and designed in compliance with the [Draft Federal Law](#) On amending the Russian Tax Code as Part of Implementation of the International Automatic Exchange of Financial Accounts and MNE Information (the "Draft Law") was published on the Federal Draft Legislation Portal on 10 October 2017. Public discussion of the Draft Resolution will continue until 7 November 2017.

For details, please refer to Legislative Tracking in Focus of [16 October 2017](#).

A federal law, refining the tax exemption for property contributions and reconsidering certain tax benefits, has been adopted

On 30 September 2017, the President of the Russian Federation signed a [law](#) that reconsiders the tax treatment of property contributions and refines the terms of certain tax benefits (the "Law").

The key amendments will be effective starting from 1 January 2018.

For details, please refer to Legislative Tracking in Focus of [3 October 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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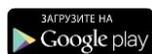


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