



## LT Digest

### Be in the know

#### Legislative initiatives

##### **Russian State Duma rejects draft law changing restrictions on tax benefits for corporate movables**

The Russian State Duma has rejected Draft Law No. 912150-6 setting forth that the restrictions on the application of lower corporate property tax rates for movable property received as a result of liquidation, restructuring, and transfer between related parties will only apply to assets recognised by the transferring party before 1 January 2013.

For more details about the content of the draft, please refer to LT of [26 October 2015](#).

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

##### **Draft law refining procedure for calculation of upfront environmental pollution charges developed**

According to the draft, payers of the environmental pollution charges, except for small and medium businesses, will be able to choose from one of the following options of calculating quarterly upfront charges:

- As 1/4 of the total pollution charges paid last year

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- As 1/4 of pollution charges calculated with account of the statutory emission limits, temporarily approved emissions limits, temporarily approved discharge, and industrial and consumer waste placement limits
- As the total environmental pollution charges calculated on the basis of the actual environmental damage inflicted in the previous quarter, according to the environmental control data

The selected option will have to be checked in the pollution charges' report.

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

[Federal draft legislation portal](#)

### **Russian Government approves procedure for treating depreciable fixed assets as produced under SPIC terms**

A depreciable fixed asset will be recognised as produced under the SPIC terms based on such asset's certificate of production issued by an investor or another party engaged by the investor that had signed the SPIC and produced the respective asset.

Certificate issue prerequisites:

- The fixed asset must be an industrial product specified in the SPIC
- The fixed asset must be produced during the SPIC's term

The regulation also approves the form and the completion procedure for such certificate.

The document will apply to the SPICs signed on 1 January 2017 or after.

[Official Internet Portal for Legal Information](#)

### **Draft law on remote identification of bank clients submitted to State Duma**

The draft proposes the following amendments:

- To oblige credit institutions to collect and submit clients' personal data, including biometrics, to the common identification and authentication system for remote identification purposes, subject to the clients' consent and request
- The list of credit institutions obliged to collect such data and the requirements therefor will be maintained by the Central Bank of Russia
- To set forth that the collection of biometrics requires the client's personal presence
- To enable credit institutions to open accounts (deposits) without a client's presence subject to remote identification via the common identification and authentication system, provided such client has no money-laundering and/or extremism/terrorism record
- To authorise the Central Bank of Russia to maintain a list of credit institutions that may not open individual accounts remotely, and establish the criteria for inclusion
- The individual's consent to personal data processing for remote identification and account/deposit opening purposes may be signed with an unqualified

digital signature

If adopted, the law will come into force 180 days after the official publication date.

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

### **Russian State Duma to consider draft law extending list of subject-matters of public-private partnerships (PPPs) and concession agreements**

The draft proposes for the following amendments:

- To add software, databases, including those integrated into websites and IT systems or a combination thereof, governmental information systems, and data-processing centres to the list of subject matters of public-private partnerships and concession agreements
- To ban foreign investors from participating as private partners or on behalf of private partners in PPPs or concession agreements concerning software and databases
- The PPPs and concession agreements concerning software and databases shall set forth the following mandatory terms and conditions:
  - functional, technical and operational properties of software and databases under consideration;
  - the public partner's obligation to ensure the transfer of software and intellectual property rights and other relevant information to the private partner
  - the private partner's obligation to ensure the transfer of exclusive intellectual property rights
  - the private partner's obligation to comply with the personal data processing requirements
- The draft also specifies the content, terms, and procedure for signing concession agreements for software and databases.

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

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

### **Draft law on transit freight transport across Russian Federation submitted to Russian State Duma**

The draft proposes the following amendments:

- To define the terms "transit transportation", "transit transporter", "transit transport corridor"
- To introduce charges for transit freight transport monitoring (to be determined by the Russian Government) and to set the toll limits
- To regulate the procedure for transporting transit freight across Russia
- To establish transport corridors and a register thereof
- To stipulate that the transit freight and international freight vehicles will be subject to customs control
- Customs checks will be performed if the risks of customs law breaches or any prohibited imports are discovered, or the seals or other means of identification are damaged

- To establish the maximum time in transit and customs control time limits
- To specify the prohibited or restricted transit imports
- To define the mechanisms of exercising transport control over transit freight transport
- To impose administrative sanctions for breaching the Russian transit transportation regulations

For more details about the Russian Government's official position with respect to the draft and the proposed changes, please refer to LT Digests of [17-23](#)

[April 2017](#).

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

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

### CBR lowers key rate

On 28 April 2017, the Central Bank of Russia announced the key rate decrease from 9.75 to 9.25 percent.

[Official CBR website](#)

## Clarifications from government bodies

### Russian Ministry of Finance clarifies criteria for CFC to qualify as active holding (subholding) company

The Ministry has clarified that a CFC's compliance with the corporate profit tax exemption requirements shall be determined with respect to the period in which such CFC's profit was generated.

The share and the period of shareholding in a foreign corporation required to treat the CFC as an active foreign holding or subholding company to comply with the provisions of Items 4-6, Article 25.13-1 of the Russian Tax Code for tax exemption purposes shall be determined as at the fiscal year end date as per such CFC's domestic law.

According to Sub-Item 4, Item 1, Article 25.13-1 of the Russian Tax Code, a CFC shall be exempt of the corporate profit tax if such CFC is an active foreign holding or subholding corporation.

[Consultant Plus](#)

### Ministry of Finance clarifies procedure for restoration of VAT

The Ministry has explained that the deduction of VAT on goods/works/services and property rights further used in non-VATable operations shall be **reversed irrespective of the share of expenses attributable to the non-VATable operations**.

The Russian Supreme Court has previously expressed a similar position, setting forth that a five-percent threshold rule shall only apply to input VAT on "general" expenses, while VAT on expenses attributable solely to the non-VATable operations may not be deducted even if the five-percent threshold is exceeded. However, recent court decisions attest to the lack of consistency in the court practice.

Thus, in case No. [A27-2109/2016](#) the court ruled that the five-percent threshold rule was aimed at eliminating the redundant accounting of non-existent operations; therefore, obliging the taxpayer to reverse VAT deducted on expenses attributable to non-VATable operations where the five-percent threshold is not exceeded defeats the purpose of the respective Tax Code provisions.

[Consultant Plus](#)

### Russian Federal Tax Service (FTS) refines approach to proving unjustified tax benefit

The regulator eases the formal approach towards identifying the unjustified tax benefits during tax audits and underlines that the fact of artificial transactions must be proved.

In particular, the FTS has issued the following recommendations:

- If a document was signed on behalf of a counterparty by a person who now denies that he has the necessary authority and the fact of signing, but such person's being a signatory was established by questioning and graphanalysis, it does not unconditionally and sufficiently suggest that the taxpayer failed to treat the transaction with due diligence and care and shall not necessarily entail the recognition of the tax benefit as unjustified
- To conclude whether the choice of a vendor was justified, the tax authorities must assess if the vendor selection procedure was consistent with the usual business practices, how the taxpayer evaluated the transaction's terms and conditions, the risks of default, the vendor's reputation, and its production and staff capacities
- The tax authorities shall also establish the absence of personal contacts between the vendor's (contractor's) and the buyer's (client's) management while discussing the terms of supply and the signing of contract and note the lack of documented attempts to collect vendor information (media advertising, references from peers or other parties, vendor's website).
- The tax authorities must request the following documents and information from the taxpayer:
  - The vendor search, monitoring, and selection records
  - The sources of vendor information
  - The respective product or service market research findings and potential vendor assessment results
  - The documented vendor selection justification

The letter contains recommendations regarding the evaluation of adequacy of vendor integrity check performed by the taxpayer that will be equally useful for the taxpayers.

[Official Russian Federal Tax Service website](#)

## Media review

### Initiative to create blockchain intellectual property management platform

Skolkovo Foundation in cooperation with several universities and collective rights management societies have put forward an initiative to establish a national coordination center for processing the intellectual property transactions, primarily geared at launching a universal intellectual property management platform in Russia, the IPCHAIN.

The platform will integrate the data on all copyrights, patents, trademarks etc., their use in the digital environment, and transfer of intellectual property rights.

Based on The IPCHAIN, an IP exchange can further be created to support the trading in intellectual property rights. It may well replace the existing obsolete collective rights management system.

The initiative will enable all authors and right holders to upload their assets to the system and determine the scope and the limitations for the use of such property. This would require developing a data exchange standard so that other copyright holders could connect their systems to the platform.

[Vedomosti](#)

### Twitter to localise Russian user data handling by mid-2018

The Russian telecom regulator Roskomnadzor has announced that Twitter formally confirmed its agreement to transfer the data of Russians users to the servers located in Russia by mid-2018

According to the regulator, the company is currently identifying the data relating to the Russian individuals and companies that can be transferred to local servers.

[Official Roskomnadzor website](#)

### Russian Federal Tax Service develops data exchange format for medication labeling pilot participants

In 1Q 2017, the Russian Federal Tax Service started preparations for piloting a medication labelling project and developed the format of data exchange between its participants.

The labelling project platform's testbed is expected to open soon, marking the launch of the pilot.

The procedure for testing the pilot project for labelling and monitoring the use of certain medications and controlling their distribution was approved by Russian Government Resolution No. [62](#) of 24 January 2017.

The pilot will be tested from 1 February to 31 December 2017; participation is voluntary.

[Official Russian Federal Tax Service website](#)

### CBR's initiative: exporters to shed obligation to execute transaction passport

The Central Bank of Russia proposes delegating the obligation to generate transaction passports to the banks servicing the transactions.

The existing laws oblige the Russian companies to report FX transactions over USD 50,000 or more or its equivalent in a different currency.

The CBR has previously proposed raising the minimum value of foreign trade contracts subject to transaction passport requirements from USD 50,000 to 75,000.

[Vedomosti](#)

### Initiative to permit online sale of jewellery

The Russian Ministry of Economic Development proposes permitting the online sales of jewellery as of 1 January 2018.

The Ministry is currently aligning the respective draft regulations with the Russian Ministry of Finance, Federal Tax Service, and other authorities.

The online sale of medications, medical appliances, and food products is also being discussed.

[Izvestia](#)

### Amendments to draft law regulating online aggregators developed

In particular, the document calls for the following measures:

- To set forth that the aggregators shall be held liable only for knowing misrepresentations
- To oblige the aggregators to indemnify customers only for damages they actually inflicted
- To refine the procedure for providing information about services rendered by the aggregators
- To extend the deadlines for considering the customer refund claims from 10 to 20 days

The amendments have not yet been officially published.

For more details about the content of the draft, please refer to LT Digest of [29 March 2017](#).

[Kommersant](#)

## Media review

### Outlook on harmonisation of EAEU member states' tax legislation

Eurasian Economic Committee (EEC) representative Nurmatbek Mambetaliev speaking at a tax and customs regulation roundtable outlined the plans to harmonise the excise tax rates on alcohol and tobacco as part of the EAEU member states' effort to align their tax legislation.

Furthermore, as the hydrocarbon market develops, the related excise taxes will be harmonised as well. The EEC is currently working on a harmonised e-commerce

taxation mechanism, including the exchange of information on commodity flow (balance) between the tax and customs authorities.

The Russian Federal Customs and Tax Services support the EEC's proposals and call for developing a common mechanism for administering the customs and tax payments.

[\*Official Eurasian Economic Committee website\*](#)

# Deloitte publications

## **New FSI TAX WATCH digest**

We are happy to announce the first [issue](#) of FSI TAX WATCH, the digest of tax news and court practice overview for the financial services sector.

Learn about the most important legislative changes, tax law enforcement clarifications from the Russian Ministry of Finance, and tax litigations – in particular, about the disputes involving financial institutions and the complicated cases of tax treatment of capital transactions, financial assets and instruments.

## **President of Russia approves national environmental security strategy**

On 19 April 2017, the President of Russia approved the [National environmental security strategy](#) until 2025. The Russian government has three months to approve a detailed implementation plan for the Strategy. Read about the priorities it sets and the implications it causes for the business in the comments by Deloitte's professionals.

For more details, please refer to LT in Focus of [26 April 2017](#).

## **Electronic sick leave certificate**

A federal law enabling the accrual and payment of temporary disability and maternity benefits on the basis of an electronic sick leave certificate was adopted by the Russian State Duma in the third reading on 14 April 2017. The law is scheduled to enter into force on 1 July 2017.

For more details, please refer to LT in Focus of [25 April 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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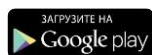


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## TaxSmart app



## [deloitte.ru](http://deloitte.ru)

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