



LT Digest

Be in the know

Legislative initiatives

President of Russia signed federal law refining tax exemption of property contributions and reconsidering certain tax benefits

The President of the Russian Federation signed Federal Law No. [286-FZ](#) that refines the tax exemption of property contributions and reconsiders certain tax benefits.

For more details about the content of the draft, please refer to LT in Focus of [3 October 2017](#).

Official Internet Portal for Legal Information

Draft law on audit sector reform submitted to the State Duma

According to the draft, the control and supervision of audit activities are to be delegated to the Central Bank of Russia.

Furthermore, the draft proposes changing mandatory audit criteria for financial statements: from now on, the financial statements will be subject to a mandatory audit if during the past two consecutive years at least two of the criteria below are met:

[President of Russia signed federal law refining tax exemption of property contributions and reconsidering certain tax benefits](#)

[Draft law on audit sector reform submitted to the State Duma](#)

[Nizhny Novgorod to grant tax incentives for new movables](#)

[Facilitated naturalisation for individuals investing in Far Eastern Federal District](#)

[Russian Ministry of Finance clarifies recognition of principal received from foreign sister company as capital for thin capitalisation purposes](#)

[Rosprirodnadzor clarifies applicability of "extended responsibility" to off-take arrangements](#)

[Russian Ministry of Finance presents data on regional tax incentives](#)

[OECD releases IT-tools to support exchange of tax information policies](#)

[Donald Trump unveils ambitious plan to overhaul US tax system](#)

[Finance bill for 2018 published in France](#)

- Revenues exceed RUB 800 million
- Balance sheet asset value is above RUB 400 million
- Average headcount exceeds 100 employees.

The document introduces the requirements towards the audit of "organisations of public importance" (PJSC, credit institutions, insurance companies, professional securities market participants etc).

Such entities can be audited only by audit firms on the Central Bank's register.

Eligible audit firms must meet the criteria set by the draft law: employ a required number of full-time auditors (at least three of them must hold single qualification auditor certificates and have relevant experience in auditing of organisations of public importance for at least three consecutive years), be in good standing, have relevant audit track record, and maintain a website where it discloses its business information.

If adopted, the Federal Law will enter into force on 1 January 2018 except certain provisions to be effected on a different date.

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

Nizhny Novgorod to grant tax incentives for new movables

Nizhny Novgorod Region adopted a law that keeps the tax incentives for movables recognised as of 1 January 2016 for the following categories of taxpayers:

- Taxpayers operating under Section C "Processing industries" and Class 72 "R&D" of Section M "Professional and Research Activity" (as per business classifier OKVED OK 029-2014 (KDES Vers. 2)

- Taxpayers engaged in the regular municipal transit services to transport welfare recipients, students and luggage in Nizhny Novgorod Region
- Enterprises established by Nizhny Novgorod Region or regional municipalities and financed from the regional budget, Territorial Mandatory Health Insurance Fund or local budgets (except the leased movables).

The incentive will not apply to assets received from a restructuring or a liquidation of legal entities or from a transfer (purchase) of property between related parties as defined by Item 2, Article 105.1 of the Russian Tax Code.

[Moskovsky Komsomolets in Nizhny Novgorod](#)

Facilitated naturalisation for individuals investing in Far Eastern Federal District

A draft law entitling foreign citizens or stateless persons that invested at least USD 10 million to an expedited naturalisation process irrespective of the time of residence, language proficiency, verification of source of income or the requirement to renounce citizenship of another state has been released.

According to the document, an investor's spouse, minor children and parents will also be entitled to apply for the expedited naturalisation.

[Federal draft legislation portal](#)

Clarifications from government bodies

Russian Ministry of Finance clarifies recognition of principal received from foreign sister company as capital for thin capitalisation purposes

The Ministry has reminded that for thin capitalisation purposes a positive difference between the accrued loan interest and the maximum interest shall be treated as dividends payable to a foreign entity specified in Sub-Item 1, Item 2, Article 269 of the Russian Tax Code, i.e. to a shareholder of a Russian company.

According to Item 14 of the Russian Supreme Court Presidium's Digest of Court Cases of 16 February 2017, the taxation treatment of loan interest as dividends shall be taken into account when determining the eligibility of a foreign withholding agent for applying a lower tax rate envisaged by a tax treaty, i.e. a tax authority must treat the respective part of the loan issued to a Russian company as a capital contribution.

At the same time, the Russian Ministry of Finance pointed out that the Digest cited a specific case when a loan was issued **directly by a shareholder**, and not all the instances of debt origination envisaged by Item 2,

Article 269 of the Russian Tax Code.

Furthermore, the Supreme Court's opinion refers only to a particular tax treaty and shall not be regarded as generally applicable.

The Ministry has noted that the approach to "capital" set by subparagraph D of Paragraph 15 of the Commentaries on Article 10 of the OECD Model Convention on Income and on Capital for instances when the interests are treated as dividends shall only apply to loans issued by **a shareholder himself**.

Therefore, with respect to the loan received from a foreign sister company, the capitalisation ratio and the shareholding of a related foreign person indicated in [Sub-Item 1, Item 2, Article 269](#) of the Russian Tax Code in a Russian entity shall be determined regardless of any conclusions made in the [Supreme Court's digest](#).

[Consultant Plus](#)

Rosprirodnadzor clarifies applicability of "extended responsibility" to off-take arrangements

According to the regulator, quite a few producers (in textile, hydrocarbon processing, tire manufacturing industries etc) work with customer-furnished raw materials under off-take agreements that use the terms "Customer" and "Production Service Provider". The latter is not completely equivalent to a "producer", although that concept is not formalised in the Russian legislation.

When a production service provider renders production services, it receives flat service fees based on the cost of raw materials and other production costs and has no right to dispose of the products made. The product title

remains fully owned by the trademark owner, who is solely entitled to sell it or remove from circulation subject to further disposal once it loses its consumer value.

Therefore, it is the customer's (trademark owner's) duty to comply with the extended producer responsibility, file reports on the products put into circulation in Russia over the previous calendar year as well as consumer waste recycling reports.

At the same time, the production service provider can assume the contractual extended responsibility towards the products it makes under the contract.

[Consultant Plus](#)

Media review

Russian Ministry of Finance presents data on regional tax incentives

The ministry has posted on its website the presentation materials showing local tax incentive growth rates and

regional statistics on the share of profit, property, and transportation taxes in total taxes.

[Official Ministry of Finance website](#)

International legislation news

OECD releases IT-tools to support exchange of tax information policies

The OECD has released updated and new IT-tools and guidance to support the technical implementation of the exchange of tax information under the Common Reporting Standard (CRS), on Country-by-Country (CbC) Reporting and in relation to tax rulings (ETR).

In particular, in relation to CbC Reporting pursuant to BEPS Action 13, the updated CbC XML Schema and User Guide now allows MNE Groups to indicate cases of stateless entities and stateless income, as well as to specify the commercial name of the MNE Group. Furthermore, both with respect to the CbC and ETR XML Schemas and User Guides, certain clarifications have been made, in particular with respect to the correction mechanisms.

The tool also enables the tax administration to provide feedback on received CbC and ETR information and on errors encountered.

[Official OECD website](#)

Donald Trump unveils ambitious plan to overhaul US tax system

The tax reform calls for the following changes:

- Shifting from the international to territorial taxation regime (profit taxation at US source): dividends received from foreign subsidiaries will be tax exempt, while the profits parked abroad will be deemed repatriated and subject to tax
- Reducing the corporate tax rate from 35 to 20 percent and introducing a new rate of 25 percent for pass-through business

- Limiting net interest expensing for profit tax purposes and repealing deductions for cottage industries
- Consolidating seven personal income tax brackets to three brackets of 12 percent, 25 percent and 35 percent (the current lowest bracket is 10 percent, the highest is 39.6 percent)
- Repealing personal income tax exemptions, except for standard ones, mortgage interest and charity deductions
- Repealing inheritance tax.

[Kommersant](#)

Finance bill for 2018 published in France

The bill introduces the following changes:

- Gradual reduction of the corporate profit tax rate to 25% by 2022
- Abolishment of a 3-percent surtax on profit distributions
- Repeal of the Carrez rule that limits the deductibility of interest expenses relating to the acquisition by a French company of a controlling interest in another company.

For more details on the possible changes please refer to "France alert. Finance bill for 2018 published of [28 September 2017](#) .

Deloitte publications

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](#).

The allocation of advertising expenses between related functional entities imply significant tax risks

On August 21, 2017, the first instance Commercial Court of Lipetsk Region delivered a [judgment](#) in a rather unusual tax dispute over allocation of marketing expenses between a producer and a distributor.

The court has ruled in the tax authority's favour acknowledging that the producer's strategic marketing expenses had been actually incurred for the benefit of the related distributor that had also acted as the sole executive body.

The court held that the producer had rendered free-of-charge marketing services to the distributor, denied the deductibility of respective expenses and assessed VAT on those services.

Read on for a detailed review of the dispute and the analysis of an unconventional approach applied by the tax authorities in the Legislative Tracking in Focus of [28 September 2017](#).

Overview of ICO regulations: changes in key jurisdictions

Regulators around the world have been increasingly active in expressing their positions about tokens and ICOs, warning investors of potential risks related to cryptocurrencies. Read on for an overview of recent regulatory changes in key jurisdictions.

For details, please refer to Legislative Tracking in Focus of [12 September 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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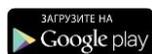


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