



## LT Digest

### Be in the know

#### Legislative initiatives

##### **Vologda Region introduces profit tax deduction for investors**

An investment deduction will be granted to companies implementing high-priority investment projects in Vologda Region.

The investors that already apply the lower profit tax rates will not be eligible for the deduction.

The deduction will be capped at 50 percent of investments into the fixed assets determined by the relevant investment agreement.

For deduction cap calculation purposes, the regional tax component will be levied at a rate of five percent.

The unused investment deduction can be carried forward to up to five consecutive future tax periods.

As a reminder, the investment deduction was introduced by Federal Law No. 335-FZ of 2017 November 2017.

The deduction has already been introduced by the Khanty-Mansy Autonomous District — Yugra (see LT Digest of [4-31 December 2017](#)), the Karelian Republic (see LT Digest of [2-8 April 2018](#)), the Yamalo-Nenetsk Autonomous District (see LT Digest of [22 May – 3 June 2018](#)), and the Republic of Udmurtia (see LT Digest of [27 August – 2 September 2018](#)) and

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Amur Region (see LT Digest of [22-28 October 2018](#)).  
[Official Internet Portal for Legal Information](#)

### **Ministry of Finance releases bill on investment protection and incentives**

The bill proposes securing business terms for investors that enter into an investment protection and incentives agreement (“Agreement”) with a particular region.

The agreement may be signed if:

- investment is made into a specific industry
- the total project budget is at least RUB 10 billion (unless otherwise indicated by the Government)
- the project is fully or partially funded by an investor that contributes at least RUB 3 billion of its own funds (unless otherwise indicated by the Government)
- the project is not an equity investment as at the date of filing an investment declaration
- the investor is not a foreign entity registered in a tax-haven jurisdiction that does not disclose and exchange information, or a Russian entity controlled by such foreign entity (with a 50-percent-plus interest)
- the agreements are signed for six years (for investments under RUB 30 billion) and for 12 years (for investments above RUB 30 billion); if a capital investment period exceeds six years, the agreement will be signed for 18 years, regardless of the amount invested.

The agreement offers the following advantages:

- grandfathering the benefits
- the Government will reimburse the losses, if it fails to secure the project terms
- for investments into infrastructural or environmental projects, the agreement may provide for the tax increment financing, where the project costs are reimbursed up to the total amount of taxes charged on the project.

The projects for which the agreements are signed will be included in a special online register.

Benefits to investors, including residents of special or free economic zones, advanced development territories, SPICs, PPPs, and RIPs and parties to concession agreements will be grandfathered based on the investment protection and incentives law, not under the laws governing the above-mentioned special regimes or territories.

Grandfathering the benefits with respect to the tax liabilities will be governed by a separate [bill](#).

The benefits will apply to the rates, allowances, assessment and payment policies for profit, property, land, and transportation taxes, as well as to VAT payment terms.

The bill also introduces a new chapter, regulating the tax treatment of parties to investment protection and incentives agreements.

The current wording of the bill released on the Federal Draft Legislation Portal only explains how to sign an Agreement and does not set forth any details of preferential tax treatment.

[Law on PIT deductions for business angels might be adopted by end of 2018](#)

[Russian Government to counter-sanction Ukraine](#)

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[Ministry of Health to create unified database](#)

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Both bills appear quite immature as they do not specify the Agreement signing procedures, its applicability to the existing investment projects, the use of the increment tax financing mechanism, and the tax treatment of the parties to the Agreement and are likely to be reworked.

[Federal draft legislation portal](#)

### President of Russia signs package of federal laws

The President of the Russian Federation signed a package of federal laws:

- Federal Law No. [378-FZ](#), preserving federal property tax benefits for pre-retirees until the pension reform's completion
- Federal Law No. [370-FZ](#) of 30 October 2018 on ratification of the double taxation convention (and Protocol) with Ecuador (for more details, please refer to LT Digest of [3-9 September 2018](#))
- Federal Law No. [394-FZ](#) of 30 October 2018, postponing the ban of VAT recovery for **road construction companies** that use public investment funds and operate under concession agreements
- Federal Law No. [392-FZ](#), **granting VAT exemption on passenger transportation services rendered based on regulated tariffs** under federal and municipal contracts
- Federal Law No. [373-FZ](#), introducing tax benefits for the residents of **R&D hubs**.

*Official Internet Portal for Legal Information*

### Ministry of Finance calls for excising grapes used for wine-making

A bill to that effect was posted on the Federal Draft Legislation Portal.

The excise base will be defined as the volume of grapes used for the production of wine, measured in tonnes.

The excise will be charged at RUB 25 per tonne from 1 July 2019 to 31 December 2020 and at RUB 26 per tonne starting from 2021.

The excise tax will be recoverable subject to the provision of the documents required by law.

The recoverable amount will factor in a coefficient calculated based on a special formula.

The bill provides for a single excise rate of RUB 30 per litre (starting from 1 July 2019), RUB 31 (in 2020) and RUB 32 (in 2021) for wines and sparkling wines (champagne), regardless of their PGI/PDO status.

The producers of wines/sparkling wines will be obliged to take stock of their products by 1 July 2019 and report the results to the tax authorities.

For products identified during the stocktaking the former excise rates will apply after 1 July 2019.

The bill provides for an increase of excise rates for nearly all excisable goods starting from 1 January 2021.

If adopted, the law will enter into force on 1 January 2019, but not earlier than a month after its official publication.

[Federal draft legislation portal](#)

### Russian Ministry of Labour develops bill on electronic employment record books

According to the bill, employers will be electronically transmitting employment records to the Russian Pension Fund.

To switch to the electronic employment record books (EECBs) in 2020, employers will have to:

- amend or implement the local EECB policies
- amend the collective agreements (if necessary)
- ensure the availability of technical capacity
- notify the employees of the regulatory changes, including their right to keep paper employment record books until 1 January 2027 (a respective request must be filed during 2020).

The transition to EECBs will be completed by 1 January 2021.

After 1 January 2027, the hard copies of employment record books will no longer be in use.

If adopted, the bill will enter into force on 1 January 2020.

Another [bill](#) proposes obliging employers to electronically submit employment records to the Russian Pension Fund.

In particular, starting from 1 January 2020, employment records will be submitted to the Russian Pension Fund on a monthly basis, and from 1 January 2021 — no later than on the business day following the issue of employment order.

The employers failing to submit the necessary employment data [might](#) be issued a disciplinary warning.

[Federal draft legislation portal](#)

### President of Russia signs off national migration policy for 2019 – 2025

The policy sets forth the following objectives and priorities:

- to streamline the legal, organisational, and regulatory mechanisms that ensure:
  - voluntary resettlement of ethnic Russians residing abroad, as well as any other persons capable of successfully integrating into the Russian community
  - attracting foreigners committed to developing the economic, business, professional, scientific, cultural, and other ties, learn the Russian language, history and culture, and capable of, by virtue of their professional experience, knowledge and competencies, contributing to the economic, social, and cultural development of Russia
- to facilitate the adaptation of the foreigners who experience difficulties, adjusting to the cultural differences and a new lifestyle
- to ensure that entry, visa, employment, and residence permits and citizenship can be applied for and obtained in a simple and transparent manner
- to adjust foreign employee quotas to the real situation in the Russian labour market, factoring in the needs of the economy and the citizens
- to streamline recruitment of foreign employees.

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

## Russian Government approves draft protocol on electronic information exchange between CIS states for tax administration purposes approved

The document provides for an automatic annual exchange of information on personal income, property, and beneficial ownership between the tax authorities of the agreeing states, which is expected to facilitate the tackling of the shadow economy, wealth concealment, and tax avoidance.

The Protocol was approved by the CIS Economic Council in September 2018.

With the Protocol signed at the CIS leaders' meeting in November 2018, the exchange may start in 2019.

[Official website of the Russian Government](#)

## SPIC application form updated

The update was driven by the adoption of Russian Government Resolution No. [1564](#) of 16 December 2017 that approved the new SPIC execution rules and the standard form (for more details, please refer to LT Digest of [4-31 December 2017](#)).

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## Ministry of Economic Development proposes list of key indicators for non-financial reporting

According to the Ministry, non-financial reporting must disclose social, environmental, charity, and employee training expenses.

The reports must provide information on the age and gender of the headcount, average payroll, personnel attrition rates, and terminated pre-retirees.

Some indicators will relate to employment entitlements: payroll outstanding, occupational accidents, emergencies, and injured employees.

The sanctions for employee corruption offences will have to be reported separately.

As a reminder, a bill regulating non-financial reporting was released in December 2017.

[Federal draft legislation portal](#)

## Central Bank of Russia approves priorities of monetary and fiscal policy for 2019 and 2020-2021

The document

- sets forth the mid-term objectives and principles of the monetary and fiscal policy
- sums up the policy implementation activities in 2018
- overviews the use of monetary and fiscal policy tools in 2018 and lays out plans for 2019–2021
- outlines the macroeconomic scenarios and monetary and fiscal policy for 2019–2021.

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## Russian State Duma to take up bill on national database of labelled goods

The database operator will be designated by the Government and will provide for the centralised generation of verification codes, using the Russian encryption technologies.

The database creation and functionality and its interface with other governmental and business databases will be regulated by the Government.

The businesses will be submitting data on the labelled goods to be monitored through the database.

The Government will also determine:

- the data submission procedure
- the requirements for the labels and the verification codes
- the procedure for withdrawing and destroying the unlabelled goods
- the labelling fees.

If adopted, the law will enter into force on 1 January 2019.

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

## Counter-sanctions against Ukraine effected

Government Resolution No. 1300 of 01 November 2018 imposed special economic sanctions on 66 individuals and 322 Ukrainian companies. The sanctions include the freezing of cashless settlements, uncertificated securities, and property in Russia and a ban to transfer cash (disinvest) outside Russia.

[Official website of the Russian Government](#)

## Regulation of vital and essential medicines can be changed

A bill released on the Federal Draft Legislation Portal proposes the following changes:

- to ban the increase of price caps more than once a year
- to determine the circumstances, under which producers will be obliged to reduce and re-register the price floors:
  - if the price for a medicine has decreased in the country of its origin, registration and/or supplies
  - if the price of the original drug has decreased
  - if the price of the first foreign generic medicine has exceeded the second generic's price cap
  - if the price of the first EAEU generic has exceeded the price cap of the second EAEU generic.

[Federal draft legislation portal](#)

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## Clarifications from government bodies

### Federal Tax Service reaffirms inapplicability of energy efficiency benefits to multifamily apartment buildings

The regulator reminded that energy efficiency benefits

apply only if:

- a building is newly commissioned
- it was assigned the High energy efficiency class in accordance with the applicable laws.

According to the FTS, an energy efficiency class may be assigned to a constructed, overhauled, or commissioned multifamily building or a building constructed under supervision.

For other buildings, the classification is optional and may be voluntarily assumed by the developers or owners.

However, the FTS noted that the determination of the energy efficiency class for non-multifamily buildings is not regulated, which precludes the use of the benefit.

As a reminder, according to letters of the Ministry of Construction and the Ministry of Economic Development No. [36710-00/04](#) of 31 August 2018 and No. [D07i-844](#) of 13 September 2018, the energy efficiency class of the buildings, for which the development of specifications began before 1 July 2015, could be determined on the basis of SNiP (construction standard) '23-02-2003. Thermal insulation'.

Apparently, the Ministries cannot reach consensus regarding the tax benefit's applicability.

The courts (including the Supreme Court) fully support the FTS's position.

Yet, we are not aware of any litigation, in which the new position of the Ministries of Construction and Economic Development would be considered.

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### Federal Tax Service clarifies determination of cadastral value in case of changes in property specifications

According to the Federal Tax Service (FTS), the Russian Tax Code provides no specific guidance on the determination of the corporate property tax base for the real estate listed in the cadastre at the beginning of a tax period and the specifications of which (such as cadastral number, value, total floor area) changed during such tax period.

Therefore, corporate property tax is charged for the entire tax period on the cadastral value as at 1 January of the respective tax period.

Based on the foregoing, the regulator confirmed that real estate located in Moscow and included in the cadastre in 2016-2017 had to be taxed based on its cadastral value approved as at 1 January of the respective year.

Here we should remind of the notorious retrospective increase of cadastral value in Moscow in 2016, when Moscow's Government amended its Resolution No. [688-PP](#) of 21 November 2014 "On approving the results of cadastral valuation of property in Moscow", making the cadastral value of certain properties skyrocket (Moscow Government's Resolution No. [937-PP](#) of 26 December 2016).

Although the changes were made only in the end of

2016, the tax authorities insisted on applying the new cadastral values as of 1 January 2016.

The judicial practice on the matter lacks consistency: in cases No. [A40-87972/2018](#) and No. [A40-49977/18-115-1747](#), the courts favoured the tax authorities, while case No. [A40-19730/2018](#) was awarded to the taxpayer.

The conclusions set out in the FTS letter can be viewed as upholding the taxpayer's position in the above-mentioned disputes.

We expect that the matter will be eventually settled in the taxpayers' favour.

Several companies appealed to the court, seeking nullification of Clause 3 of Moscow Government's Resolution No. 973 that enacts the document.

The claim was initially dismissed by the courts; however, the [Supreme Court](#) concluded that the disputed provisions did affect the legitimate interests of the plaintiffs and sent the case for retrial.

On 31 October 2018, the Moscow City Court [adjudged](#) in the taxpayers' favour, the final adjudication not yet released.

We hope that this case will put an end to the disputes on the retrospective application of Resolution No. 937-PP.

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### Federal Tax Service recaps about change in cadastral value

The Federal Tax Service (FTS) reminded that the change of a cadastral value is not normally taken into account for tax base purposes in the period when the change takes place or for the preceding periods, subject to a few exceptions:

- when the adjustment of an erroneously recorded cadastral value is factored in, starting from the tax period, in which the error was made (according to the FTS, the provision applies regardless of the error type)
- when the change of the cadastral value based on an authorised commission's or a court's decision is factored in, starting from the tax period, in which a revaluation claim was filed, but not earlier than the date, when the challenged cadastral value was entered in the real estate register.

In the FTS's opinion, before applying the cadastral value established by the authorised commission, the Russian Tax Code must be consulted to make sure that it provides for grounds to apply such cadastral value.

Also, the decision itself and its enforceability (e.g. whether it was reversed by the court) must be verified, along with the cadastral value and its validity period.

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## Media review

### FATF recommends introducing cryptocurrency control

The Financial Action Task Force (FATF) recommended introducing control of cryptocurrency transactions.

From now on, ICO platforms, crypto wallet operators and virtual exchange offices will have to report their

activities to Rosfinmonitoring, subject to the established transaction value criteria.

All FATF members must change their legislation to include the new crypto ecosystems. They should introduce registration and licensing parameters for the companies developing around this technology, including

the exchanges, initial coin offering projects, and cryptographic administrators. FATF will also monitor the companies' activities and standards for anti-money laundering.

If the FATF regulations allow, a cryptocurrency can be 'digitally handled and transferred and used for payments and investments'.

At the same time, it should not be made into securities, mainstream and virtual money, coins or other financial assets.

According to FATF, the exchange of virtual assets to fiat money, virtual assets to virtual assets, their transfer, storage or depositing will also be subject to regulation.

The Russian laws are expected to be amended shortly.

[Izvestiya](#)

### **Russian Government to foster domestic LPG production**

The following resolutions have been made:

- to allocate federal land lots to LNG projects under no-bid contracts
- to develop proposals to incentivise Russian LNG producers by setting zero profit and property tax rates for 12 years
- to exempt LNG production and transshipment facilities from property tax.

[Official website of the Russian Government](#)

### **Russian government will not formalise net neutrality**

The Russian Government resolved that the net neutrality principle, which prohibits Internet providers from blocking access or slowing down traffic to certain websites, may not be transformed into formal legal rules, citing the existence of particular anti-discrimination legal remedies.

The net neutrality principle was recommended for formalisation by the Digital Economy Council in August 2018.

[Vedomosti](#)

### **Russian Government may raise oil and petrochemicals export duties**

Prime Minister Dmitry Medvedev said that gasoline prices were still going up despite all the Government's efforts and tasked the Russian Ministry of Energy with negotiating with the oil companies.

If the situation does not change, the Government may respond by raising the oil and petrochemicals export duties.

[Vedomosti](#)

### **Law on PIT deductions for business angels might be adopted by end of 2018**

The bill introduces a tax deduction for investments into high-tech startups (approved by one of the Russian development institutes), capped at 50 percent of the

invested amount or RUB 5 million a year.

To be eligible for the benefit, the investor must own no more than 50 percent in the startup, whose annual revenue must not exceed RUB 10 million.

The document also proposes reducing the minimum holding period for PIT exemption purposes from five to two years.

The document has not yet been officially published.

[RNS News Agency](#)

### **Russian Government to counter-sanction Ukraine**

Response measures will be imposed on almost 360 companies and over 50 individuals.

An order enabling economic counter-sanctions against the Ukraine was signed by the President of the Russian Federation on 22 October 2018.

[Kommersant](#)

### **Business community asks for preserving commercial and office property tax rate at 1.5 percent**

Opora Rossii, an organisation lobbying the interests of small and medium businesses, petitioned Moscow Mayor Sergey Sobyanin for preserving the existing tax rate, citing the overtax risks implied in the increase of the property tax rate to 20 percent against a backdrop of the current economic volatility.

The property tax rate for 2019 must be approved by Moscow's government by the end of 2018.

[Kommersant](#)

### **Rosneft knows how to handle fuel deficit**

In particular, the company proposes:

- obliging all oil producers to supply 17.5 percent of domestically extracted oil and gas condensate to the domestic market
- transferring the excise burden from refineries to gasoline stations
- introducing a floating gasoline excise rate, inversely correlated with the oil prices
- analysing transparency of exchange transactions to prevent the manipulation and collusion of bidders
- extending commitments to stabilise oil prices to all market participants, including independent gas stations.

The proposals were presented to the Government for consideration.

[Vedomosti](#)

### **Arbitration of Russian Union of Industrialists and Entrepreneurs to establish digital economy disputes panel**

The panel will start considering disputes in early 2019.

The arbitration regulations were amended accordingly and the arbitrators were selected.

The panel is expected to consider disputes that arise from using blockchain technologies to sign, perform, change, and terminate smart contracts, as well as from the digital asset transactions that imply a digital identification of the parties.

The panel will also have jurisdiction over the disputes relating to investments, including ICOs, digital services, artificial intelligence, neurotechnologies, robotics, and robotic sensors.

[Kommersant](#)

### **Government and oil companies to sign oil market stabilisation agreement**

At a meeting held by Deputy Prime Minister Dmitry Kozak on 31 October 2018, the largest oil producers committed to bringing down and maintaining the wholesale fuel and diesel prices at least until the beginning of 2019 and then raising prices in line with the inflation rates.

The agreement will provide for an increase of domestic fuel supplies of at least three percent year over year.

The wholesale prices must rebound to the level of 2018 to secure the gas stations profitability.

The agreement will apply until 31 March 2019.

[Vedomosti](#)

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## **International taxation news**

### **UK Government announces upcoming changes in tax legislation**

In particular, the following decisions were made:

- to reduce the UK corporation tax rate to 17 percent as of 1 April 2020

### **India, Iran, Russia push alternative to Suez Canal**

Iran, Russia, and India announced a meeting on 23 November 2018 to work out the details of a project to open up a new sea-land North-South Transport Corridor (NSTC).

The NSTC will connect Mumbai to St. Petersburg via a combination of sea routes and an overland passage.

The agreement between Russia, Iran, and India was signed in September 2000 and ratified in 2002. In 2005, Azerbaijan joined the project.

A new 7,200 km transport route is expected to become a cheaper and a shorter alternative to shipping oil and other goods through the Suez Canal.

[Rossiyskaya Gazeta](#)

### **Ministry of Health to create unified database**

The database that will encompass the data on 75,000 medical providers across Russia is expected to be finalised by 1 January 2022.

[RNS News Agency](#)

- to introduce a Digital Services Tax as from April 2020
- to clarify the tax treatment of CFCs.

For details, please refer to UK Tax Alert of [29 October 2018](#).

# Deloitte publications

## Russia modernises data privacy legislation

On 10 October 2018, Russia signed Amending Protocol ETS No. 223 to the Council of Europe Convention for Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108). The accession to the Convention will require ratification of the Protocol by the Russian parliament and will entail changes in the Russian data privacy laws and enforcement practices.

For details, please refer to Legislative Tracking in Focus of [28 November 2018](#).

## And yet it moves! Or does it?

Starting from 1 January 2019 movable property would be exempt from taxation.

It creates a shortfall in the regional fiscal revenues, which have been estimated by Minister of Finance Anton Siluanov at up to RUB 181 billion.

This, in turn, may lead to more litigations over the tax authorities' attempts to classify movable property as immovable to collect more tax.

For details, please refer to Legislative Tracking in Focus of [23 November 2018](#).

## First prosecution for FATCA non-compliance, 12 September 2018

On 11 September 2018 in federal court in Brooklyn, Adrian Baron, the former Chief Business Officer and former Chief Executive Officer of Loyal Bank Ltd pleaded guilty to conspiring to defraud the United States by failing to comply with the Foreign Account Tax Compliance Act (FATCA). The Loyal Bank is an off-shore bank that has offices in Budapest, Hungary and Saint Vincent and the Grenadines.

According to court documents, in June 2017, an undercover agent met with Baron and explained that he was a U.S. citizen involved in stock manipulation schemes and was interested in opening multiple corporate bank accounts at Loyal Bank.

For details, please refer to Legislative Tracking in Focus of [12 September 2018](#).

## Amendments to the Russian Tax Code

Federal Law No. 302-FZ «On amendments to Part I and II of the Russian Tax Code» (The Law) introduced a number of changes aiming to reduce the administrative burden for VAT payers. In particular, the Law optimizes the list of documents to be filed with the tax authorities to justify the application of a zero VAT rate.

For details, please refer to Legislative Tracking in Focus of [23 August 2018](#).

## Increase of Russian VAT rate

Federal Law No. [303-FZ](#) 'On Amendments to Certain Tax Laws of the Russian Federation' of 3 August 2018 (hereinafter, "Federal Law No. 303-FZ" ) has introduced amendments to the Tax Code of the Russian Federation (hereinafter, the "Russian Tax Code"), including an increase of the general VAT rate from 18 to 20 percent.

The raise is expected to generate additional budget revenue of RUB 620 billion p.a., starting from 2019.

Along with the added revenue from the oil and gas 'tax maneuver', the measure is viewed as a source of financing for the national development agenda outlined by the President of the Russian Federation in May 2018.

For details, please refer to Legislative Tracking in Focus of [17 August 2018](#).

## The Convention on the legal status of the Caspian Sea

Meeting at the summit in Aktau on 12 August 2018, the leaders of Russia, Kazakhstan, Azerbaijan, Iran, and Turkmenistan signed a milestone document, which brings the relations among the countries to a new level - the [Convention](#) on the legal status of the Caspian Sea. It has taken the five neighbors more than 20 years to come to an agreement.

For details, please refer to Legislative Tracking in Focus of [17 August 2018](#).

## New approach to tax treatment of transactions between related parties

On 15 June 2018, the Nineteenth Commercial Court of Appeals considered a [dispute](#) between PepsiCO and the Russian Federal Tax Service (FTS) over the tax treatment of intragroup transactions.

Courts of two instances supported the tax authorities in classifying the arrangement between the plant and the trading/holding company as free of charge provision of services.

According to the tax authorities, the plant's advertising and marketing expenses had contributed to an increase in the earnings of the trading/holding company and not the plant itself.

For details, please refer to Legislative Tracking in Focus of [31 July 2018](#).

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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,  
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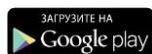


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## TaxSmart app



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