



## LT Digest

### Be in the know

#### Court Practice

##### **Commercial Court of Moscow releases operative part of judgment on first TP case awarded to taxpayer**

On 1 June 2017, the Commercial Court of Moscow sustained Uralkali's position in case No. A40-29025/2017, where the tax authorities claimed over RUB 980 million in underpaid corporate profit tax, citing the use of non-arm's length prices in related party transactions by the taxpayer.

The court's statement of reasons has not yet been released.

[Electronic Justice: commercial courts files](#)

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## Legislative initiatives

### Draft laws pass first reading in State Duma

A number of draft laws were approved in the first reading by the State Duma:

- Draft Law No. [128489-7](#), aimed at restricting the tax benefits for assets paid into company's net assets (please refer to LT Digest [17-26 March 2017](#) for more details);
- Draft Law No. [120718-7](#), enabling the companies to set a reporting period for their consolidated financial reporting, other than a calendar year (please refer to LT Digest [6-16 March 2017](#) for more details);
- Draft Law No. [129791-7](#), prohibiting the liquidation of legal persons during a field tax audit (please refer to LT Digest [17-26 March 2017](#) for more details);
- Draft Law No. [130151-7](#), introducing discounts on fines for breaches of tax regulations (please refer to LT Digest [17-26 March 2017](#) for more details).

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

### Draft law to refine administrative penalties for non-repatriation of foreign trade revenues prepared

Building on the [draft law](#), extending the scope of the duties of a resident, the following amendments have been prepared for the Russian Code on Administrative Penalties:

- To extend the scope of transactions where non-repatriation of forex revenue entails administrative penalty to contracts, providing for the transfer of goods between residents and non-residents, including the purchase and sale of goods outside Russia or within Russia, with the goods not crossing the country's border
- To stipulate that an administrative penalty arises when a resident fails to timely repatriate the payments made to non-residents for goods, works or services not received in general, not only for those not imported into/performed/rendered in Russia.

[Federal draft legislation portal](#)

### Amendments to draft law restricting tax benefits for assets received as contribution to net assets published

In addition to the first batch of amendments (please refer to LT Digest [2-12 May 2017](#) for details), the approval procedure for lists of assets, which taxable based on cadastral value, will be refined; regional draft lists will be published and the affected parties will have the right to appeal the inclusion/non-inclusion of assets in the list.

As a reminder, Draft Law No. [128489-7](#) passed the first reading at the State Duma on 26 May 2017.

[Federal draft legislation portal](#)

### Ministry of Finance to reduce federal portion of income tax rate to two percent for residents of special investments zones and members of free economic zones

As a reminder, starting from 1 January 2017, residents of special investment zones and free economic zones pay income tax to the federal budget at a rate of three percent, while regions are entitled to reduce the regional part of the rate to 12.5 percent (instead of the standard minimum of 13.5 percent).

As of today, not all the regions have exercised their right, which resulted in a one-percentage-point growth of the tax burden.

The Ministry of Finance is planning to fix this at the federal level, reinstating the two-percent rate for the federal portion of the tax.

[Federal draft legislation portal](#)

### Draft law aimed at simplifying registration of foreign drugs submitted to State Duma

It envisages that to register a foreign drug, either of these documents can be submitted: a GMP (good manufacturing practice) compliance statement or a drug manufacturing licence.

According to the current legislation (Federal Law No. [61-FZ](#) as of 12 April 2010), both documents need to be submitted.

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

### Draft law on illegal money transfers prevention submitted to State Duma

The draft law proposes a procedure for money transfer operators' actions upon identifying of illegal money transfer without payor's consent, as well as refund procedure.

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

### Draft law on convertible loans submitted to State Duma

The draft introduces a notion of convertible loan agreement, entitling the lender to convert the loan into equity, in part or in full.

Such conversion is generally permitted by the existing Russian law, however, there is no specific regulatory procedure in place. Russian businesses have had to raise capital in transactions governed by foreign laws.

If adopted, the law will entitle investors to either claim the repayment of a loan or exchange it for an equity stake in the borrowing company, including contingent upon certain circumstances and/or at a specified conversion rate.

The convertible loan mechanism is expected to establish the background for structuring investment deals in accordance with the Russian law.

The draft also enables a long-term distribution of stock subject to a decision on the additional issue of stock that will be guaranteed to a shareholder entering into a convertible loan agreement as well as an increase of the term for keeping a special package of treasury stock or shares for up to three years.

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

## **Draft national automotive industry strategy until 2025 released**

The strategy is focused on the development of electric car and natural gas vehicle markets and telematics.

According to the strategy, the amount of state subsidies will be preserved at the 2017 level until the end of the implementation period; however, by 2020 the monetary support will focus on the development of new electric solutions, unmanned driving, and connected vehicle products and on the creation of the required engineering and transport infrastructure.

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

## **Draft digest of decisions and clarifications on classification of goods in Eurasian Union**

The goods listed in the draft digest are classified in accordance with the Foreign Economic Activity Commodity Nomenclature of the Customs Union (FEACN of the CU) stated therein.

The changes are brought about by the need to unify the classification of goods according to FEACN of the CU,

improving the efficiency of customs operations, and ensuring customs control over goods imported to and exported out of the Russian Federation.

[Federal draft legislation portal](#)

## **Economic sanctions against Turkey lifted**

In particular, employment restriction for Turkish nationals were cancelled, the list of categories of Turkish nationals eligible for duty-free entry extended, and the limitations for Turkish companies' operations in certain areas were removed.

The Ministry of Foreign Affairs was tasked with notifying the Turkish Republic of the partial resumption of the Agreement on terms of mutual visits by citizens of Russia and Turkey.

As a reminder, restrictions on imports of Turkish agricultural produce were lifted earlier on (please refer to LT Digest [22-28 May 2017](#)).

[Official website of the President of the Russian Federation](#)

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## **Clarifications from government bodies**

### **Ministry of Finance clarifies that interest-free bank loans can be recognised as controlled transactions**

The ministry reminded that according to Subitem 7, Item 4, Article 105.14 of the Russian tax Code, interest-free loans between interrelated parties, where all the parties and beneficiaries are registered or resident in the Russian Federation, are not recognised as controlled.

At the same time, the ministry noted that interest-free bank loans are a separate type of obligation and this exception does not apply to regular loans.

[Consultant Plus](#)

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## **Media review**

### **Top managers want to restrict access to corporate information for minority shareholders**

In a letter to the Russian president, a number of top-managers representing major business suggested that a closed list of open information be introduced, which should be made available to all shareholders, e.g. the company's memorandum and articles/charter, branch/representative office regulation, annual report, the list of affiliated parties, the list of shareholding agreements.

At the same time, information on major transactions and interested-party transactions, meeting minutes of the board of directors, reports on evaluation of assets that are subjects of major transactions and interested-party transactions will be provided to the shareholders who own at least one percent of the voting shares of the company.

To request the restricted documents, the shareholders will have to indicate the business nature of his request, while the company will have the right to deny access to such information – for example, if it is repeatedly requested over three years in a row.

As a reminder, the Ministry of Justice earlier prepared a

[draft law](#), aimed at restricting access to the information on shareholders/members of AO and OOO (joint-stock companies and limited liability companies respectively).

[Vedomosti](#)

### **Russian Ministry of Culture to introduce non-tax duty on distribution of foreign movies**

A respective draft law will be submitted to the Russian Government shortly.

The duty is expected to improve the financing of Russian film-making at the expense of foreign films, to oust the low-quality foreign films, and increase the share of Russian films in distribution. The duty will be tied to a film's box-office results, with the minimum rate at RUB 5 million

Film distribution companies will remit the duty to the State Cinema Fund, which will distribute the funds among the Russian film-makers.

[Vedomosti](#)

## **Business community requests prolongation of property tax benefit for railroad operators**

Head of railroad operators' association sent a letter to that effect to Arkady Dvorkovich, a Russian vice prime-minister.

According to the amendments to the Tax Code, starting from 1 January 2018, the property tax benefit concerning the movable property, recognised after 1 January 2013, shall apply only if a regional regulation to that effect is adopted.

The business community is concerned that in the situation when the financing is short, the regions might deny this benefit, which will result on a material increase of property tax burden.

[Vedomosti](#)

## **Russian Government to increase subsidies to companies who perform commercial-scale car assembly**

Up to 80 percent of transportation costs will be reimbursed to holders of SPICs (Special Investment Contracts) and to companies, who assemble certain car makes on a commercial scale, provided they are over 50 percent localised and receive a goods origin certificate for the batch (ST-1).

Up to 60 percent of costs will be reimbursed to owners of commercial assembly sites who meet the requirements set out in Government Resolution No. 719 of 17 July 2015, introducing a list of production steps that need to be completed for the products to be considered Russian-made.

The term and the period of the subsidy is planned to be extended, too: applications for subsidy for 2016 will be accepted in 2017 and beyond.

As a reminder, Government Resolution No.496 of 26 April 2017 provides for a state subsidy ranging from 20 percent (can be granted to car producers who assemble cars in Russia on a commercial scale and have made significant investments) to 80 percent of transportation costs (Russian companies or SPIC participants who consider making investments in Russia).

[Kommersant](#)

## **Russian alcohol watchdog to update alcohol tracking system**

Rosalkogolregulirovaniye, the state alcohol regulation agency, is reported to release updates of EGAIS (the unified tracking and control system) on 1 July 2017, focusing on stricter control in wholesale trade. The new version of the system will enable tracking each bottle in wholesale trade (currently, only batches can be tracked). The new functionality will be piloted on a voluntary basis, becoming obligatory once fully implemented.

[Kommersant](#)

## **EEC to support special food labelling initiative**

The Eurasian Economic Commission ("EEC") plans to support Rospotrebnadzor's initiative to formalise in the Customs Union's Technical Regulations the food labels

in the form of images featuring red, yellow, and green horizontal stripes showing the percentage of fat, sugar, and salt contained in the processed food item.

[RBCdaily](#)

## **CBR pushing completion of leasing market reform back to 2021**

The reform will comprise three stages: putting together a leasing register, improving the market's transparency, and introduction of SRO (self-regulated organisations).

The reform envisages introduction of minimum charter capital requirements: RUB 20 million for small companies, RUB 70 million for medium and large companies.

The scope of operations will become smaller, e.g. insurance activities will be prohibited to leasing operators.

The Central Bank also plans to introduce accreditation, a system of self-regulation, and to develop best business practices within the self-regulatory framework.

[Economika i zhizn](#)

## **State Duma turns down draft law limiting social networks**

According to the expert opinion, the proposed changes will result in extra budget spending while the document itself does not conform with the existing regulations.

The author of the draft, Deputy Vitaliy Milonov, is reported as planning to rework and resubmit the draft.

For more details please refer to LT Digest [10-16 April 2017](#).

[Izvestia](#)

## **Minpromtorg to develop information platform for industrial enterprises**

State Information System for Industry is a digital b2b platform that is intended as a common platform for industrial cooperation in Russia.

The platform is expected to enable the tracking of processing chains in a real-time mode, making the b2b relations more efficient and transparent and helping producers and consumers find one another.

The business community is taking an active part in developing of the platform, which will help to gear the information environment to the interest of the state and business alike.

[Official website of the Minpromtorg of the Russian Federation](#)

## **International legislation news**

### **Bahamas to join Convention on Mutual Administrative Assistance in Tax Matters**

The decision was formally communicated to the OECD in a letter from the Bahamas' Minister of Finance on Monday 29 May 2017.

[\*Official OECD website\*](#)

# Deloitte publications

## Russian Federal Tax Service clarifies applicability of concept of beneficial ownership

The Federal Tax Service ("FTS") has released Letter No. [CA-4-7/9270@](#) of 17 May 2017 "On the court practice in proceedings relating to the wrongful application of withholding tax benefits by withholding agents" (the "Letter").

The Letter is meant as a guidance for subordinate tax authorities; it formalises the approach applied by the FTS and the courts in tax disputes over the application of the beneficial income ownership concept.

For more details, please refer to Legislative Tracking in Focus of [1 June 2017](#).

## New FSI TAX WATCH issue

We are happy to announce the [third issue](#) of FSI TAX WATCH, a 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 complicated cases of tax treatment of capital transactions, financial assets, and instruments.

## Deloitte announces legal bot launch

The web robot, or bot, is based on the Telegram platform and can be accessed at [t.me/deloitte\\_legalbot](https://t.me/deloitte_legalbot).

The bot relies on user's answers and data from the government registers to generate the package of documents required to obtain an accreditation from the Russian Ministry of Communications and Mass Media. With the accreditation, the entity becomes eligible for the tax benefits available to IT companies – in particular, a reduced rate of social contributions (14 percent instead of the regular 30 percent). Once the accreditation is obtained, the bot will assist in applying the tax benefits and reduced contribution rates. The bot is available free of charge.

For more details about the bot, please refer to [Deloitte's website](#).

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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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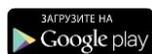


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## TaxSmart app



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

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