

## Legislative Tracking

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#### Court practice

##### **Arbitration court releases decision on Russia's first transfer pricing case**

The Arbitration Court of Moscow has released its resolution of 27 January 2017 on Case No. A40-123426/2016.

The Federal Tax Service audited the prices in the controlled transactions entered into by a taxpayer in 2012 (sale of oil to a Hong Kong trader) and, having discovered price understatement, charged additional corporate profit tax and penalties.

To determine the arm's length price, the fiscal regulator applied the comparable uncontrolled price method, using Platts Dubai as a benchmark.

The court upheld the tax authorities' position.

The taxpayer's argument that it was not related with its foreign counterparty and, hence, could not profit tax-wise from understating the price, was disregarded by the Court on the grounds that proving the receipt of tax benefit is not a mandatory element of the transfer price controls.

[Electronic Justice: commercial courts files](#)

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#### Clarifications from government bodies

##### **Federal Service for Financial Monitoring clarifies application of statutory requirement to disclose beneficial owners**

In its information letter of 31 January 2017, the Russian Service for Financial Monitoring reminded that Federal Law [No. 215-FZ](#) of 23 June 2016, obliging the legal entities to disclose their beneficial owners, entered into force on 21 December 2016.

The Federal Service noted that if a legal entity has reasonably tried to identify its beneficial owner(s), but failed to do so, such entity shall, upon request of the competent authorities, provide proof of measures undertaken to identify the beneficial owners (information requests sent to founders and other controlling parties, and their responses). For more details on Federal Law No. 215-FZ of 23 June 2016, please refer to LT of [28 December 2015](#).

[Consultant Plus](#)

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#### Media review

##### **Federal Tax Service proposes limiting powers of mala fide shareholders in bankruptcy proceedings**

The Russian Federal Tax Service has put forward an initiative to limit the powers of mala fide shareholders in bankruptcy proceedings.

To implement the initiative, the regulator proposes the following measures:

- To make the sale of bankruptcy estate as open and simple as possible to ensure that interested parties can purchase assets without delay and excessive paperwork, with the proceeds from sale going to pay the tax debts as well;
- To ensure that the shareholders and affiliated parties have no decisive influence over the bankruptcy procedures;
- To hold the beneficiaries liable regardless of whether they are based in Russia or abroad;
- To introduce the system of independent random choice of court-appointed trustees depending on their performance record, statutory compliance, and observance of rights of stakeholders in bankruptcy proceedings.

[Izvestiya](#)

### **President of Russia orders revising prices on vital and essential drugs**

The President of Russia has assigned the Russian Government with reviewing the prices of vital and essential drugs and auditing all public procurements related to medical products.

To fulfill the assignment, the Russian Government plans:

- By 20 March 2017, to develop and approve the guidelines for economic analysis of prices on vital and essential drugs, and to set a limit on the manufacturers' profit;
- To re-register all vital and essential drugs' prices in accordance with the guidelines;
- To compare the newly calculated prices against the formerly applied in public procurements of medical products and, if necessary, to report the findings to the law enforcement authorities;
- To consider procuring separately for drugs and their transportation, and evaluate the relevance for government procuring agents to enter into long-term contracts at new prices with a view to fostering the domestic production of vital and essential drugs.

These measures are expected to bring down the prices of vital and essential drugs thanks to limiting the manufacturers' margin, and to improve pricing transparency, while all public procurement agencies and pharma companies which overstated prices during tenders will be checked by the law enforcement authorities.

[RBCdaily](#)

### **Proposals for Russian Government's economy growth agenda for 2017-2025**

The Russian Union of Industrialists and Entrepreneurs, the Chamber of Commerce, the "Opora Rossii" and "Delovaya Rossiya" business associations have developed proposals for the governmental economy growth action plan for 2017-2025.

The action plan focuses on five aspects: fostering a positive business climate, increasing performance of major investment projects, ramping up the non-resource exports, boosting development of small business, and improving the efficiency of governmental support to the economy.

The proposals call for the following:

- To set a ban on new non-tax fees until 2025 and to determine the maximum tax burden for an attractive business climate;
- To halve the corporate profit tax rate to foster modernisation spending;
- To introduce a transition period for the companies switching from the simplified to the standard taxation regime, lowering the profit tax rate to 15 percent for the first two years;
- To introduce unified reporting forms and filing deadlines; to make loans more accessible and change the medium business qualification criteria;
- To streamline the procedure for calculation of property's cadastral value;
- To develop a new tariff regulation law and create an information system for tariff calculation and control;
- To impose a ban on adopting new and changing the existing reporting forms.

[Kommersant](#)

## Deloitte publications

### Trends in e-commerce laws in 2016 and 2017 outlook

2016 saw quite controversial trends in the regulation of the Russian e-commerce market. The legislative changes adopted in 2016 will have a strong impact on the IT companies.

For Fintech companies the year was marked by the release of Federal Tax Service Letter on cryptocurrency regulations and innovations implemented by the Russian Central Bank throughout the year.

2017 may become equally important for the Russian IT sector.

For legislative recap of 2016 and the outlook for 2017, please refer to our IT Legal Drive for [January 2017](#).

### Economic activity classification changed effective 1 January 2017

Order of the Federal Agency for Technical Regulation and Metrology No.14-st enacts as of 1 January 2017 the second revised edition of the Russian Classification of Economic Activities, or OK 029-2014 (OKVED2).

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

### Draft law on Chemical Safety developed

The development of [Draft Federal Law](#) on Chemical Safety has been finalised. The draft was based on the existing Fundamental Statutory Principles of the Chemical and Biological Safety for the period from 2025 and further. If adopted, Federal Law will enter into force on 1 January 2018, except for certain provisions that will apply since 2019 and 2020.

For more details please refer to LT in Focus of [23 January 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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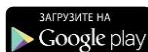


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### TaxSmart app



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