

## Legislative Tracking

### Be in the know

[Russian Ministry of Finance clarifies that increase of authorised capital of LLC through capitalisation of prior years' retained earnings generates income taxable at source](#)

[Russian Ministry of Finance explains that Russian Tax Code contains no special provisions for term of ownership of CFC shares for personal income tax exemption purposes](#)

[Russian Finance Ministry clarifies assessment of personal income tax on sale of securities received upon CFC liquidation](#)

[Russian Association of Internet Trade Companies develops e-store taxation mechanism suggesting website blocking for non-payment of VAT in Russia](#)

[Russian Ministry of Finance to streamline control of FX transactions by individuals](#)

[Russian Ministry of Transport considers introduction of road toll for vehicles with gross vehicle mass of 3.5 to 12 tons](#)

[Russian Ministry of Finance considers raising indirect and reduce direct taxes](#)

#### Clarifications from government bodies

##### **Increase of OOO's charter capital through capitalisation of prior years' retained earnings generates income taxable at source, Ministry of Finance says**

In its Letter No. 03-08-05/65134 of 7 November 2016, the Russian Ministry of Finance commented on the tax consequences a foreign (Belorussian) shareholder will face when increasing the charter capital of a Russian OOO through capitalisation of prior years' retained earnings (without changing the ownership structure).

The Ministry explains that in a scenario like this, OOO's foreign member receives income from the increase in the nominal value of his stake in the company's capital, which should be treated as dividend income.

This type of income is taxed in accordance with the respective part of the double taxation treaty.

The Ministry thus confirmed the position it had taken previously (cf. Letter No. [03-08-05](#) of 1 June 2010).

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##### **Russian Tax Code has no special requirements to term of ownership of CFC's shares for personal income tax exemption purposes, according to the Ministry of Finance**

In its Letter No. 03-04-05/65817 of 10 November 2016, the Russian Ministry of Finance stated the income received from property distribution following the liquidation of a controlled foreign entity (CFC) shall be exempt of personal income tax subject to provisions of Item 60, Article 217 of the Russian Tax Code.

The Ministry also noted that Item 60, Article 217 of the Russian Tax Code does not set forth any limitations as to the term of ownership of CFC's shares.

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##### **Russian Finance Ministry comments on assessment of personal income tax on sale of securities received upon CFC's liquidation**

In its Letter No. 03-04-05/65631 of 9 November 2016, the Russian Ministry of Finance commented on the assessment of personal income tax on sale proceeds from securities received upon CFC's liquidation.

In particular, the Ministry noted that VAT recovery provided for in Item 13.2, Article 214.1 of the Russian Tax Code can also be applied in a situation when the taxpayer receives and sells securities within the same personal income tax period.

However, there are known cases when the tax authorities tried to challenge a taxpayer's right to apply deduction in accordance with Item 13, Article 214.1 of the Russian Tax Code in the same period when the income from sale of securities was received.

In its Letter No. [03-04-05/64311](#) the Russian Ministry of Finance specified that Item 13.2, Article 214.1 of the

Russian Tax Code shall also apply for tax purposes if securities received upon liquidation of a CFC are redeemed, subject to compliance with its provisions.

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## Media review

### **Russian Association of Internet Trade Companies develops e-store taxation mechanism that suggests blocking their web-sites for non-payment of VAT in Russia**

The Russian Association of Internet Trade Companies is working on a draft law that suggests charging a 15.25% VAT on foreign e-stores.

According to a source, the draft contains the following initiatives:

- To block web-sites of foreign e-stores for going late on VAT payments for more than three months, and to set a late payment penalty at 20% of the outstanding tax amount;
- To extend the law to the marketplaces (e-commerce sites with multiple sellers), obliging the site operator to block, at the request of tax authorities, the participants which do not pay VAT, otherwise facing a penalty of 100% of the outstanding tax amount, and the risk of getting the web-site blocked if the tax is not paid for over three months;
- To authorise the Russian Federal Tax Service to request information on transactions with e-stores from the National Payment Card System, money transfer operators, banks' payment systems, clearing centers, telecom operators, courier and transport services and the Russian Post.

The draft law has not yet been officially published.

[RBCdaily](#)

### **Russian Ministry of Finance to streamline control over FX transactions made by individuals**

The Russian Ministry of Finance has been working on amendments to the [draft law](#) aimed at streamlining controls over foreign currency transactions made by individuals (for more details on the draft law please refer to LT of [26 September 2016](#)).

The following amendments have been made to the original draft:

- "Currency resident" status is assigned to Russian citizens on a permanent basis; however, a Russian citizen will be released from an obligation to file reports to the tax authorities if he resides outside Russia for objective and substantiated reasons and has stayed in the country for fewer than 183 days in the past calendar year (vs. three months in the original draft);

- Russian citizens that do not qualify as currency residents as at 31 December 2017 and have not returned to the Russian Federation by 1 January 2018, will not be obliged to report their accounts to the tax authorities by 1 March 2018.
- Russian citizens will not have to report their accounts closed by 31 December 2014 to the tax authorities regardless of the time of opening, as the statutory three-year period for keeping records of such accounts and transactions on them will expire .

The amendments have not yet been officially published.

[Izvestiya](#)

### **Russian Ministry of Transport considers introduction of road toll for vehicles with gross mass of 3.5 to 12 tons**

The Russian Ministry of Transport considers introducing a public road toll for vehicles with gross vehicle mass of 3.5 to 12 tons.

The road toll for vehicles with gross mass above 12 tons was introduced on 15 November 2015.

[Vedomosti](#)

### **Russian Ministry of Finance considers shifting balance from direct to indirect taxes**

Minister of Finance Anton Siluanov is reported to have resumed the discussion on "fiscal devaluation" in Russia.

In particular, the Russian Ministry of Finance is working on new proposals envisaging a shift towards the higher indirect levies (VAT and excise duty) while lowering the direct taxes, including social contributions.

[Kommersant](#)

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We hope that you will find the information in 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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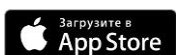


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### TaxSmart app



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