

Legislative Tracking

Be in the know

[Federal Tax Service systematised court decisions on tax cases for 2H 2016](#)

[Federal Tax Service approves procedure for disclosing company information](#)

[Guidelines for fair e-commerce practices developed](#)

[Presidential assignments following State Council meeting on environmental development](#)

Court practice

Federal Tax Service sums up court decisions on tax cases for 2H 2016

The Federal Tax Service has released a digest of decisions made by the Russian Constitutional and Supreme Courts in tax cases in 2H2016.

The digest covers court opinions on the following matters:

- Beneficial entitlement to income: if foreign entities are not the beneficial owners of income, the tax benefits provided by DTTs cannot be lawfully applied. The digest cites a case where the court upheld the accrual of a withholding tax on the Russian company's capital contributions into Cypriot companies, as the beneficial owners of income were companies located in the British Virgin Islands (Case No. [A13-5850/2014](#), for more details on the case, please refer to LT in Focus of [20 September 2016](#)). For more information about court practice on applying the concept of beneficial ownership to income, please refer to LT in Focus of [31 August 2016](#).
- Unjustified tax benefits from price manipulations. A case is reviewed where a taxpayer overstated the value of a plot of land, understating the value of property located thereon, to claim a higher VAT refund (Case No. [A40-71974/2015](#), for more details please refer to LT in Focus of [20 September 2016](#));
- Unjustified tax benefits from purchasing goods/works/services from mala fide vendors: the court has ruled that the discrepancies in the evidence regarding the movement of goods from a producer to a taxpayer that does not refute the actual delivery of such goods to the taxpayer or the tax delinquency of the respective parties to the transactions shall not entail any negative tax implications for the buyer of such goods (the taxpayer) (Case No. [A40-71125/2015](#); for more details, please refer to LT of [2 December 2016](#));
- Deductibility of severance payments: severance payments may be deducted, provided they are economically justifiable (Case [No. A40-94960/2015](#); for more details please refer to LT in Focus of [1 November 2016](#));
- Separate VAT accounting: VAT on the purchase of goods/works/services used solely in non-VATable operations is not recoverable even if the five-per cent threshold is not exceeded (Case No. [A40-65178/2015](#));
- Collection of tax delinquencies from related parties: the court ruled that the tax liability follows the fortune of cash, property or property rights transferred by the taxpayer to a related party. The re-signing of vendor and buyer agreements results in a transfer of rights to income from the taxpayers' activities which can be regarded as assignment of property rights (see Case [No. A40-77894/2015](#));

- VAT on developers' fees related to commercial premises in residential buildings: the court indicated that a multiunit residential building is not a "business-related" asset, irrespective of the commercial premises it might include. Therefore, the developers' services in respect of commercial premises in residential buildings shall be exempt of VAT (Case No. [A78-10467/2015](#), for more details please refer to LT of [24 November 2016](#));
- VAT on aircraft ground handling operations is recoverable subject to an issue of a VAT invoice (case No. [A40-79255/2014](#), for more details please refer to LT of [20 October 2016](#));
- Other matters.

[Consultant Plus](#)

Legislative initiatives

Federal Tax Service approves procedure for disclosing company information

Order of the Russian Federal Tax Service No. MMB-7-14/729@ approves the procedure and timeline for disclosing the corporate information that is no longer confidential from the tax perspective in view of amendments to the Russian Tax Code introduced by Federal Law No. 134-FZ of 1 May 2016.

The disclosed information will be gratuitously published as an open public record and will be available for three years upon disclosure.

Information on the outstanding tax amounts, late charges, and tax offenses will be published monthly on the 25th day of the current month; the average headcount data will be released annually on 25 July; the information on the amounts of taxes and levies paid will be disclosed annually on 25 February.

The first disclosure is expected on the Federal Tax Service website on 25 July 2017, except for the social contributions records which are scheduled to be posted on 25 February 2018.

[Official Internet Portal for Legal Information](#)

Media review

Guidelines for fair e-commerce practices developed

The Russian Consumer Testing Institute informs on the development of GOST (The State Standard) for on-line trade, [the Guidelines For Fair E-commerce Practices](#).

The Guidelines came as the first attempt to develop a national standard that would regulate the entire online retail value chain.

Thus, the Guidelines contain the definitions of the basic e-commerce terms, such as seller, buyer, e-commerce, delivery, e-commerce platform. In accordance with the new standard, an e-store must keep available the seller's legal data, the order/order confirmation information, the return policy, and enable various payment and delivery options.

The Guidelines also obliges e-sellers to display the full product information: photos, certificates, properties, country of manufacturing, service life, price etc.

It should be noted, however, that the current version of the Guidelines does not regulate the legal status of marketplaces (e-commerce platforms, selling third parties' products), so will probably have to be amended.

The document is expected to be approved in October 2017 and will enter into force on 1 June 2018.

[Izvestiya](#)

Presidential assignments following State Council meeting on environmental development

Following the Russian State Council's meeting headlined "On the Environmental Sustainability for the Benefit of Future Generations", the President of Russia gave the following assignments:

- To amend the laws of the Russian Federation to reduce harmful emissions and providing for:
 - the development and approval of procedures for calculating the consolidated emission estimates and their use in setting up the emission rates, including emission quotas;
 - the development and approval of the action plan criteria for emission mitigation in adverse weather conditions;
 - the specifics of auditing the users of the natural resources in adverse weather conditions;
- To set up the deadlines for the environmental impact assessment by the governmental experts of facilities that adversely effect the environment, depending on their category;
- To provide for obtaining comprehensive environmental permits by the industrial facilities, accounting for the air pollution control equipment in place, and granting time to develop respective plans and purchase necessary equipment;
- To introduce legislative amendments that would foster industrial and consumer waste recycling;
- To ensure safe waste management practices, especially as regards extremely hazardous and highly hazardous waste (Hazard Classes I and II);
- To support construction of facilities required for waste processing, decontamination and recycling, applying the best available technologies;
- To prepare digests of the court practice on environmental cases and develop recommendations for a consistent application of respective legal norms by lower courts.

[Official web site of the President of Russia](#)

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 the 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 enacted the second revised edition of the Russian Classification of Economic Activities, or OK 029-2014 (OKVED2), coming into force from 1 January 2017 .

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, this federal law will enter into force on 1 January 2018, except for certain provisions that will apply from 2019 and 2020.

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

Contacts



Grigory Pavlotsky
Managing Partner
Tax & Legal
Deloitte CIS
gpavlotsky@deloitte.ru



Gennady Kamyshnikov
Managing Partner
Public Sector
gkamyshnikov@deloitte.ru



Oleg Berezin
Partner
Pharmaceuticals
oberezin@deloitte.ru



Artem Vasyutin
Partner
Travel Hospitality & Leisure
avasyutin@deloitte.ru



Yulia Orlova
Partner
Metals
yorlova@deloitte.ru



Andrey Panin
Partner
Oil & Gas, Energy & Resources,
Mining
apanin@deloitte.ru



Artem Vasyutin
Partner
Retail, Wholesale & Distribution
avasyutin@deloitte.ru



Vasily Markov
Director
Technology, Media &
Telecommunications
vmarkov@deloitte.ru



Tatiana Kofanova
Director
Automotive
tkofanova@deloitte.ru



Alexander Sinitsyn
Director
Banking & Securities, Insurance
asinitsyn@deloitte.ru



Yulia Krylova
Director
Real Estate
ykrylova@deloitte.ru



Oxana Zhupina
Director
Food, Beverages & Agriculture
ozhupina@deloitte.ru

TaxSmart app



deloitte.ru

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 244,000 professionals make an impact that matters, please connect with us on [Facebook](#), [LinkedIn](#), or [Twitter](#).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.