

Legislative Tracking



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26 May 2016

Official website of the Russian Supreme Court

http://www.supcourt.ru/stor_pdf.php?id=1440818

Russian Supreme Court affirms stance regarding the right of tax authorities to spot cases of price gouging in transactions other than recognized as controlled according to TP law

The Russian Supreme Court has published Appellate Ruling No. ALL 16-124 dated 12 May 2016 on a dispute related to paragraph 12 of Letter No. [03-01-18/8-145](#) of the Russian Ministry of Finance dated 18 October 2012.

Minvody-Krovlya LLC (hereinafter, the “Company”) disputed the validity of paragraph 12 of the above-mentioned Letter in which determining the fact of tax evasion by a taxpayer due to price gouging requires the tax authorities to provide evidence of unjustified tax benefits received by the taxpayer as part of their field and desk audits, including, but not limited to, those involving methods specified in Article 14.3 of the Russian Tax Code. According to the Company, the paragraph in question changes the scope of powers vested in local tax authorities as defined in the Russian Tax Code, expanding the scope of control over prices in transactions between related parties.

The Russian Supreme Court affirmed the findings made in the first instance (Decision of the Russian Supreme Court No. [AKPI15-1383](#) of 1 February 2016) and ruled that paragraph 12 of the above-mentioned Letter did not contravene the law, specifically:

- The disputed provisions of the Letter have no regulatory content and do not go beyond the adequate interpretation of the tax law provisions;
- The Letter does not empower local tax authorities to audit prices in transactions between related parties;
- The paragraph in question refers to unjustified tax benefits, which are subject to tax control, while the Russian Tax Code does not provide an exhaustive list of methods for evaluating unjustified tax benefits, nor does it restrict the use of methods specified in Article 14.3 of the Russian Tax Code for evaluation purposes;
- The assertion regarding the conflict between the disputed decision and Ruling of the Russian Supreme Court No. [308-KГ15-16651](#) dated 11 April 2016 (which established that local tax authorities were not authorized to control pricing, see LT issue of [12 April 2016](#)) is invalid, as this ruling does not include any findings restricting tax authorities in their tax control methods when evaluating unjustified tax benefits.

Therefore, the discussion of whether local tax authorities are empowered to audit taxpayers for unjustified tax benefits due to price gouging remains open.

26 May 2016

Official website of the Russian President

<http://www.kremlin.ru/acts/news/52012>

Less stringent standards for holding corporations criminally liable for economic crime proposed

The Russian President has submitted Draft Law # [1083199-6](#) to the State Duma, proposing the following amendments to the Criminal Code and the Code of Criminal Procedure of the Russian Federation:

- A lower amount of compensation payable to the federal budget which serves as grounds for absolute discharge;
- A greater extent of damages that serves as grounds for initiating criminal proceedings for economic crime, and damages that serve as grounds for qualifying economic crime as serious or particularly serious fraud;
- A higher threshold for outstanding tax (charge) amounts used for the purpose of initiating criminal cases in case of tax crime;
- Introducing a procedure for the return of documents and files seized from individuals and businesses during criminal proceedings;
- Authorizing a notary to access an entrepreneur taken into custody or put under house arrest.

27 May 2016

Official website of the Russian Government

<http://government.ru/media/files/M31VljcFLreDcfbcJlwBuFvntNIKz9j9.pdf>

Establishment of the Agency for Technological Development

The Agency for Technological Development is being set up pursuant to Executive Order of the Russian Government No. 1017-r of 26 May 2016 to perform the following functions:

- Facilitate the transfer of technology;
- Collect and update data on existing local and foreign technologies and competencies;
- Provide assistance in the acquisition of state-of-the-art local and foreign technologies by Russian organizations;
- Promote the development and implementation of localization projects in Russia.

27 May 2017

Kommersant

<http://www.kommersant.ru/doc/2997059>

Initiatives regarding the introduction of a national cryptocurrency in Russia under discussion

The Federal Financial Monitoring Service has initiated stakeholder consultations on the introduction of a national government-controlled cryptographic currency in Russia.

The currency will be a state-issued one, and the currency will only be available from a licensed issuer. Businesses and individuals will exchange rubles and other currencies for cryptocurrency through dedicated electronic platforms regulated according to certain rules. Exchange transactions will require the personal identification of the buyer in order to minimize anonymous transfers.

Introduction of the national state-controlled cryptocurrency by Russia may be accompanied by the prohibition of other cryptocurrencies within the country.

A draft law has not yet been devised.

<http://kommersant.ru/doc/2997136>

Amendments to laws governing joint stock and limited liability companies proposed

The Internet Initiatives Development Fund (IIDF) intends to initiate amendments to the laws governing joint stock and limited liability companies.

The amendments proposed will affect the use of financial instruments borrowed from UK company law, such as employee stock options, convertibles (hybrid securities with debt- and equity-like features that help avoid dilution to the founder), “tag along” and “drag along” provisions (which allow minority and majority holders to sell their shares on the same terms and conditions) and liquidation preference, i.e. the investor’s right to get a certain amount paid ahead of other shareholders in the event of the liquidation or trade sale of the company.

According to IIDF, the need for these changes is dictated by the private equity market.

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