

Legislative Tracking



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5 August 2015

Garant: federal legislation monitoring

<http://www.garant.ru/hotlaw/federal/641918/>

Federal Tax Service recommendations on evaluating tax risks upon choosing counterparties

In this letter certain issues relating to unjustified tax benefits and the confirmation of due diligence of taxpayers are clarified.

In particular, the Federal Tax Service recommends paying attention to the following characteristics of bad faith counterparties when evaluating tax risks before the conclusion of an agreement:

- A lack of documentary confirmation of the power of the counterparty's head or his/her representative and a lack of copies of his/her identification documents;
- A lack of information on the actual location of the counterparty, production or trade facilities;
- A lack of information on the state registration of the counterparty in the Unified State Register of Legal Entities;
- A lack of evident proof of the counterparty's ability to fulfil the conditions of the agreement.

Federal Tax Service Letter No. ED-4-2/13005@ of 24 July 2015

5 August 2015

ConsultantPlus

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=183867>

Procedure for organisations receiving benefits to submit notifications on registering as a trade levy payer

In this letter it is reported that individual entrepreneurs applying a patent system of taxation and organisations applying a taxation system for agricultural manufacturers should not submit notifications on registering as trade levy payers to the tax authorities in relation to the indicated business activities.

Federal Tax Service Letter No. GD-4-3/13514@ of 3 August 2015

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=QUEST;n=148268>

Deducting expenses on legal services for profit tax purposes

In this letter it is recommended that expenses on services related to representing an organisation's interests in court and on related legal advice can be deducted as non-sales expenses for profit tax purposes. These expenses can be deducted without regard to the outcome of legal proceedings.

RF Ministry of Finance Letter No. 03-03-06/39817 of 10 July 2015

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=QUEST;n=147572>

Procedure for calculating and withholding personal income tax from interest on fiduciary deposits

In this letter it is reported that when a Russian bank pays interest on a fiduciary deposit to a foreign bank which is not beneficial owner of this interest, the Russian bank shall not withhold personal income tax. When an individual who is RF tax resident receives such interest on the basis of a fiduciary agreement with a foreign bank which is not a tax agent, the individual shall independently calculate personal income tax. If the individual or entity who is beneficial owner of interest payments is a foreign individual or entity, then issues related to the calculation and payment of personal income tax are resolved in accordance with RF international agreements on taxation.

RF Ministry of Finance Letter No. 03-04-06/36569 of 24 June 2015

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=183779>

Procedure for keeping a personal taxpayer account

Federal Tax Service Order No. MMV-7-17/260@ of 30 June 2015 has confirmed the procedure for keeping personal taxpayer individual accounts. In particular, to access the personal account, the taxpayer submits an application with the established form to any tax authority regardless of the location of the account based on which a registration card is issued to the individual for use of the personal account upon which the login and password initially assigned to the taxpayer is stated. Furthermore, the Federal Tax Service has established the list of information available in taxpayers' personal accounts.

5 August 2015

E-justice: catalogue of arbitrational cases

http://kad.arbitr.ru/PdfDocument/53cb9b74-6c64-4b9a-800f-f3a7d1504d96/A40-65453-2014_20150721_Opredelenie.pdf

Deducting interest on loans for profit tax purposes when annulling loan agreement

RF Supreme Court Ruling No. 305-KG15-7407 of 21 July 2015 on Case No. A40-65453/2014, which has settled a dispute between OJSC Neftyanaya Kompaniya Rosneft and the tax authorities. has been published. The tax authorities declared that interest on a loan agreement, annulled through legal

proceedings, must be included in the non-operating income for the period in which the court ruling entered into force.

The RF Supreme Court supported the position of the tax authorities and refused to examine the case. The Court additionally stated that the court ruling on annulling the loan agreement entered into force is the moment of appearing of non-operating income in the form of income from previous years and the respective deadlines for the tax audit and enforced debt collection should be calculated from this moment.

Please note that the court of the first instance ruled in favour of the taxpayer, but the appellate court and court of cassation ruled in favour of the tax authorities.

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