

LT in Focus

Amendments to the Russian Tax Code

Federal Law No. 302-FZ 'On amendments to Parts I and II of the Russian Tax Code ('the Law') introduced a number of changes aiming to reduce the administrative burden for VAT payers. In particular, the Law optimises the list of documents to be filed with the tax authorities to justify the application of a zero VAT rate.

Read on for an overview of the key changes introduced by the Law.

[The duration of desk VAT audits reduced to two months](#)

[Russian carriers acting as intermediaries for rolling stock and/or container supply purposes will pay VAT as tax agents](#)

[Time charters of marine or river-sea vessels and crew for the international transportation of goods will be zero-rated](#)

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The duration of desk VAT audits reduced to two months

The Law reduces the duration of VAT desk audits to two months after the filing of a VAT return (six months for the foreign entities that are registered with the Russian tax authorities and are providing e-services that are deemed to be supplied in Russia).

A desk audit can be extended to three months, should any tax breaches be discovered prior to its completion.

Please note that the tax audit extension rule does not apply to the above-mentioned foreign providers of e-services.

The changes will cover desk audits of VAT returns filed after the amendments have been enacted, i.e. after 3 September 2018.

Russian carriers acting as intermediaries for rolling stock and/or container supply purposes will pay VAT as tax agents

The Law expands the list of transactions where VAT is paid by tax agents, contained in Article 161 of the Russian Tax Code.

For example, Russian rail carriers, acting on behalf of third parties on the basis of commission or agency agreements that provide for the supplies of services on provision of rolling stock and/or containers, will be treated as tax agents. The changes do not apply to the zero-rated transactions involving the international transportation of goods, freight forwarding services, and supplies of services on provision of rolling stock and/or containers for carriage or transportation of (re)exported goods by rail, provided the points of dispatch and destination are located in Russia.

The tax base for the supplies of services on provision of rolling stock and/or containers to the buyers will be determined by tax agents as the net cost of the service. The VAT base will be determined on the earlier of the following dates:

- The day when services on provision of rolling stock and/or containers are rendered to the buyers
- The day when a (partial) payment against the future supplies of services on provision of rolling stock and/or containers to the buyers is received

The above-mentioned tax agents will not be able to reclaim the VAT paid in accordance with Article 173 of the Russian Tax Code.

Thus, VAT invoices issued by the Russian carriers acting as intermediaries in the supply of services on provision of rolling stock and/or container and classified as tax agents will not be registered in such carriers' purchase ledgers.

The Law entitles such carriers to a recovery of:

- The VAT charged to a buyer and assessed by the

carriers as tax agents, should the buyer waive the services on provision of rolling stock and/or container

- The VAT assessed by the carriers as tax agents on the full or partial payment received against future services
- The VAT assessed by the carriers as tax agents on the full or partial payment against future services if the respective contract is modified/terminated and the advance payment is returned.

The changes will apply effective 1 October 2018.

Time charters of marine or river-sea vessels and crew for the international transportation of goods will be zero-rated

The Law specifies the types of zero-rated services for the transportation of goods exported outside the Russian Federation or imported into the Russian Federation by sea or river-sea vessels on the basis of time charters.

A zero VAT rate can now be applied to the time charters of sea/river-sea vessels and crew signed for the purposes of international transportation of goods.

The change was introduced because the legitimacy of zero-rating of the above-mentioned services had been repeatedly questioned. The Russian Ministry of Finance, the Russian Tax Service (FTS), and the courts have more

than once reiterated that these services were all subject to a zero-rate VAT (see FTS Letters No. SD-4-3/21118@ of 8 November 2016 and No. SD-4-3/19315@ of 26 September 2017; Letters of the Russian Ministry of Finance No. 03-07-08/73696 of 16 December 2015 and No. 03-07-P3/32218 of 3 July 2014, as well as Resolution of the Commercial Court for Moscow District No. F05-22119/2016 of 20 February 2017 in case No. A40-1999/2016).

The amendment thus formalises the position of the fiscal and judicial authorities.

Procedures for justifying the use of a zero VAT rate amended

Shipping documents stamped by a customs authority will no longer need to be submitted to justify the applicability of a zero VAT rate for supplies of goods placed under the export (re-export) and the free customs zone procedures. Yet, the change will not apply to the export of stores, services rendered by oil pipeline operators, and services related to the transportation of foreign transit goods.

The tax authorities will still be able to request the copies of shipping documents, should they discover inconsistencies in the information provided by a taxpayer or if the customs authorities have no electronic data on the (re)export transactions in question.

The legislator also limited the tax authorities' right to repeatedly request contracts to justify the application of a zero VAT rate.

The amendments are expected to reduce the administrative burden on the taxpayers.

The Law allows the documents requested by the tax authorities to be filed electronically by the taxpayers engaged in the (re)export of goods by rail.

The changes will apply effective 1 October 2018.

The Law also allows the e-filing of the shipping/carriage documents, confirming eligibility for a zero VAT rate, by the taxpayers rendering international transportation and freight-forwarding services and exporting Russian goods by rail.

The amendment will enter into force on 1 April 2019.

The provision permitting the use of a zero VAT rate only if the exported goods are purchased by a foreign entity has been excluded. In accordance with the changes, taxpayers will now be able to apply a zero VAT rate on the supplies of goods to the branches, representative offices, agencies, and other subdivisions of Russian entities located outside the EAEU.

Article 164 of the Russian Tax Code was supplemented with a provision allowing the application of a zero VAT rate to goods exported from Russia to a EAEU member state in cases provided by the Treaty on the EAEU of 29 May 2014.

The changes will apply effective 1 October 2018.

The threshold for the declarative VAT recovery procedure lowered

In accordance with the amendments, the minimum aggregate amount of taxes (VAT, excises, profit tax, and mineral extraction tax) paid by a taxpayer over the three calendar years preceding the year, required to qualify for the declarative tax refund procedure (exclusive of the

taxes paid by the taxpayer in connection with the movement of goods outside Russia and as a withholding agent), will be lowered from RUB 7 billion to RUB 2 billion.

The change will apply as of 1 October 2018.

The procedure for determination of the VAT base upon receipt of a full or partial payment for future transfer of property rights established

The Law defines the VAT base of a full or partial payment received against a future transfer of property rights as the difference between the amount of such full or partial payment received by the taxpayer and the expenses for the acquisition of these rights (the amount of a monetary claim, including in future periods) determined based on the share of such full or partial payment in the total value of the transferred rights.

legislation as the current wording of Item 1, Article 154 of the Russian Tax Code applies only to the payments against future delivery of goods (work, services).

The tax assessed on the full or partial payment received against a future transfer of property rights can be reclaimed in full as of the date such property rights are transferred.

The changes will apply effective 1 October 2018.

The change addresses the missing element in the tax

We hope that you will find this newsletter interesting and informative. Please feel welcome to contact us for more information on the topics covered.

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