



## LT Digest

### Be in the know

#### Legislative initiatives

##### Russian State Duma considers package of bills

The Russian State Duma considered the following bills:

- Bill No. [364444-7](#), banning retailers from returning unsold products, passed the Russian State Duma's third reading
- Bill No. [419163-7](#), regulating the production and distribution of bioethanol, passed the second reading.

*Official website of the Russian State Duma*

##### **Bill clarifying deoffshorisation requirements, tax treatment of CFC, dividends, shareholder exit distributions and liquidation proceeds updated for second reading**

For more details, please refer to LT in Focus of [21 November 2018](#).

For more details about the original bill, please refer to LT of [17 April 2018](#).

The second reading of the bill is scheduled for 13 November 2018.

*Official website of the Russian State Duma*

##### [Russian State Duma considers package of bills](#)

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[Department of Treasury announces more anti-Russian sanctions](#)

[Moscow City Court acknowledges illegitimacy of retrospective increase of cadastral property value in Moscow in 2016](#)

## Protocol on electronic information exchange among CIS states for tax administration purposes signed

The Protocol was signed by Prime Minister Dmitry Medvedev and his counterparts from the CIS countries.

The document provides for an automatic annual exchange of information on personal income, property, and beneficial ownership between the tax authorities of the agreeing states, which is expected to facilitate the tackling of the shadow economy, wealth concealment, and tax evasion.

To enter into force, the Protocol will need to be ratified by the CIS states.

The Protocol will enter into force 30 days after the depositary receives the third written notification that the necessary internal procedures have been completed by the signatories.

[Official Russian Federal Tax Service website](#)

## Russian Government set environmental fee rates for new categories of goods and packaging

In particular, the Government set the following new rates:

- for Group 37 'Non-rechargeable batteries and cells' — RUB 33,476 per tonne
- For Group 46 'Internal combustion engine filters' — RUB 3,037 per tonne
- For Group 40 'Electronic and electrical wires and cables' — RUB 2, 423 per tonne
- For Group 41 'Electrical light equipment' — RUB 9,956 per tonne.

A [new list](#) of goods and packaging subject to end-of-life recycling entered into force on 1 January 2018 (for more details, please refer to LT Digest of [9 – 14 January 2018](#)).

[Consultant Plus](#)

## Regulatory documents released for impact review

Minister of Economic Development Maxim Oreshkin held a meeting to schedule regulatory impact analysis for 17 laws, government resolutions, and departmental orders, to name but a few:

- Federal Law No. [7-FZ](#) of 10 January 2002 "On Environment Protection"
- Federal Law No. [273-FZ](#) "On amending the Federal Law "On Fundamentals of Trade Regulations in the Russian Federation" and the Russian Code on Administrative Offences"
- Government Resolution No. [934](#) of 16 November 2009 "On approval of the rules for reimbursement of damages inflicted by high-tonnage vehicles"
- Government Resolution No. [1029](#) "On approval of classification criteria for Category I, II, III, and IV facilities "
- Order of the Ministry of Natural Resources No. [50](#) of 25 February 2010 "On development and approval of waste generation and placement limits".

In 2019, the regulations will be assessed for their impact on the business climate and either amended,

preserved or repealed accordingly.

[Official website of the Russian Ministry of Economic Development](#)

## Driverless cars to undergo operational testing

The testing is tentatively scheduled for the period from 1 March 2019 to 1 March 2022 in Moscow and Tatarstan.

To take part in the testing, an organisation should have a registered capital of at least RUB 100 million, insure their third-party liability for at least RUB 10 million per each driverless vehicle, and obtain a safety compliance certificate for each driverless vehicle.

The proposal also sets forth the terms and procedures of the operational testing and requirements for the vehicles.

[Federal draft legislation portal](#)

## State Duma to reconsider regulation of construction co-investment

The bill submitted to the Russian State Duma proposes:

- setting forth that the size of payment installments per each construction project carried out on the basis of land development agreements is to be established by a developer independently, based on the total co-investment amount payable under the contracts pro rata to the planned construction costs and is to be indicated in the project declaration (since the allocation of funds across projects is not regulated by law)
- replacing the developers' joint and several liability for damages to home buyers with the secondary liability
- establishing special bankruptcy procedures for residential construction cooperatives.

[Official website of the Russian State Duma](#)

## Insurance companies to be exempt from disclosing sanctioned shareholders

Specialised depositories and insurance companies may choose not to disclose information on their sanctioned shareholders (members), subject to notifying the Central Bank of Russia of their decision.

[Official Internet Portal for Legal Information](#)

## Agreement on harmonisation of financial market legislation in EAEU signed

The Agreement regulates the harmonisation of national banking, insurance, and securities market regulations based on the international principles and standards or financial markets best practices.

The document aims to foster the development of the common financial market, ensure mutual recognition of banking, insurance, and securities licences and grant indiscriminate access to the financial markets of the EAEU states.

The agreement is an international treaty regulated by the EAEU law.

It will enter into force within 30 calendar days from the date when the depository receives (via diplomatic channels) a written notice of the implementation of the relevant domestic procedures by the EAEU member states.

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## Russia and China sign MOU on cooperation in servicing area

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### Clarifications from government bodies

#### Russian consumers of foreign e-services will not act as withholding agents since 1 January 2019, Ministry of Finance reminds

After 1 January 2019, VAT will have to be paid by foreign providers of e-services that are deemed to be supplied in Russia, regardless of who purchases the services, legal entities or individuals.

Therefore, after the date, Russian companies purchasing foreign e-services will no longer be acting as

The document is aimed at fostering the cooperation between the countries in tourism, culture, sports, transport, healthcare, education, and trade.

[Official website of the Russian Ministry of Economic Development](#)

withholding agents.

A foreign service provider not registered for VAT purposes, and not the service recipient, will be liable for VAT non-payment.

On the other hand, a voluntary payment of VAT by the service recipient does not make it eligible for a VAT refund.

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### Media review

#### Authorities wondering what movable property really is

Chair of the Federation Council Valentina Matvienko mandated the formalisation of moveable property criteria by the end of 2018.

Ms. Matvienko noted a lack of common understanding of what exactly falls into this category: for example, in some regions, oil rigs are treated as movable property, while in others – as real estate.

With the moveable property tax cancelled, clear definitions are necessary to avoid different interpretations and tax evasion.

The existing judicial practice indeed demonstrates a lack of common criteria of moveable/immovable property.

Thus, in cases No. [A29-4430/2018](#) and No. [A05-879/2018](#), a power plant and production unit equipment were classified as immovable property, while in case No. [A44-10247/2017](#) – as movable.

In case No. [A29-4430/2018](#), utilities were treated as a component of real estate, while in case No. [A35-2727/2017](#) – as a separate asset, eligible for tax exemption.

Clearer objective rules without a pro-fiscal bias would help avoid conflicting treatment of same-class assets.

[Official Federation Council website](#)

#### Oil producers and government reach market stabilisation consensus

For the period from 1 November 2018 to 31 March 2019, the major oil companies have committed to:

- at least a three-percent increase in the total sales of petroleum products in the regions, to which the petroleum products produced at their own facilities or under tolling agreements were supplied in 2017, and the sales of petroleum products through the

exchange vs. the corresponding month of 2017

- ensuring that the sales prices charged by small-scale wholesale traders are constrained
- refraining from increasing the retail price above 1.7 percent starting from 1 January 2019 (taking into account the VAT rate increase) and starting from 1 February 2019 – above the annual average inflation rate projected by the Ministry of Economic Development for 2019, assuming that the cushioning component of the excise refund compensates for the excise increase and helps constrain the wholesale prices.

The relevant agreement with the oil companies must be signed by 7 November 2018.

The preparation of amendments to the joint Order of the Federal Antimonopoly Service and the Ministry of Energy No. [3/15/3](#) of 12 January 2015 will be put on hold until the companies discharge their obligations set forth by the agreement (i.e. 31 March 2019).

The Federal Tax Service will take into account the pricing mechanism envisaged by the agreement and will not assess additional profit tax charges.

Other decisions include:

- to enable extraordinary inspections of independent gas stations by the Federal Tax Service and the Antimonopoly Service with a focus on organisations whose prices exceed the limit envisaged by appendix to this protocol by more than four percent
- to consider introduction of floating gasoline excise rates, inversely correlated with the change in oil prices
- to ensure a long-term stability of domestic prices
- to ensure that excise increases are balanced by the 'cushioning' excise refunds
- to consider the possibility of excise collection at the gas stations

- to develop the domestic petroleum market saturation mechanisms alternative to the protective duties
- to prepare proposals for banning traders from exchange trading in gasoline, diesel fuel, and other petroleum products.

[Official website of the Russian Government](#)

### **Bills on SPIC 2.0, investment protection and incentives to be put on hold**

Deputy Prime Minister Dmitry Kozak proposed suspending work on the new SPIC regime advocated by the Ministry of Industry and Trade and the investment protection and incentives agreements lobbied by the Ministry of Finance.

By 10 November 2018, the ministries were to align the existing and proposed government support mechanisms and assess their costs and benefits for the economy.

For more details about the SPIC reform, please refer to the October 2018 issue of [Tax Benefits and Other Incentives](#), and to LT of [29 October 2018](#) for the key provisions of the investment protection and incentives bill.

[Kommersant](#)

### **Bill on big data regulation to be reworked**

On 8 November 2018, the State Duma's Information Policy Committee returned the bill to the initiators for further fine-tuning.

[Kommersant](#)

### **Ministry of Economic Development calls for more privileges for residents of special administrative districts**

The Ministry is working on a bill that will grant new benefits to the residents of special economic districts (SADs) on Russkiy Island in the Far East and Oktyabrsky Island in Kaliningrad Region.

In particular, redomiciled companies may be allowed to be governed by the corporate law of their former jurisdiction.

SAD residents might also keep their foreign currency-denominated shares and pay dividends under the IFRS rules.

Tax benefits and special employment regulations for aircraft and marine vessels owned by the residents are also being discussed.

The Ministry aims to transform SADs into financial hubs with a focus on the crypto economy and own digital

asset regulations.

[Izvestiya](#)

### **EAEU members propose legalising online sales of alcohol and medicines**

Online sales of alcohol, medicines, tobacco, and jewellery may be permitted in the EAEU in 2019.

The proposal is included in the EAEU e-commerce roadmap for 2019-2020.

The business community is now providing its feedback on the issues hampering e-commerce, EAEU market penetration, and global market entry.

The final version of the roadmap is expected to be approved by the Eurasian Intergovernmental Council in January 2019.

In Russia, the legalisation of online sales of alcohol, medicines, and jewellery is still an open question, despite the numerous discussions and initiatives.

[RBCdaily](#)

### **Russian Government mandates creation of database to ensure safety and traceability of animals, plants, animal and plant-based products**

Thus, the following assignments were given:

- to ensure compatibility of the databases used for monitoring agricultural produce, feedstock, and food products by the Ministry of Industry and Trade, Rosselkhoz nadzor, and Rospotrebnadzor, setting uniform requirements for the volume and scope of data that have to be stored, processed, and exchanged and for the format of such exchange
- to propose amendments to the Russian regulations that would enable inspections based on the data sourced from such databases
- to develop proposals on toughening the administrative sanctions for the breaches of food production standards, including seizure of production equipment.

[Official website of the Russian Government](#)

### **Department of Treasury announces more anti-Russian sanctions**

On 8 November 2018, the U.S. Department of the Treasury imposed additional Ukraine- and Crimea-related sanctions against three individuals and nine entities.

[Kommersant](#)

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## **Court practice**

### **Moscow City Court acknowledges illegitimacy of retrospective increase of cadastral property value in Moscow in 2016**

As a reminder, Moscow's Government amended its Resolution No. [688-PP](#) of 21 November 2014 "On approval of results of cadastral valuation of real estate in Moscow", making cadastral values skyrocket.

Although the amendments were made in the end of 2016, the tax authorities insisted on applying the new cadastral values as of 1 January 2016.

Several companies appealed to the court, seeking nullification of Clause 3 of Moscow's Government Resolution No. [973-PP](#) that enacts the document retrospectively, starting from 1 January 2016.

The administrative proceedings were terminated by the ruling of Moscow City Court of 27 June 2017 that was further upheld by the court of appeal.

However, the [Supreme Court](#) concluded that the disputed provisions did affect the legitimate interests of the plaintiffs and sent the case for retrial.

On 31 October 2018, the Moscow City Court [adjudged](#) in the taxpayers' favour, the final adjudication not yet

released.

If a court of the upper instance adjudges in the taxpayers' favour, it will put an end to the disputes over the retrospective applicability of the cadastral value increase, enabling the taxpayers to get their overpaid tax back.

[Kommersant](#)

# Deloitte publications

## Russia modernises data privacy legislation

On 10 October 2018, Russia signed Amending Protocol ETS No. 223 to the Council of Europe Convention for Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No.108). The accession to the Convention will require ratification of the Protocol by the Russian parliament and will entail changes in the Russian data privacy laws and enforcement practices.

For details, please refer to Legislative Tracking in Focus of [28 November 2018](#).

## And yet it moves! Or does it?

Starting from 1 January 2019 movable property would be exempt from taxation.

It creates a shortfall in the regional fiscal revenues, which have been estimated by Minister of Finance Anton Siluanov at up to RUB 181 billion.

This, in turn, may lead to more litigations over the tax authorities' attempts to classify movable property as immovable to collect more tax.

For details, please refer to Legislative Tracking in Focus of [23 November 2018](#).

## First prosecution for FATCA non-compliance, 12 September 2018

On 11 September 2018 in federal court in Brooklyn, Adrian Baron, the former Chief Business Officer and former Chief Executive Officer of Loyal Bank Ltd pleaded guilty to conspiring to defraud the United States by failing to comply with the Foreign Account Tax Compliance Act (FATCA). The Loyal Bank is an off-shore bank that has offices in Budapest, Hungary and Saint Vincent and the Grenadines.

According to court documents, in June 2017, an undercover agent met with Baron and explained that he was a U.S. citizen involved in stock manipulation schemes and was interested in opening multiple corporate bank accounts at Loyal Bank.

For details, please refer to Legislative Tracking in Focus of [12 September 2018](#).

## Amendments to the Russian Tax Code

Federal Law No. 302-FZ «On amendments to Part 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 optimizes the list of documents to be filed with the tax authorities to justify the application of a zero VAT rate.

For details, please refer to Legislative Tracking in Focus of [23 August 2018](#).

## Increase of Russian VAT rate

Federal Law No. [303-FZ](#) 'On Amendments to Certain Tax Laws of the Russian Federation' of 3 August 2018 (hereinafter, "Federal Law No. 303-FZ" ) has introduced amendments to the Tax Code of the Russian Federation (hereinafter, the "Russian Tax Code"), including an increase of the general VAT rate from 18 to 20 percent.

The raise is expected to generate additional budget revenue of RUB 620 billion p.a., starting from 2019.

Along with the added revenue from the oil and gas 'tax maneuver', the measure is viewed as a source of financing for the national development agenda outlined by the President of the Russian Federation in May 2018.

For details, please refer to Legislative Tracking in Focus of [17 August 2018](#).

## The Convention on the legal status of the Caspian Sea

Meeting at the summit in Aktau on 12 August 2018, the leaders of Russia, Kazakhstan, Azerbaijan, Iran, and Turkmenistan signed a milestone document, which brings the relations among the countries to a new level - the [Convention](#) on the legal status of the Caspian Sea. It has taken the five neighbors more than 20 years to come to an agreement.

For details, please refer to Legislative Tracking in Focus of [17 August 2018](#).

## New approach to tax treatment of transactions between related parties

On 15 June 2018, the Nineteenth Commercial Court of Appeals considered a [dispute](#) between PepsiCO and the Russian Federal Tax Service (FTS) over the tax treatment of intragroup transactions.

Courts of two instances supported the tax authorities in classifying the arrangement between the plant and the trading/holding company as free of charge provision of services.

According to the tax authorities, the plant's advertising and marketing expenses had contributed to an increase in the earnings of the trading/holding company and not the plant itself.

For details, please refer to Legislative Tracking in Focus of [31 July 2018](#).

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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**

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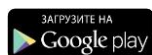


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## TaxSmart app



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