



LT Digest

Be in the know

Legislative initiatives

President of Russia signs package of federal laws:

- Federal Law No. [412-FZ](#), which proposes exempting **individuals from criminal prosecution for non-inclusion of CFCs' profits into their taxable earnings** for one year running (for more details, please refer to LT Digest of [3-9 September 2018](#))
- Federal Law No. [420-FZ](#) introducing criminal sanctions for fictitious registration of migrants in non-residential premises
- Federal Law No. [405-FZ](#) that sets forth a list of documents required to confirm the eligibility for the zero VAT rate by the residents of advanced development territories and the Free Port of Vladivostok.

Official Internet Portal for Legal Information

Russian State Duma considers package of bills

The Russian State Duma considered the following bills:

- Bill No. [442400-7](#), clarifying the deoffshorisation requirements, the tax treatment of CFCs, dividends,

[President of Russia signs package of federal laws](#)

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[Bill on piloting self-employment tax passes second reading](#)

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[Tobacco business may face charges for locking in excise rates](#)

shareholder exit distributions, and liquidation proceeds, passed the third reading (for more details, please refer to LT in Focus of [21 November 2018](#))

- Bill No. [551847-7](#) on **tax experiments** passed the third reading (for more details, please refer to LT Digest of [24-30 September 2018](#))
- Bill No. [550802-7](#) on ratification of the provisional free trade zone agreement between EAEU and Iran passed all three readings (for more details, please refer to LT Digest of [17-23 September 2018](#)).

Official website of the Russian State Duma

Bill on piloting self-employment tax passes third reading

The bill was updated to introduce a number of changes:

- the tax rates will preserve for 10 years and the income cap cannot be lowered
- the document clarifies the applicability of the tax, depending on location:
 - a person that chooses the tax regime will indicate the region, in which he (she) operates
 - in the event of multiple locations, the individual will

choose the region for taxation purposes, which can be changed only once a year

- unless a particular activity requires registration as an individual entrepreneur, eligible individuals will be able to perform all types of taxable self-employment activities without registering as individual entrepreneurs
- the document sets forth a number of restrictions for certain types of activities and regulates the use of My Tax app for communications with the tax authorities.

For more details, please refer to LT Digest of [24-30 September 2018](#).

Official website of the Russian State Duma

List of persons obliged to report suspicious transactions expanded

Auditors will have to report any AML/CTF-suspicious transactions of auditees to Rosfinmonitoring.

As a reminder, Federal Law No. [112-FZ](#) of 23 April 2018 obligates auditors to report suspicious deals to the authorities.

[Consultant Plus](#)

Clarifications from government bodies

Federal Tax Service reaffirms: machinery and equipment are not immovable property

According to the regulator, to classify fixed assets for movable property exemption purposes, the taxpayers may apply the clarifications of the Ministry of Industry and Trade set forth in Letter No. [OB-17590/12](#) of 23 March 2018.

According to the Ministry, despite the fact that the equipment of industrial enterprises can be mounted on a foundation, it cannot be classified as immovable property for the following reasons:

- it does not meet the immovable property criteria set out in the Russian Civil Code
- it can be sold separately as equipment
- it can be repeatedly disassembled and relocated,

retaining its operational properties and design without any functional/technical losses.

The Ministry underlined that production equipment is not a structure and belongs to a particular category of machinery and equipment.

Despite such taxpayer-friendly clarification, in practice, the tax authorities often tend to classify production equipment as an element of a single immovable property unit.

There have been two cases, where the courts adjudged in the tax authorities favour: Resolution No. [A29-4430/2018](#) (in which a thermal plant's equipment was classified as immovable property) and Resolution No. [A05-879/2018](#) (which classified production equipment of a shop floor as immovable property).

[Consultant Plus](#)

Media review

Federal Tax Service releases list of companies to apply tax monitoring regime in 2019

The Russian Federal Tax Service stopped accepting requests for tax monitoring for 2019.

Effective 1 January 2019, the tax monitoring regime will be applied by 44 players across industries, 18 of them first-timers:

- Lukoil, Gazprom, Rosneft, Novatek, and SMP-NEFTEGAZ (Oil & Gas)
- The National Clearing Centre, HSBC Bank (PP), and Bank VTB PAO (Financial Services)
- Aeroflot, Russian Railways, and subsidiaries of Norilskiy Nikel (Transport)
- Severstal (Metals)

- PAO InterRAO (Energy)
- Unilever Rus, Russol, Komatsu CIS, JAGUAR LAND ROVER, and Rostech (Production and Retail)
- NTV, Goggle, Megafon, MTS, Saint-Petersburg Telecom, and T2 Mobile (Telecom)
- A branch of Ernst & Young (Consulting).

[Official Russian Federal Tax Service website](#)

Pharmaceutical companies to enjoy greater government support

Speaking at the VIII International Forum Life Sciences Invest. Partnering, Russia's Deputy Minister of Industry

and Trade Sergey Tsyb said the companies engaged in the pharmaceutical R&D in Russia may expect more government subsidies.

Supporting the pharmaceutical industry is one of the priorities included in the Pharmaceutical Industry Development Strategy until 2030, aiming to support national innovation companies.

The strategy calls for developing the local chemical and biological synthesis of active pharmaceutical ingredients to ensure sufficient supplies to medicine producers.

The strategy also focuses on fostering the pharmaceutical export potential.

[Kommersant](#)

Ministry of Economic Development to coordinate redomiciliation requests

Redomiciliation requests from the companies wishing to waive residency in the special administrative districts will be forwarded by the Ministry to the Government.

[Official Internet Portal for Legal Information](#)

Government may mandate labelling industrial products

Apart from the consumer sector, labelling may be extended to industrial products.

In particular, according to Deputy Minister of Industry Victor Evtuknov, labelling will be mandatory for aviation and automotive parts and pipes.

[Vedomosti](#)

Oil companies commit to fuel/diesel price freeze

Oil giants, including Gazprom Neft, Lukoil, Rosneft, Russneft, Surgutneftegaz, and Tatneft, signed an agreement with the Ministry of Energy and the Federal Antimonopoly Service, aiming to stabilise the prices and foster the development of the domestic oil market.

For more details, please refer to LT Digest of [3-11](#)

[November 2018.](#)

[Vedomosti](#)

Ministry of Health supports excising sweet soda drinks

The initiative was put forward by the Expert Council of the Russian Government.

The excise may reach 20 percent of the retail price.

However, the initiative has not yet been formalised as a bill.

[Izvestiya](#)

Telecom operators might be obliged to use Russian IoT equipment

The initiative to mandate the use of Russian-made base stations for IoT was put forward by the State Commission on Radio Frequencies.

The proposal concerns the equipment that operates in a number of LPWAN bands and is subject to registration.

The registration requirement will apply only to the base stations meeting certain criteria, including the power output.

[Kommersant](#)

UN General Assembly Committee approves Russia's cyber regulation pact

On 9 November 2018, the First Committee of the UN General Assembly approved the International Code of Conduct for Information Security, proposed by Russia, by a majority vote.

The proposal sets forth a code of Internet governance for the states and the development of a new discussion mechanism.

The document will be introduced for consideration by the General Assembly in early December 2018.

[Kommersant](#)

International taxation news

OECD releases guidance on Synthesised texts for providing clarity on the impact of the Multilateral Instrument

The document presents a clear overview of the modifications to tax treaties resulting from the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the "Convention" or "MLI") and clarifies the entry into effect rules for tax treaties of jurisdictions that deposited their ratification instruments last September. Synthesised Texts also provide comprehensive information to taxpayers, auditors, advisors and other users on when the modifications will have effect in each jurisdiction.

[Official OECD website](#)

Guernsey tax alert: Draft regulations on company

economic substance published

On 8 November 2018, the Guernsey government published draft regulations that would introduce increased substance requirements on certain Guernsey resident companies.

Two other documents have been published to facilitate interpretation of the draft regulations: a ['key aspects document'](#) issued jointly by the governments of Guernsey, the Isle of Man, and Jersey, and a [flow chart](#).

The document proposes the following changes:

- clamping down substantial presence criteria
- clarifying limited liability partnership requirements.

For details, please refer to Guernsey tax alert of [13 November 2018](#).

[Official website of the Guernsey Government](#)

OECD invites taxpayer input on seventh batch of Dispute Resolution peer reviews

Improving the tax treaty dispute resolution process is a top priority of the BEPS Project.

The OECD is now gathering input for the Stage 1 peer reviews of Brazil, Bulgaria, China, Hong Kong, Indonesia, Papua New Guinea, Russian Federation and Saudi Arabia.

The taxpayers are encouraged to provide feedback by 13 December 2018.

[Official OECD website](#)

Great Britain announces draft agreement on withdrawal from EU

The UK Cabinet approved the draft [Brexit deal](#).

The draft handles the financial settlement issues, the rights of UK citizens in the EU, the possible extension of the transition period to 1 July 2020, the UK's restricted access to the EU's financial markets, and the customs regime between Northern Ireland and Ireland.

Furthermore, from March 2019, the UK will adhere to EU-approved regulatory measures, at least in such areas as protection of the rights of workers, environment protection, and government subsidies.

The draft withdrawal deal contains a 'backstop', which means that Northern Ireland is continuing to follow many rules of the EU's single market, at least until London and Brussels find more a more acceptable solution.

With the Cabinet's nod secured, the deal must next be approved by the British Parliament.

[RBCdaily](#)

Memorandum on cyberspace regulation signed

On 12 November, at the UNESCO Internet Governance Forum (IGF), the President of France Emmanuel Macron

launched the Paris Call for Trust and Security in Cyberspace, a high-level declaration on developing common principles for securing cyberspace.

The document already received the backing of 51 states, as well as of more than 370 private companies and civil society organizations.

The supporters of the Paris Call have committed to working together to:

- Increase prevention against and resilience to malicious online activity
- Protect the accessibility and integrity of the Internet
- Cooperate in order to prevent interference in electoral processes
- Work together to combat intellectual property violations via the Internet
- Prevent the proliferation of malicious online programmes and techniques
- Improve the security of digital products and services as well as everybody's "cyber hygiene"
- Clamp down on online mercenary activities and offensive action by non-state actors
- Work together to strengthen the relevant international standards.

The document was not acceded by Russia, China and USA.

[France Diplomatie official website](#)

OECD releases latest results on preferential regimes as part of ongoing implementation of BEPS Action 5

The latest progress [report](#) from the Inclusive Framework on BEPS covers the assessment of 53 preferential tax regimes

[Official OECD website](#)

Court practice

Tobacco business may face charges for locking in excise rates

Tobacco producers have been suspected of deriving illegal tax benefits from the standard operational arrangements.

The tax authorities noticed the inventories the companies accumulated in Q4 and sold in November-December to affiliated distributors or warehouses.

By artificially ramping up the sales, some locked in the

excise rates before the rate increase in the beginning of the year, thus minimising the tax burden.

The tax authorities already audited Imperial Tobacco and Pogarskaya Cigarette and Cigar Factory.

A [claim](#) against the latter was filed with the Commercial Court of Bryansk Region.

[Vedomosti](#)

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](#).

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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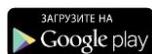


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