



Research & Development and Government Incentives March News

1 April 2016

Amendments to investment legislation in Kaluga Region

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On 1 April 2016, a **law** entered into force that offers tax benefits in the form of lower corporate income tax rates to investors whose production modernization programs are included in the Kaluga Region Production Modernization Program. The amount of the benefit ranges from 13.5%-15% and depends on the amount of capital investment in reconstruction, technical upgrades, modernization, fitting out and/or further equipping production in accordance with the production modernization program. This provision is effective until 1 January 2018. The law also defines the types of activities taxpayers may undertake while having the right to apply the lower tax rate.

On 1 April 2016, a **law** also came into effect that established tax benefits for 2016 in the form of an exemption from corporate property tax for investors included in the register of investment projects that have the status of a strategic investment project. The period of exemption is 36 months from the 1st date of the reporting (tax) period in which the benefit was claimed by the taxpayer. This benefit is provided for property created and (or) acquired before 1 January 2016 as part of a strategic investment project for which no taxation relief was applied. The tax exemption may be used by organizations that claim it up to 31 December 2016, inclusive.

This law extends to legal relations that arose on or after 1 January 2016.

31 March 2016

Tax benefits offered to certain types of metallurgical production in Kemerovo Region

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On 31 March, a **law** came into effect under which companies producing steel bar (hot-rolled and hammered) on the territory of Kemerovo Region and that have an average worker headcount exceeding 10,000 are offered benefits in the form of lower property tax rates of 1.14% for 2015 and 2% for 2016. This law extends to legal relations that arose on or after 1 January 2016.

30 March 2016

New regional legislation governing relationships under special investment contracts

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Krasnouralsk city district council

On 31 March 2016, the Khanti-Mansysk Autonomous District-Ugra (KMAD-Ugra) passed the **law** "On Industrial Policy in KMAD-Ugra," which establishes goals and objectives for industrial policy in the autonomous district; the powers of autonomous district authorities in the sphere of industrial policy; measures to stimulate activity in the industrial sphere; financial, property and informational-consultative support of scientific-technological practices; and innovation activities in the sphere of industry. Activity in the sphere of industry is stimulated through offering financial support; property support; scientific-technological and innovation activities; informational-consultative support; support in the development of workforce capacity; and other support measures envisaged by federal and autonomous district legislation.

On 30 March 2016, Khabarovsk Territory passed **law** of 30 March 2016 Number 172 "On the Industrial Policy of Khabarovsk Territory," which establishes that the targets for stimulus measures in the sphere of industry in the territory that use funds from the territorial budget will be provided with: financial and informational-consultative support; support for scientific-technological, innovation and external economic activity carried out by the target, development of

workforce capacity; state incentives; and other support measures. Financial support will be provided in the form of tax benefits, state guarantees by the territory, subsidies and other means. Financial and other forms of support of the targets can be offered through the territorial government's funds for industrial development created by the territory from its budget, as well as other sources allowed by law. The Law established the powers of the territory's Legislative Assembly and Government in the sphere of the territory's industrial policy.

On 28 March 2016, Kostroma Region passed a **law** that amended the law "On Investment Activity in Kostroma Region Rendered Through Capital Investment" with the provision that investment agreements can be entered into in the form of a special investment contract (SIC). According to the contract, one party -- the investor -- is obligated to establish or modernize and (or) adapt production of industrial products on the territory of Kostroma Region, while the other party -- the Kostroma Region -- is obligated to provide stimulus measures in the sphere of industry as envisaged by the Kostroma Region legislation in effect at the moment the SIC is signed. The total amount of capital investment presumed for investment projects proposed to be realized on the basis of a SIC shall be no less than RUB 500 million.

On 1 March 2016, the Krasnouralsk city district passed a **Resolution** that governs the manner in which a SIC is entered into. A SIC is entered into on behalf of the Krasnouralsk city district by the head of the Krasnoyarsk city district administration with a legal entity that takes on the obligation in the timeframe given in the SIC to establish, modernize and (or) adapt production of industrial products on the territory of the Krasnouralsk city district, either through its own efforts or through involving third parties. The given contract is entered into for a period equal to the schedule for the investment project to begin earning operating profit according to the business plan, plus 5 years, but not more than 10 years. The Resolution established the list of documents required to apply for entering into such an agreement.

At the moment, the laws governing how to provide SIC investors with tax benefits in the above-mentioned regions have not been passed.

29 March 2016

Potential introduction of additional corporate property and land tax benefits in the city of Moscow

Moscow City Duma

Draft legislation has been introduced to the Moscow City Duma under which organizations conducting certain types of activities may be offered tax benefits. In particular, the legislation proposes the following amendments:

- to decrease the property tax rate by ten times for organizations with respect to their buildings and premises if such buildings are designated and used for medical activities, first came into operation after 1 January 2013, and the tax base is determined to be the carrying value.
- decrease by 50-80% (depending on the year) the land tax rate for the period of 2014-2023 for land plots on which there is construction or reconstruction activity for sports facilities, including football/ice arenas, and are equipped with grandstands for spectators with places for no fewer than 12,000 people, or the operation of such facilities on which the construction or reconstruction was completed after 1 January 2014.

If approved, the law will enter into force from the date of its official publication, with the exception of certain provisions for which other terms for entering into force are stipulated.

28 March 2016

Possible changes to tax treatment of intangible assets and R&D

Vedomosti

Laws and regulations

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The draft legislation "On Amendments to Articles 251 and 262 of Part Two of the Russian Federation Tax Code Aimed at Improving the Tax Treatment of Intangible Assets and Associated Transactions" has been prepared. In the draft legislation, the following amendments to the tax legislation are proposed:

- to add income in the form of property rights resulting from intellectual activity identified during inventory taking to the list of income not taken into account for profit tax purposes (this provision will apply to property rights identified during inventory taking from 1 January 2017 to 1 January 2019);
- to clarify the list of salary expenses counted toward R&D expenditures, namely to include in the salary expenses social security contributions calculated from wages and incentive payments (bonuses) to employees participating in R&D. Currently social security contributions and bonuses are counted at no more than 75% of salary expenses;
- a coefficient of 1.5 is proposed to be applied to R&D expenses (per the established list) not only when recognizing R&D cost as other expenses, but also when including such expenses in the initial cost of amortized intangible assets;
- it is proposed that the taxpayer will not need to present the tax authorities with an R&D report in the event that such a report has been placed in the unified state information system for commercial research, development and technological work.

If passed, the amendments to the federal law will enter into force from 1 January 2017, but not earlier than one month from the day of their official publication and not earlier than the first day of the next corporate income tax period.

23 March 2016

Corporate property tax of shopping centers located in Leningrad Region will be based on cadastral value

Leningrad Region Legislature

On 23 March 2016, amendments to the Leningrad Region law "On Property Tax of Organizations" were approved in the third reading. According to the amendments, property tax on shopping centers with area of more than 1,000 square meters will be based on the cadastral value as of 1 January 2017. The list of specific facilities will be established no later than 1 January 2017 and will be sent to the regional tax inspectorate. Details on calculating an organizations' property tax based on cadastral value can be found in the December issue (**Issue #11 | December 2015**).

17 March 2016

Additional tax assessment on property in respect of an incorrect interpretation of the provisions of the law on the start of the time period for using the preferential property tax rate

Commercial court case records

Commercial court case records

On 19 December 2008, OOO Hipp (hereinafter, "the Company") was entered into the register of residents of the Special Economic Zone in Kaliningrad Region (hereinafter, "the SEZ") and received the right to apply a lower property tax rate of 0% for six calendar years from the moment of the Company's inclusion in the register of residents.

In 2014, the Company submitted a property tax declaration for 12 months 2014 in which it claimed its right to apply the 0% rate during all of 2014, as, in the Company's opinion, the right to apply the preferential property tax rate arose only from the first day of January following the calendar year of being included in register of SEZ residents, i.e. 2009.

During pre-trial proceedings, a rule came into force that changed the manner SEZ residents use to calculate the period of applying the preferential income tax. According to the new rule, a 0% rate is in effect for the first six tax periods instead of the earlier stipulated six calendar years, and this extends to legal relations arising on or after 1 April 2006.

During the trial phase, the Company justified its position based on this rule coming into force. Despite the provision being effective for income tax, the Company believed that it extended to legal relations connected with the calculation of property tax.

The Inspectorate, in turn, argued that the provision that came into force does not extend to legal relations connected with the calculation of property tax, and the Company should be guided by the provisions of article 385.1 of the Tax Code of the Russian Federation, according to which the 0% rate is effective for six calendar years and not six tax periods. In the Inspectorate's opinion, the first calendar year in which the Company had the right to apply the 0% rate was 2008; accordingly, 2014 is the seventh year from the day of the Company's inclusion in the register of residents. As such, the Company does not have the right to apply the 0% rate starting 1 January 2014.

The Kaliningrad Region Commercial Court did not agree with the argument of the Interregional Tax Inspectorate of the Federal Tax Service and ruled in favor of the taxpayer, considering that, although the provision applied to the period of validity for preferential income tax, it could be applied to property tax, as it is necessary to take into account not only the literal meaning of the words and phrases in the provision, but also the goals of the lawmakers in establishing the law. As such, in the court's opinion, there was no basis to revoke the taxpayer's right to apply the 0% property tax rate for 2014.

The Northwest District Commercial Court considered a similar case, # A21-7635/2014, on 18 March 2016, in which the court also took the side of the taxpayer (OOO A-INVESTMENT GROUP).

17 March 2016

Agreement signed on establishing new territories of priority social and economic development

Official website of the Government of the Russian Federation

On 17 March 2016, a resolution was signed that created three new territories of priority development: the **Southern** and **Mountain Air** territories in Sakhalin Region and the **Usolye Sibirskoe** territory in Irkutsk Region.

On 14 March 2016, the Republic of Sakha (Yakutia) passed a **law** that offers residents of TASEG Industrial Park Kagalassi tax benefits in the form of an exemption from corporate property tax for the first five years from the day of inclusion in the list of TASEG residents. This law enters into force on 14 April and will regulate legal relations arising on or after 1 January 2016.

15 March 2016

Zelenograd Special Economic Zone (SEZ) begins terminating agreements with residents

Prefecture of the Zelenograd Administrative District of the City of Moscow

The Zelenograd SEZ has begun to terminate contracts with resident companies that have materially breached the terms of the agreements, namely, they have not carried out the activities stipulated in the agreements. A commercial

court decision has been issued that revokes the status of four companies, and work on terminating agreements is in process with seven residents.

14 March 2016

Tax benefits offered to companies carrying out investment projects in non-alcoholic beverage production in the Republic of Sakha (Yakutia)

Official internet portal for legal information

On 14 March 2016, a **law** was approved that offers a special tax benefit to enterprises that have been placed by the government of the Republic of Sakha (Yakutia) on the list of systemically important enterprises and are conducting investment projects for the production of non-alcoholic beverages. The enterprises are eligible for a lower corporate property tax rate of 0.5% for the period up to 31 December 2020. To receive the tax benefit, the company's main activity must be the production of non-alcoholic beverages, not including mineral water, in a volume of no less than 300,000 deciliters in the calendar year preceding the tax period for which the lower tax rate is to be applied. The production volume condition is in effect from the second tax period of the benefit being applied.

11 March 2016

Amendments to Kaliningrad Region legislation

Kaliningrad Regional Government

Official Internet Portal for Legal Information

On 11 March 2016, a **law** was signed that sets a lower investment threshold for residents of the SEZ in the Kaliningrad Region. No less than RUB 150 million must be invested in order to receive the tax benefit and resident status. For investment projects in the categories of tourism and recreation, manufacturing, fisheries and aquaculture or agriculture, the capital investment for the project must be no less than RUB 50 million.

On 16 February 2016, a **Resolution** of the Kaliningrad Region Government entered into force that establishes the categories of legal entities and residents of the SEZ that have the right to receive subsidies for paying salaries, social security contributions, taxes, levies, customs duties and other obligatory payments. The conditions and manner for providing such subsidies were also established. An investment agreement or agreement of reciprocal obligations on preserving the terms and parameters of the activity (depending on the date of inclusion in the SEZ resident register or state registration of the legal entity) must be signed in order to receive the subsidy.

3 March 2016

Additional corporate property tax assessment in respect of incorrect application of benefits

Commercial court case records

On 7 July 2015, OAO Severneftegazprom filed a claim against the Federal Tax Service Interregional Tax Inspectorate for Large Taxpayers Number 2 on recognizing as invalid the Inspectorate's decision to impose a liability for tax violations. The Company believes that it properly applied the benefit provided for in paragraph 11, article 381 of the Tax Code of the Russian Federation in respect of a commercial gas pipeline, since the pipeline in question is connected to the main pipeline, making it a mainline.

The Moscow District Commercial Court determined that the object in question is a gas pipeline connection for sending natural gas ready for further transport from the producer (the Company) to the point of tie-in with the main pipeline and not to the point of consumption, and as such, the object in question cannot be considered a mainline. The decision was made in favor of the tax authority.

It is worth noting that courts are ruling in favor of the tax authorities in a greater number of cases concerning the application of such exemptions in respect of public railways, federal motorways, main pipelines, utility lines and facilities that are integral parts of such objects.

29 February 2016

Draft legislation has been introduced to the State Duma proposing changes to the proportions of income tax allocated to federal and regional budgets

State Duma of the Russian Federation

The **legislation** proposes changing the proportions of corporate income tax to be allocated to the federal and regional budgets. It sets the amount of tax calculated at the tax rate of 1% to be allocated to the federal budget and the amount of tax calculated at the tax rate of 19% to be allocated to the budget of the subject (e.g. region) of the Russian Federation.

The legislation does not provide for changes regarding the option of the Russian Federation subjects to lower the tax rate for their allocation to the regional budget to 13.5%.

Contacts

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