Tax legislation
Tax landscape 2018: key developments and outlook
Legislative and economic trends shaping the tax landscape by industries
The legislative year 2017 is over and we can have a more detached look at it, reflecting on what it will be remembered for. Tax legislation is one of the most rapidly evolving legal frameworks, especially in the developing tax environments such as Russia. The Russian tax system is constantly on the turn, with ambiguities clarified, international best practices adapted and adopted, investment incentives launched, and measures to tackle tax offences introduced.

Last year was no exception, marking the completion of several long-awaited legislative initiatives that will come in force in 2018. These include the unjustified tax benefit concept, international exchange of financial account and MNE information, and tax-free shopping (which Deloitte’s professionals contributed a lot to developing).

What else? Tax treatment of capital contributions was reconsidered, a range of tax benefits was refined, a profit tax deduction on investment was introduced. The non-tax charges framework was successfully tested and is fully operable.

We expect to see further automation and digitalisation of tax administration processes.

To offer a broader picture on the important changes and trends, we have prepared our annual tax update and outlook for 2018.

This year’s update includes video comments from Deloitte’s industry group leaders, sharing their opinions on the year’s landmark tax events. Apart from the tax news, we have also incorporated an overview of changes in the currency, labour, and corporate legislation.

Industry players will find summaries of sector-specific legislation changes that may have a considerable impact on their business and comments from our specialists on the key developments and trends.

We appreciate your interest in our publications and hope that this update will guide you through the Russian legislative changes and facilitate your decision-making.
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Amendments effective 2018
General provisions of the Russian Tax Code

Limits on the exercise of taxpayer rights

**The Russian Tax Code formalises the concept of unjustified tax benefit**

The Russian Tax Code has been supplemented with Article 54¹ that defines unjustified tax benefit as an understatement of the tax base/tax payable through the misrepresentation of business transactions/taxable assets by the taxpayer.

A taxpayer is entitled to reduce its taxable base for/tax payable on a transaction subject to the following conditions:

1. The business transactions/tax base are correctly represented
2. The transaction is not aimed at avoiding payment (partial payment) and/or obtaining a tax refund
3. The obligations arising out of the transaction were discharged by a party to the transaction and/or its legitimate assignee(s).

At the same time, the new article does not refer to the presumption of taxpayer’s good faith or mention the display of reasonable care in supplier selection as a sufficient proof of such. Neither does it provide for the so-called “tax reconstruction” (recalculation of tax based on the real substance/value of the transaction), either.

Article 54¹ of the Tax Code contains a number of provisions to guarantee the taxpayer’s rights. E.g. the signing of source documents by an unidentified/unauthorised person, a breach of tax legislation by a counterparty, or the existence of alternative options to achieve the same economic result cannot be deemed a sufficient proof that the reduction of the taxable base/tax was unlawful.

The respective law entered into force on 19 June 2017. Its provisions that govern the proving of unjustified tax benefit by the tax authorities apply to:

- The desk audits of tax returns filed after 19 August 2017
- The field audits and transfer pricing audits scheduled after 19 January 2017

For more details on the law and the ambiguities of its applicability, please refer to LT in Focus of 7 July 2017.

Federal Law of No. 163-FZ of 19 July 2017

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¹ Note: Article 54 of the Russian Tax Code.
Clarifications from regulators

The Russian Investigation Committee and the Russian Federal Tax Service developed guidelines for establishing intentional tax avoidance

In its Letter No. ED-4-2/13650 of 13 July 2017, the Russian Federal Tax Service (the FTS) released the guidelines for establishing tax evasion intent of taxpayer’s officers (the Guidelines). The document was prepared jointly with the Russian Investigation Committee and is intended for the lower tax authorities.

The document outlines the most common tax evasion schemes and contains the guidelines for identifying the intent to commit a tax offence and recording the tax audit findings.

Attached to the Guidelines is a list of questions that the local tax authorities must ask the taxpayer’s employees that are liable to criminal prosecution for tax offences (Articles 199,191.1, and 199.2 of the Russian Criminal Code).

If implemented by the tax authorities, the guidelines might lead to a wider practice of charging the 40-percent fine for intentional tax offences and bringing criminal charges against offenders.

For more details, please refer to LT in Focus of 3 August 2017

Russian Federal Tax Service Letter No. ED-4-2/13650 of 13 July 2017

The Russian Constitutional Court’s opinion on retrospective applicability of provisions detrimental to taxpayers

Resolving on the constitutionality of certain Tax Code provisions, the Russian Constitutional Court cited that a resolution of a superior court, interpreting a legal provision to the detriment of a taxpayer, acting in good faith in line with the then-applicable business practice, cannot have a retrospective effect.

This opinion of the Constitutional Court may well trigger a reconsideration of additional tax assessments following the changes in the judicial and administrative practice and safeguard against the retrospective applicability of tax regulations in the future.

For more details on Russian Constitutional Court Resolution No. 34-P, please refer to LT in Focus of 5 December 2017

Resolution of Russian Constitutional Court No. 34-P of 28 November 2017
Profit tax

Tax exemption of property contributions

The Law considerably narrows the list of options for tax-exempt free-of-charge financial assistance that shareholders can provide to their subsidiaries. From now on, only the following types of contributions will be tax exempt:

- Property, including cash, received free of charge from a shareholder holding more than 50 percent in the receiving party, provided that such assets are not transferred to third parties within a year of receipt (Sub-Item 11, Item 1, Article 251 of the Russian Tax Code)
- Uncollected dividends reinstated as retained earnings (Sub-Item 3.4, Item 1, Article 251 of the Russian Tax Code as amended)
- Property, property rights or other rights as per their monetary value, received as property contribution in accordance with the civil laws of Russia (Item 3.7, Item 1, Article 251 of the Russian Tax Code as amended)

In accordance with the Russian civil law, property contribution can be made in cash, assets, membership interests (shares), federal or municipal bonds, exclusive and non-exclusive intellectual property rights, and rights under licence agreements as per their appraised monetary value (Part 1, Article 66.1 of the Civil Code).

Therefore, all assets that are not permitted property contributions according to the Civil Code and are not covered by Sub-Item 11, Item 1, Article 251 of the Russian Tax Code will be subject to regular taxation.

Taking into account the changes that came into effect on 1 January 2018, the following types of income will now be taxable:

- Donated property rights other than qualifying for property contribution
- Debt forgiven by a shareholder

For more details, please refer to LT in Focus of 3 October 2017

Federal Law No. 286-FZ of 30 September 2017
Profit tax deduction on investment will apply to all fixed assets from depreciation categories 3 to 7.

A taxpayer may choose to apply the deduction, if it is envisaged by a regional law.

The deduction may be applied using one of the options below:

- The regional profit tax component can be reduced by up to 90 percent of the total fixed asset investment, however, the deduction cannot exceed the statutory cap (if the regional law so permits, the unused deduction can be carried forward)
- The federal tax component can be reduced by up to 10 percent of the investment amount and even zeroed, but the unused balance cannot be carried forward

If a taxpayer opts to apply the deduction, it will no longer be entitled to charge depreciation and apply bonus depreciation to the fixed assets the deduction was applied to.

The deduction cannot be applied selectively to individual fixed assets.

In the event of disposal (other than through liquidation) of a fixed asset the tax deduction was applied to, the amount of tax unpaid due to the deduction will be reinstated and paid along with the accrued late payment charges.

Certain taxpayer categories will not be eligible for the deduction, such as RIP participants, SEZ residents and other categories as may from time to time be introduced by the regions.

As the deduction and its parameters (the eligible taxpayer and fixed asset categories, the maximum deduction amount charged to the regional tax component) will be established by the regional laws, they might differ significantly across Russia.


The first regional law introducing a profit tax deduction on investment was adopted on 20 December 2017. For more details, please refer to LT Digest of 4 – 31 December 2017.

Artem Vasyutin
Partner
R&D and Government Incentives

“This deduction can become an attractive tool to manage the tax burden, which, unfortunately, will be available only subject to the adoption of a relevant regional law and compliance with eligibility criteria it sets. This is a profit tax deduction and those who generate considerable profit despite high capital costs are likely to benefit by it. The use of the deduction is treated equally with tax benefits for transfer pricing purposes. These factors coupled with the restrictions on the depreciation and disposal of fixed assets and other criteria must be taken into account when deciding whether the new mechanism is worth applying.”
Tax treatment of free-of-charge sureties and guarantees

A lack of clarity in the application of Sub-Item 55, Item 1, Article 251 of the Russian Tax Code was addressed: the value of free-of-charge surety agreements between Russian non-bank entities will not be included in the tax base (a similar approach was previously proposed by the Russian Ministry of Finance in its Letter No. 03-03-06/1/3813 of 26 January 2017).

**Tax treatment of highly energy-efficient facilities or facilities of the High energy efficiency class**

The list of highly energy-efficient assets (assets that were assigned the High energy efficiency class) that qualify for accelerated depreciation at a rate of up to x2 the regular rate will no longer include buildings.

**Federal Law No. 286-FZ of 30 September 2017**

**Tax treatment of tuition fees and similar payments**

The following types of expenses can be deducted:

- The cost of independent employee qualification assessment
- The expenses incurred under agreements for networked learning programmes signed with educational institutions
- The payments to endowments (not exceeding 1.5 percent of profit) and cost of property contributed to educational institutions
- The costs incurred under contracts with research organisations

**Federal Law No. 169-FZ of 18 July 2017**

**Changes in the treatment of R&D expenses**

- The list of fully deductible R&D expenses was expanded, adding the cost of rights (exclusive or non-exclusive) to invention, utility model or industrial prototype used solely for R&D purposes and insurance premiums and bonuses, paid to R&D staff (previously capped at 75 percent of the total R&D payroll)
- The use of the 1.5 multiplier for deductible R&D expenses, recognised as intangible assets, is now regulated
- The law introduces an alternative way of confirming a company’s eligibility for the 1.5 multiplier: alongside with submitting the R&D reports to the tax authorities, reports can now be registered in the governmental information system
- Non-operating income resulting from the revaluation of intangibles will be deductible for profit tax purposes from 1 January 2018 to 1 January 2020

**Federal Law No. 166-FZ of 18 July 2017**

- The list of fully deductible R&D expenses was expanded, adding the cost of rights (exclusive or non-exclusive) to invention, utility model or industrial prototype used solely for R&D purposes and insurance premiums and bonuses, paid to R&D staff (previously capped at 75 percent of the total R&D payroll)
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- The law introduces an alternative way of confirming a company’s eligibility for the 1.5 multiplier: alongside with submitting the R&D reports to the tax authorities, reports can now be registered in the governmental information system
- Non-operating income resulting from the revaluation of intangibles will be deductible for profit tax purposes from 1 January 2018 to 1 January 2020
Country-by-Country reporting


It will apply to MNE groups that reported revenues of at least RUB 50 billion in their consolidated financial statements for a fiscal year of 12 consecutive calendar months, immediately preceding the reporting period.

The document sets forth the main requirements for the scope of reports that a taxpayer belonging to an MNE group (except foreign entities that receive only passive income as defined by Article 309 of the Russian Tax Code) must file with the tax administration. The scope includes:

- A notification of participation in an MNE group (the first one to be filed by 31 August 2018)
- Country information on the MNE group the taxpayer is a constituent entity of:
  - The MNE group’s master file (will not be requested until 31 December 2018)
  - The MNE group’s local file (will not be requested until 31 December 2019)
  - The MNE group’s CbC report by the countries (territories) its constituent entities are tax residents of

The Law proposes the following penalties for failure to report or for misreporting:

- RUB 50,000 with respect to the notification of participation in a MNE group
- RUB 100,000 with respect to the CbC reports

The document provides for a transitional period (2017-2019), during which the penalties will not be charged.

For a detailed analysis of the key aspects of MNE group reports, please refer to LT in Focus of 27 November 2017.

Federal Law No. 340-FZ of 27 November 2017

Please note that the Russian government already developed a draft resolution on CbC implementation in Russia.

Also, the Russian Federal Tax Service developed the formats of MNE notifications and CbC reports.
On 27 November 2017, the Russian State Duma adopted a law that sets up a legal framework enabling Russian financial institutions (FIs) to comply with the OECD's Common Reporting Standard (CRS), requiring that financial institutions of the member countries report financial account information to the local tax administrations for further exchange purposes. According to information on the Russian Federal Tax Service (FTS) website, the first reports will have to be filed by financial institutions by 31 July 2018 for the accounts opened before 2018.

The Law sets forth the list of financial institutions (credit institutions, insurers, professional securities market participants, trust managers, private pension funds, etc.) and their reporting obligations with respect to:

- The financial information about clients, beneficiaries and/or their (in)direct controlling persons/owners that are foreign tax residents
- Any other information pertaining to a financial service contract signed between a client and the FI

The disclosure of such information neither violates the bank secrecy, nor requires the consent of the clients, beneficiaries or their (in)direct controlling owners.

Any financial information received by the FTS from the FIs and the foreign tax administrations can be used by the FTS and the regional tax authorities in their activities.

The Law sets forth client identification obligations for the FIs, such as inquiry, processing (documenting), and analysis of client data and taking reasonable and available measures to establish the tax residency of the clients and their (in)direct controlling persons/beneficial owners, including the verification of accuracy and completeness of provided information. The clients, in turn, are obliged to provide the requested information, including their own data and the information on their (in)direct controlling persons/beneficial owners.

The Law envisages sanctions for the FIs failing to report the data of a client, controlling person or beneficial owner or establish their tax residency. However, the FIs will not be held liable for such breaches discovered in 2017, 2018, and 2019.

For a detailed analysis of the key aspects of the law, please refer to LT in Focus of 22 November 2017.


Please note that the Russian Government already developed a draft resolution on CRS implementation in Russia (for more details, please refer to LT in Focus of 16 October 2017 and LT Digest of 4 – 31 December 2017). The OECD released a list of jurisdictions that Russia will exchange information with for CRS purposes (for more details, please refer to LT Digest of 4 – 31 December 2017).
International taxation
Beneficial income ownership

The FTS offered clarifications on the applicability of beneficial income ownership concept
The FTS summed up the judicial practice related to the concept of beneficial income ownership and highlighted the test factors for establishing such ownership, including:

• The evidence of economic substance in the country of residence (staff, office, business expenses)
• The power to dispose of income
• The use of the income (re-investment for business purposes)
• The decision-making independence of foreign entities’ directors
• The exposure of assets to commercial risks
• The nature of cash flows between group entities (income distribution obligations, frequency of transitory distributions of income)
• The business activities of the group as a whole

While the regulator acknowledges the OECD’S Model Tax Convention and Commentary, it can be applied (or not applied) on a case-by-case basis.

According to the FTS, the concept of beneficial ownership of income can be applied to any income paid to foreign counterparties; however, the tax authorities can deny the tax treaty benefits to income recipients that do not qualify as beneficial income owners (which do not have to be established).

For more details, please refer to LT in Focus of 1 June 2017.

FTS Letter No. CA-4-7/9270@ of 17 May 2017

The statistics of beneficial income ownership disputes

**Dividends:**
- Decisions awarded to tax authorities:

**Interest:**
- Decisions awarded to taxpayers: A21-2521/2017

**Royalties:**
- Decisions awarded to taxpayers:

**Proceeds from the sale of shares:**
- Decisions awarded to tax authorities: A40-6602/2016

While the regulator acknowledges the OECD’S Model Tax Convention and Commentary, it can be applied (or not applied) on a case-by-case basis.
Russia joins the Multilateral Convention to Implement Tax Treaty-Related Measures to Prevent Base Erosion and Profit Shifting

Russia, among other 72 countries and jurisdictions, joined the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting of 24 November 2016 (the "MLI"). The MLI will apply to 66 tax treaties signed by the Russian Federation and will not apply to the treaties with the countries that were not represented in the OECD’s Working Group, with Sweden, and with Japan.

Unlike protocols to the tax treaties that amend their texts, the MLI is applied alongside the existing treaties, modifying their application. The MLI contains the provisions that are mandatory for each signatory, as well as a number of optional provisions that will be applied to the particular treaties at each country’s discretion.

The minimum standards that are mandatory for all signatories (including Russia) include the following provisions:

- Tax treaties cannot be used for tax evasion.
- Treaty benefits are denied if the principal purpose of a transaction is to obtain such benefits (the so-called "Principal Purpose Test", or "PPT"). Each jurisdiction may combine the PPT with the limitation of benefits.
- The taxpayers have the right to initiate mutual agreement procedures.

Russia plans to apply some of the optional MLI provisions, too:

1. Russia has opted for the so-called “Simplified Limitation on Benefits” provision which restricts most treaty benefits to "qualified persons" expressly named in the MLI.
2. Reduced dividend tax rates may only be applied by persons that have complied with the ownership criteria for 365 days prior to the payment date.
3. Capital gains from the alienation of shares or interest in the entities, whose assets are mostly represented by real estate, should be taxed in the jurisdiction in which such real estate is located.
4. The concept of permanent establishment is refined: a broader definition is given to dependent agent permanent establishment, preparatory and auxiliary activities are treated in a narrower sense, split-up of construction contracts is prohibited to prevent abuse of the minimum length of site existence criterion.

The mandatory provisions accepted by Russia will apply to the selected tax treaties once the Convention is ratified. The application of optional provisions will depend on the choice of other contracting jurisdictions.

For more details, please refer to LT in Focus 14 June 2017.

Russian Government Resolution No. 963-r of 20 May 2017

A tool allowing to model potential overlaps of MLI provisions.
Russia and Japan signed the new Double Tax Convention

The Convention was signed on 7 September 2017 at the Eastern Economic Forum and incorporates the amendments to the MLI released by the OECD in 2017 as part of the BEPS package.

The new Convention is aimed at protecting the taxpayers against double taxation and is in line with the latest definitions of corporate and individual tax residency. It refines the permanent establishment criteria, updates the concepts and principles of tax treatment of associated enterprises and "transparent" companies, and introduces the limitation on benefits.

Read more about the Convention and its implications for the business in LT in Focus of 4 September 2017.

Another country the Russian Ministry of Finance is planning to ratify a tax treaty with is Ecuador. A notice on the development of a respective federal law was posted on the Federal Draft Legislation Portal. The Double Tax Convention between Russia and Ecuador was signed on 14 November 2016.

The FTS updated the list of countries and jurisdictions failing to exchange tax information with the Russian Federation

Thus, the British Virgin Islands and South Korea have been excluded from the "black list".

The list of states and territories that do not exchange tax information with Russia for CFC regulation purposes is updated annually by 1 October.

The directive entered into force on 1 January 2018.

Russian FTS Order No. ММВ-7-17/709@ of 1 September 2017
The Russian Ministry of Finance clarified the controversies over CFC rules applicability

The letter consolidates the positions of the FTS and the Ministry of Finance and offers clarifications of the following issues:

- **Determination of CFC and controlling owners:**
  - If the available corporate information is insufficient to identify whether an entity is a foreign corporation or an unincorporated entity, it should be treated as the former.
  - Whether a person is a controlling owner for CFC purposes is determined as at the date when a decision to distribute profits is made and based on the CFC’s fiscal year results, or, if no such decision was made, as at 31 December of the next calendar year.

- **CFC’s profit tax exemption:**
  - The list of exemptions set forth in Article 25.13-1 of the Russian Tax Code also applies to unincorporated entities recognised as CFCs.
  - The exemptions granted based on the effective tax rate test apply to income (profit) taxes only (indirect taxes are not factored in).

- **Calculation of CFC’s profits:**
  - To calculate CFC’s profits based on its financial statements, “profit before tax” is taken as the value reported in the profit and loss statement, not adjusted by any other values (such as positive or negative components of other consolidated income).
  - Tax exemption thresholds for CFC’s controlling person are calculated based on gross profit (not adjusted by the dividends paid).

For more details, please refer to LT in Focus of 22 February 2017.

**Russian Ministry of Finance Letter No. 03-112/7395 of 10 February 2017**
Streamlining CFC tax treatment

Russian CFC regulations were amended to introduce the following changes:

- The procedure for calculating the CFC’s profit (loss) from the disposal of financial assets for the purposes of Sub-Item 1, Item 1, Article 309 of the Russian Tax Code was refined.
- The proceeds from the disposal of financial assets and relevant expenses charged to the CFC’s profit (loss) before tax will not be deductible; the CFC’s profit (loss) is adjusted for the value of profit (loss) calculated with a special formula. For these purposes,
  - Income is calculated in accordance with the applicable accounting standards.
  - Expenses are determined based on the value of the above-mentioned financial assets as per the CFC’s accounting data as at the date of their recognition or based on their value as per the CFC’s accounting data as at the first date of a fiscal year commenced in 2015 (depending on the date such financial assets were recognised).
  - If at the end of the fiscal year, in which the financial assets were disposed of, the CFC’s accounting data contains no asset value data, the value of such financial assets may be determined by adjusting the disposal proceeds for the revaluation amount (which can be negative due to impairment), recognised in the CFC’s financial statements for fiscal years starting from 2015.

- The new provisions clarify the calculation of CFC’s losses for the three years, immediately preceding 2015:
  - Losses do not need to be adjusted for the amounts of income and expenses envisaged by Items 3 and 3.1, Article 309.1 of the Russian Tax Code (e.g., resulting from the revaluation of financial assets at fair value, profits and losses of subsidiaries and associates, expenses on setting aside provisions and income from the release of such provisions).
  - The total loss carryforward is determined by netting profits and losses before tax according to the CFC’s financial statements. This amount must be adjusted for the results of financial assets’ revaluation at fair value for the period from the acquisition of such assets (starting on the first day of the fiscal year commencing in 2012, if the acquisition date falls on a period prior to that date) to the last date of a fiscal year immediately preceding 2015, unless such revaluation was reported in the CFC’s profit (loss) before tax in any of the above-mentioned years. This provision applies to the financial assets held by the CFC as at the last date of a fiscal year immediately preceding 2015.
  - At the same time, a taxpayer will be entitled to carry forward its losses in accordance with the Russian Tax Code.
- The new provisions also exempt from taxation the CFC’s profits contributed to its statutory capital and/or paid into statutory provisions mandated by the respective foreign jurisdiction.
Controlling persons are released from the obligation to confirm the CFC’s eligibility for profit tax exemption, if the required documents were filed by another controlling person.

The procedure for calculating the effective profit tax rate and the total tax liability for foreign tax credit purposes was refined for the CFCs that are members of consolidated groups of taxpayers (CGT).

The criteria and procedure for exempting CFCs from profit tax for mineral extraction projects were defined.

Foreign entities’ proceeds from derivative transactions will be treated as active income where:
- Income from the disposal of the underlying asset would not have been recognised as passive if disposed in a direct sales transaction.
- Income is derived from the sale of goods based on physically delivered contracts, and the relevant information is disclosed in the CFC’s financial statements.
- Income is derived from the sale of goods based on physically delivered contracts or contracts intended to hedge the change of value of the underlying asset and which are subject to the IFRS requirements to derivatives, provided the relevant information is disclosed in the CFC’s financial statements.

The CFC’s profits are excluded from the scope of transfer pricing audits.

The list of functions that do not entail the occurrence of Russian tax residency for foreign entities is expanded.

New activities are added that do not give rise to a PE in Russia. Most provisions will apply retrospectively starting from 1 January 2016.

**Tax-free comes to Russia**

Citizens of non-EAEU states will be entitled to a refund of VAT paid on the purchases made in Russian retail stores, provided the purchased goods are then moved outside the EAEU customs territory.

The refund will be calculated as the VAT paid on purchased goods less the cost of VAT refund administration. To be eligible for a refund, an individual must make a purchase of at least RUB 10,000 (inclusive of tax) from one retailer within one calendar day, confirmed by one or several cash receipts. The list of retailers offering tax-free purchases will be determined by the Russian Government that has already drafted the relevant resolution.

The tax-free option does not apply to excised goods. The Russian Government may, at its discretion, exclude certain types of goods from the tax-free system.

To obtain a tax refund, foreign citizens will have to produce the original invoice, stamped by the Russian customs authorities.

A VAT refund can be claimed within a year of the purchase, provided the purchased goods crossed the Russian border three months such purchase.

Please refer to LT in Focus of 8 December 2017 for a summary of the law and opinions of Deloitte’s professionals that contributed to establishing of tax-free in Russia: they provide an outlook on its systemic impact on the Russian retail industry and the economy in general.

**Federal Law No. 341-FZ of 27 November 2017**
Value-added tax
Changes in tax assessment and payment

New rules for assessing and paying VAT on B2B services rendered by foreign entities electronically

The new provisions require that foreign entities that sell e-services to businesses and sole traders (IPs) with a Russian tax residence, where Russia is recognised the place of supply for such services, account for and pay Russian VAT on such sales, unless the legislation obliges the withholding agent to do so (previously, service recipients were obliged to pay VAT on such services).

In certain instances, intermediaries will be treated as withholding agents (with respect to both B2C and B2B supplies of e-services).

The amendments will apply effective 1 January 2019, except for the provisions that exclude the national payment system operators and mobile network companies from the list of intermediaries, which will enter into force on January 2018.

LT in Focus of 30 November 2017 offers a detailed analysis of the changes in the assessment and payment of VAT on foreign e-services.

Changes in separate VAT accounting

The five-percent rule will apply only to indirect expenses. VAT on goods (work, services) and property rights purchased for the purposes of non-VATable transactions cannot be claimed as input credit, but instead should be included in the acquisition cost of goods (work, services) and property rights. These amendments put the taxpayers to a disadvantage, making them account for input VAT separately, regardless of the volume of non-VATable transactions.

Rules for deduction of VAT on goods (services) purchased with government subsidies and/or state-funded investments

If goods (works, services) and property rights are purchased with subsidies/state-funded investments, input VAT charged to or paid by a taxpayer on the import of such goods cannot be claimed. This VAT can be expensed for profit tax purposes, provided the cost of goods (work, services) or property rights is deductible and accounted for separately.

The taxpayers will now have to reverse VAT deductions not only if they receive government subsidies, but also if they receive state-funded investment to reimburse the costs incurred. The obligation to reverse a VAT deduction arises regardless of whether the tax amount was included in such subsidy or investment. If costs are only partially reimbursed, the deduction will have to be reversed pro rata.

Reimbursable costs now include the acquisition costs of fixed assets, intangibles, and property rights.

VAT on domestic sales of non-ferrous and ferrous scrap metal and waste, secondary aluminium alloys, and raw skins

The Law excludes the sales of non-ferrous and ferrous scrap metal and waste from the list of VAT-exempt transactions and reverse-charges the VAT on the buyers (unless the goods are sold by exempt taxpayers or persons not recognised as taxpayers). The same mechanism also applies to the sale of raw skins, secondary aluminium and its alloys.

Federal Law No. 335-FZ of 27 November 2017
Value-added tax
Changes in tax assessment and payment

Waiving zero VAT on certain transactions
A zero VAT rate can be waived (replaced by the 10- or 18-percent rate) for the following types of transactions:
- Sales of exported goods
- Services related to the transportation of such goods, envisaged by Sub-Items 2.1-2.5, 2.7, and 2.8, Item 1, Article 164 of the Tax Code
To do so, a taxpayer needs to file an application with its local tax authority before the first day of a tax period, in which the taxpayer plans to waive zero VAT. Zero VAT rate can be waived for at least 12 months.
Once waived, the zero VAT cannot be used selectively, depending on the buyer.

Zero VAT on re-export of goods
A zero VAT rate can now be used for the re-export of goods, including finished goods made of raw materials imported for inward processing.
The law also contains a list of documents required to justify the use of the zero VAT rate on goods exported by international mail.
Federal Law No. 350-FZ of 27 November 2017

Unified agricultural tax payers to become VAT payers
In accordance with the new requirements, starting from 1 January 2019, Unified Agricultural Tax (UAT) payers will also be treated as VAT payers.
At the same time, a number of VAT exemptions is provided.
Read more in LT in Focus of 30 November 2017.
Federal Law No. 335-FZ of 27 November 2017

VAT exemption for leasing of medical equipment
Lease of non-VATable medical equipment (as per the Russian Government’s list) with the option to buy will be exempted from VAT.
Federal Law No. 161-FZ of 18 July 2017

Lower VAT for domestic flights to be prolonged
The Russian Government plans to extend the 10-percent VAT rate for domestic flights until 31 December 2020.
The regions will decide on the application of property tax benefits to highly energy-efficient assets and movable property

Decision-making on property tax benefits for newly commissioned highly energy-efficient assets and assets with a High energy-efficiency class is delegated to the regions.

Effective 1 January 2018, this tax benefit, envisaged by Item 21, Article 381 of the Russian Tax Code will apply subject to the adoption of a respective regional law.

Likewise, Federal Law No. 401-FZ entitles the regions to introduce lower tax rates for movables, recognised as fixed assets, starting from 1 January 2013 (Article 381.1 of the Russian Tax Code).

Unless such tax benefit is preserved by a relevant regional law, such assets will be taxed at a rate of 1.1 percent in 2018 and 2.2 percent in 2019.

After almost a year, only a few regions have adopted such laws.

You can learn more from our Tax Benefits and Other Government Incentives newsletter for November 2017 and December 2017.

New taxation rules for real estate owned by foreign companies and residential properties not accounted for as fixed assets

Effective 1 January 2018, if the cadastral value of such properties is determined during the current tax period, it will be used to assess property tax for the entire current period.

Federal Law No. 286-FZ of 30 September 2017
New PIT treatment of gains from loan fringe benefits
Starting from 1 January 2018, material gains received from loan fringe benefits will be deemed the borrower’s personal income, if either of the conditions is met:
- A loan is provided by a company or a sole trader who is the taxpayer’s related party or employee
- Such gains are meant as financial support or represent consideration paid to the taxpayer
Therefore, no tax liabilities will arise for individuals obtaining loans at arm’s length.
Federal Law No. 333-FZ of 27 November 2017

New taxation rules for proceeds from sale of securities by individuals
Effective 1 January 2018, only the amounts that had already been taxed at the time of securities acquisition (including by way of donation, partial payment, gift or inheritance) will be deemed deductible for the purposes of calculating the taxable proceeds. The amount of previously paid PIT will be non-deductible.
Federal Law No. 335-FZ of 27 November 2017

Taxation of coupon income from bonds of Russian issuers
Limits on the time of issue for Russian companies’ bonds have been lifted, qualifying their holders for lower personal tax on interest (coupon, discount) income from such bonds and exempting from PIT the discount income from redeemed rouble-nominated traded bonds, issued after 1 January 2017.
Previously, only the bonds issued from 1 January 2017 to 31 December 2020 qualified.
Federal Law No. 286-FZ of 30 September 2017

Clarified rules for PIT on gains received in lotteries or games
The Law clarifies the assessment and withholding of personal income tax on the gains received in lotteries or games and the tax treatment of bookmakers and pool-betting operators.
Federal Law No. 354-FZ of 27 November 2017

Russian Government approved the list of countries whose sanctions are grounds to surrender Russian tax residency
The list includes Australia, Iceland, Canada, Lichtenstein, Norway, USA, Switzerland, and Japan that imposed sanctions on individuals. According to Federal Law No. 58-FZ of 3 April 2017, the individuals listed in foreign sanction lists may surrender their Russian tax residency, regardless of how long they had stayed in the country.
Russian Government Resolution No. 1348 of 10 November 2017

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Personal income tax and social contributions

Changes in personal income tax regulations

**Changes in tax administration**

Starting from 1 January 2018, amendments to Article 88 of the Tax Code will enable individuals to retrieve their individual taxpayer numbers (INN) from any tax inspectorate across Russia.

**Federal Law of 3 July 2016 No. 243-FZ**

FTS Order of 17 August 2017 authorises the multi-functional government services centres to accept certain types of tax filings, including 3-NDFL tax returns, tax liability reconciliation requests, and requests for access to personal taxpayer accounts.

**FTS Order No. CA-7-17/615@ of 17 August 2017**

**Changes in Russian CFC regulations for individuals**

A number of personal taxation changes, to name but a few:

- The list of qualifying criteria for expense deduction has been expanded for sales of assets/rights acquired in tax-exempt liquidation
- Distributions received by a controlling owner from an unincorporated entity will be exempt of double taxation (subject to certain conditions)
- The specifics of filing documents confirming a CFC’s eligibility for tax-exemption in case of individual’s indirect participation in such CFC.

**Federal Law No. 436-FZ of 28 December 2017**

"These changes have been made mostly to clarify the situation, a number of them being quite taxpayer-friendly. One example would be the tax liabilities that arise with many individuals who borrow at an interest rate below the statutory cap (e.g., from foreign banks), often exceeding the total interest payable, while the loan terms are in line with the market. The long-awaited amendments addressing the issue entered into force on 1 January. Some amendments (e.g. most of the CFC-related ones) are meant to codify the opinions of supervisory authorities, already implemented in the regulatory practice. We expect to see more changes and the continued legislative effort in this direction. A special mention goes to the efforts the legislators put into developing the tax administration, simplifying the communications with individual taxpayers, creating special taxation regimes and filing procedures for some important and emerging taxpayer categories, such as self-employed individuals, bloggers, IT specialists, private cryptocurrency investors, etc. Some changes are just initiatives now, but we have reasons to believe that they will be eventually formalised."

Tatiana Kiseliova
Partner
International Employer Services

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Personal income tax and social contributions

Social security contributions

Current social contribution rates are extended until 2020

The social contribution rates applicable to the majority of payers in 2017‒2019 are extended for 2020.

For 2017‒2019, the base rate of social contributions is 30 percent, including:

• 22 percent towards the mandatory pension insurance (plus 10 percent of any amounts above the statutory ceiling)
• 2.9 percent towards the mandatory disability and maternity insurance (charged on the statutory base)
• 5.1 percent towards the mandatory health insurance contributions

Federal Law No. 361-FZ of 27 November 2017

New cap set for social contributions base for 2018

The statutory base for disability and maternity contributions in 2018 will be capped at RUB 815,000; for mandatory pension insurance contributions — at RUB 1,021,000. The mandatory health insurance contributions are charged on an individual’s entire income.

Russian Government Resolution No. 1378 of 15 November 2017

The ‘moratorium’ on the transfer of pension contributions to the funded pillar was extended until the end of 2020

The moratorium freezes pension savings for the period, the monies once again being diverted to finance the current pension payouts.

Federal Law No. 413-FZ of 20 December 2017

The procedure for collection/write-off of arrears and debts on social security contributions updated

A federal law has been passed to refine the procedure for collection/write-offs of arrears and debts on social contributions accumulated as at 1 January 2017, which the Russian Pension Fund and the Social Security Fund assigned to the tax authorities.

Federal Law No. 436-FZ of 28 December 2017
Personal income tax and social contributions

Tax benefits

Transactions related to Moscow’s housing stock renovation programme will be exempt from PIT
- Participating individuals will be exempt from PIT on the income in the form of (a share in) a residential property or its monetary equivalent, received in the framework of the programme
- Individual taxpayers will be entitled to deduct the expenses attributable to the purchase (construction) of the residential properties they have to abandon from the taxable proceeds from the sale of newly received residential properties
- If the newly received property is sold, the period of ownership of the abandoned property will be added to the period of ownership of the newly received apartment, calculated as per Article 217.1 of the Tax Code for PIT exemption purposes
- Participating individuals will be exempt from the title registration fee for the new property

Federal Law No. 352-FZ of 27 November 2017

List of PIT-exempt types of income expanded
In particular, the list includes compensations payable to 214-FZ property buyers in case of developer’s insolvency.

Federal Law No. 342-FZ of 27 November 2017

Specific tax exemptions
Income paid to individuals not registered as sole traders by other individuals for personal, household, and other similar services will remain exempt from tax and social contributions during 2018. Such services include babysitting, nursing the sick/seniors aged 80 and over/other persons requiring medically confirmed permanent nursing support, home tuition, home-cleaning, and housekeeping.

The regional laws may provide for additional tax exemptions for similar services.

The new rules will apply to the fiscal periods of 2017–2018.

Federal Law No. 401-FZ of 30 November 2016

Writing off individual tax debts accumulated before 1 January 2015
Personal transport tax, property tax, and land tax arrears accumulated as at 1 January 2015 are deemed uncollectible and written off on 1 January 2018.

Federal Law No. 436-FZ of 28 December 2017
Mineral Extraction Tax

Changes in MET assessment
The procedure for determining the coefficients, used by the owners of the Unified Gas Supply System facilities and their affiliates to calculate MET on natural gas, has been amended. The use of the KGP coefficient, expressing the profitability of exporting one unit in fuel equivalent, is extended until the end of 2020. Also, to improve the budget revenues, an increased MET rate on oil (extra RUB 428 per tonne) is extended until 31 December 2020.

Federal Law No. 254-FZ of 29 July 2017

Effective from January 2018, the Tax Code is supplemented with Article 343.4, enabling the taxpayers to reduce the MET payable on gas condensate produced from all types of carbohydrate deposits by the tax deduction obtained for processing the condensate into natural gas liquids. The tax deduction is subject to a number of pre-requisites:

1. Gas condensate produced by a taxpayer will be processed using the equipment owned by a Russian company
2. Gas condensate is processed into natural gas liquids
3. The fact of production of natural gas liquids was duly documented

To receive a deduction, a gas condensate producer must submit the documentary evidence along with its MET return. The law also clarifies the collection of documentary evidence when the producer is not engaged in the gas condensate processing, but sells the produced gas condensate to third parties for further processing. In view of the new developments, gas condensate producers will have to reconsider their paperwork arrangements.

Federal Law No. 335-FZ of 27 November 2017

To receive a deduction, a gas condensate producer must submit the documentary evidence along with its MET return. The law also clarifies the collection of documentary evidence when the producer is not engaged in the gas condensate processing, but sells the produced gas condensate to third parties for further processing. In view of the new developments, gas condensate producers will have to reconsider their paperwork arrangements.
Tax incentives
Special economic zones (SEZ)

The federal portion of profit tax for SEZ residents is brought back to the level of pre-1 January 2017

- The federal component of the corporate profit tax payable by SEZ residents is preserved at the level of two percent
- The regional component of the corporate profit tax payable by SEZ residents and participants is capped at 13.5 percent

The respective law will apply as of 1 January 2017.

Federal Law No. 348-FZ of 27 November 2017

Measures to support residents of Kaliningrad SEZ

- Tax benefits will be granted starting from the period, in which the first profit from an investment project is received (in accordance with the existing regulations, the tax benefits are applied as of 1 January of the year following the year of residency registration)
- For residents failing to generate profits during three tax periods starting from the period of residency registration in the Kaliningrad Region’s SEZ, the benefits will apply starting from the fourth tax period after such residency registration
- The new rules will apply to the registered companies once the respective law enters into force
- Land tax benefits will not apply to land plots created by splitting an existing plot or merging with a lot already taxed at a beneficial rate
- The lower social contribution rates will be granted to the residents of Kaliningrad Region’s SEZ for the period from 1 January 2018 through 31 December 2022 (provided they are registered as Kaliningrad Region’s SEZ residents during the period starting from 1 January 2018 through 31 December 2022)

The measures are described in greater detail in LT Digest of 7 – 13 August 2017.

Federal Law No. 353-FZ of 27 November 2017

Kaliningrad SEZ investment projects: accounting for subsidies and exchange differences

The government subsidies to compensate project costs and exchange differences will be treated as investment income and fall under the applicable benefits.

Federal Law No. 436-FZ of 28 December 2017
The profit tax exemption period for residents of the advanced development territories (ADT) and the Free Port of Vladivostok is extended

The profit tax-exempt period for the residents of ADTs and the Free Port of Vladivostok that have failed to generate profit, after which they are entitled to lower tax rates, is extended:

- For projects with accumulated investment exceeding RUB 500 million: to five tax periods
- For projects with accumulated investment exceeding RUB 1 billion: to six tax periods
- For projects with accumulated investment exceeding RUB 100 billion: to nine years

Currently a flat three-year exemption period is available.

Federal Law No. 339-FZ of 27 November 2017

The legislators are currently working on a bill, imposing a moratorium on tax changes detrimental to the existing residents of ADTs and the Free Port of Vladivostok.

Fostering the touristic and recreation appeal of the Far East

Taxpayers registered in the Far Eastern District and engaged in tourist/recreation business (as per the Russian Government’s list) will enjoy a zero profit tax rate subject to a number of conditions:

- They must have tourist accommodation facilities on their balance sheets
- Tourism and recreation activities must account for at least 90 percent of their total revenues
- They must not have any branches outside the District

The tax benefit can be granted for the period from 1 January 2018 to 31 December 2022 upon request.

Foreign exchange gains are excluded when calculating the share of revenues generated by the touristic and recreational activities (which must exceed 90 percent).

Similar rules apply to the calculation of the RIP-related revenues of the regional investment project (RIP) participants.

Federal Law No. 168-FZ of 18 July 2017

There is a pending bill aimed at supporting external infrastructure investments made within investment projects in the Far Eastern Federal District.

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**Tax incentives**

**Special Investment Contracts (SPICs)**

The Russian Government explains what depreciable fixed assets care recognised as produced under SPICs

A depreciable fixed asset will be recognised as produced under a SPIC based on such asset’s certificate of production issued by an investor or another party engaged by the investor that signed the SPIC and produced the respective asset.

- The fixed asset must be an industrial product specified in the SPIC
- The fixed asset must be produced during the term of the SPIC

Please note that fixed assets from depreciation categories 1 to 7 produced under a SPIC can enjoy accelerated depreciation at a rate of up to two times the normal.

The document will apply to the SPICs signed on or after 1 January 2017.

Russian Government Resolution No. 484 of 22 April 2017

Ministry of Industry and Trade approves the register of special investment projects

In the register, the Ministry will list the investment projects implemented under SPICs signed on behalf of the Russian Federation pursuant to Federal Law No. 488-FZ of 31 December 2014.

Russian Government Resolution No. 623 of 24 May 2017

A bill regulating the signing and implementation of SPICs and establishing investment incentives is now pending finalisation.

The Russian Government approved SPIC rules and format

A respective resolution of the Government:

- Authorised the Ministries of Energy and Agriculture to sign SPICs on behalf of the Russian Federation in their respective areas of responsibility
- Defined the terms “investment project aimed at modernisation of industrial production” and “investment project aimed at launching industrial production”
- Put SPIC outsourcing rules in place
- Established the requirements for SPIC application package and the procedure for contract approval, amendment, and termination
- Permitted signing of SPICs for separate project stages and not for the entire project
- Sets forth that a SPIC is signed for a period until it is scheduled to reach its operating breakeven point plus five years, but not more than 10 years
- Refines the calculation of the operating breakeven point
- Introduced new SPIC forms for particular industries

Russian Government Resolution No. 1564 of 16 December 2017
Tax control and administration

The Russian Ministry of Finance approves the rules for payment of tax by third parties
Russian Ministry of Finance Order No. 58n of 5 April 2017 amended the rules of filling out tax payment orders where taxes are paid by third parties.

Russian Ministry of Finance Order No. 58-n of 5 April 2017

New tax monitoring templates are approved
The Russian Ministry of Finance approved the templates and requirements for documents used in tax monitoring, including an application for tax monitoring (or waiver thereof), information exchange mechanism, reasoned opinions of tax authorities, the latter’s consent (denial) to perform tax monitoring.

FTS Order No. ММВ-7-17/323@ of 24 April 2017

FTS approved requirements for internal control in companies
In particular, the requirements are introduced for tax monitoring purposes. The regulator developed an internal control policy template and analytical spreadsheets (risk and controls matrix, internal controls maturity matrix, etc.).

FTS Order No. ММВ-7-15/509@ of 16 June 2017
The FTS updated the timeline for posting open corporate data
The first portion of open data will be posted on 1 June 2018 and will cover the tax offences penalised from 2 June 2016 to 30 June 2017 and sanctions for non-payment of penalties by 1 May 2018.

The data will remain open for at least a year following its release on the FTS website.

FTS Order No. ММВ-7-17/582@ of 27 July 2017

The FTS permitted to pay taxes in installments, provided the assessed amounts are not challenged
This mode of payment will be available subject to provision of a bank guarantee and a number of other conditions.

Federal Law No. 323-FZ of 14 November 2017
The maximum amounts of bank guarantees that can be issued to the tax authorities in security of the tax payment were set by the Russian Government.

The procedure for disclosing beneficial owners by legal entities is approved
According to the procedure, information on beneficial owners or measures undertaken to identify such owners must be provided within five business days of receiving a respective request from the Russian Federal Tax Service or Rosfinmonitoring. The information must be valid as of the date of request.

If any inaccurate, erroneous, or incomplete information is discovered in earlier filings, the legal entity must re-file the corrected data within three business days of such discovery.

Russian Government Resolution No. 913 of 31 July 2017
The Russian State Duma is to consider a bill enabling the tax authorities to access information and documents, covered by audit secrecy.

The Russian Supreme Court reaffirms the Federal Tax Service’s right to reverse decisions made in taxpayer’s favour
The Russian Supreme Court has released a ruling that settles the dispute over a superior tax authority’s right to reverse (by virtue of Item 3, Article 31 of the Tax Code) a lower authority’s decisions made in taxpayer’s favour.

The Supreme Court cited Part 3, Article 31 of the Tax Code as expressly entitling a superior tax authority to reverse a lower authority’s decision and to exercise control over the subordinate tax authorities both through the repeated field tax audits and by verifying the legitimacy of lower tax authorities’ decisions, without involving the taxpayers. The superior tax authority is entitled to realise its powers set forth by Item 3, Article 31 of the Russian Tax Code during three years starting from the expiration of the audited tax period.

Russian Supreme Court Ruling No. 305-KG17-5672 of 31 October 2017 in case No. A40-101850/2016
Unified agricultural tax payers to become VAT payers from 1 January 2019

In accordance with the new requirements, starting from 1 January 2019, Unified Agricultural Tax (UAT) payers will also be treated as VAT payers. At the same time, a number of VAT exemptions is provided. For more details please refer to LT in Focus of 30 November 2017.

Federal Law No. 335-FZ of 27 November 2017

Deflator values updated

The following values of deflators were set for 2018:

• 1.686 for PIT purposes
• 1.481 for unified social tax purposes
• 1.868 for unified tax on imputed income purposes
• 1.481 for patent tax purposes
• 1.481 for private property tax purposes
• 1.285 for sales tax purposes

Order of Russian Ministry of Economic Development No. 579 of 30 October 2017
Environmental initiatives

New rules on pollution charges
The rules were approved by the Russian Government and set forth:
- The payers and the procedure for calculating the chargeable base
- The formula to calculate the charges and their adjustments
- The accounting and verification rules for pollution mitigation measures
- The reporting period (a calendar year)
- The procedure and timing for payment of charges
- The procedure for offsetting/refunding the overpaid pollution charges and review of relevant declarations
- The sanctions for failure to fully and/or timely pay the charges

Pollution charges are paid by the legal entities and individual entrepreneurs whose business operations produce a negative environmental impact (except if the operations are fully limited to Category IV facilities). The law will apply as of 1 January 2016.

Russian Government Resolution No. 255 of 3 March 2017

The list of basic equipment used for best available technology (BAT) operations
The list will be applicable starting from 1 January 2019. Fixed assets from the list will qualify for accelerated depreciation at a rate of up to x2 the regular rate. For more details about BAT, please refer to LT in Focus of 6 December 2016.

Russian Government Resolution No. 1299-r of 20 June 2017

Regulators finalise the list of waste banned from landfills
The ban will cover 67 types of production and consumption waste as of 1 January 2018, 109 types as of 1 January 2019, and 182 types as of 2021. The list includes ferrous and non-ferrous scrap metal, tyres, polyethylene and polyethylene packaging, used books, magazines, circuit boards, rechargeable power cells, household appliances, and electric tools, to name but a few.


Russian Government Resolution No. 1589-r of 25 July 2017

“Quite a few environmental laws and regulations appeared over 2015-2017 and more fundamental developments are under way. For importers and producers, the new consumer waste recycling regulations and the pollution charges are especially relevant. While many companies opt for recycling their waste instead of paying the pollution charges, it implies certain risks as they may encounter illegal recycling operators.”

Tatiana Kofanova
Director
ERP Team
Legislative Outlook
Russian tax legislation outlook
Taxation of natural resources

Hydrocarbon tax outlook
The Russian State Duma is currently considering a bill proposing to supplement the Russian Tax Code with Chapter 25.4, introducing an added income tax (AIT) on hydrocarbon production. The new tax is aimed at fostering the development of greenfields and ensuring the rational use of brownfields. A voluntary switch to AIT will be permitted for greenfields. The new tax will be soft-launched, starting with the West Siberian sites. The new tax regime implies a reduction of the total federal taxes that depend on gross indicators, such as MET and oil export duty, and linking the tax to the performance of a particular field. The tax burden will depend on the estimated cash flow from production, factoring in the current oil prices and production costs. The initiative has long been discussed by the Russian Government, Ministries of Finance and Energy, and Russia’s largest oil and gas players; a full-scale discussion is expected during the spring session of the State Duma, while the respective Bill No. 325651-7 is currently passing through the first reading.
Russian tax legislation outlook
Transfer pricing

Streamlined transfer pricing rules
The measures to streamline the tax treatment of controlled transactions were incorporated in a bill that proposes a number of important changes:

• Transfer pricing documentation for immaterial transactions will no longer have to be submitted
• The regional tax authorities may be engaged to review the pricing in controlled transactions
• The bill also regulates the signing of pricing agreements with a foreign tax authority in respect of international transactions

For more details, please refer to the LT in Focus of 15 June 2017.

The Russian State Duma is currently considering a bill that proposes to raise the controlled transaction threshold for domestic transactions to RUB 3 billion and introduce a RUB 60 billion threshold for controlled transactions with foreign related parties.

Also, a new controlled transaction notification template was developed, as well as the procedure for its completion and electronic filing.

A draft regulation governing the execution of bilateral (multilateral) pricing agreements is developed
The Federal Tax Service will be authorised to sign bilateral (multilateral) pricing agreements.

The following procedure is proposed:

• An agreement is discussed between the Federal Tax Service and a taxpayer (an optional, non-binding stage)
• The taxpayer applies for execution of the agreement (the draft contains the recommended application form and a list of supporting documents)
• The FTS reviews the application and decides whether to negotiate with the foreign state, return the application for re-work, or deny the applicant’s request
• The FTS negotiates with the foreign state and signs a memorandum of intent with the competent authorities; the taxpayer is advised only on the outcome of the negotiations and not on the content of the memorandum
• The competent authorities will sign the pricing agreement (subject to the taxpayer’s consent) or have it amended.

The draft also regulates pricing agreements with the competent authorities of several foreign states.

If adopted, this regulation will benefit the taxpayers who will be able to sign bilateral (multilateral) pricing agreements as envisaged by Item 2, Article 105.20 of the Russian Tax Code.
Possible increase of the recycling fee
The list of types and categories of wheeled vehicles and chassis subject to the recycling fee can be expanded.
Also, the recycling fee rates can be raised, depending on the vehicle/chassis category.

Expanding the list of products subject to recycling fees
There is a proposal that calls for expanding the list of products subject to the recycling, including certain types of mechanical engineering products imported or produced in Russia.
Some machinery and machine types subject to the recycling fee are determined by the Russian Government.
The fee may vary by the year of manufacture, mass, and other properties impacting the cost of disposal of waste generated after the end of useful life of such products.

The calculation of upfront pollution charge payments is clarified
The bill entitles pollution charge payers (except for SME) to choose from one of the following options to calculate the quarterly upfront charges:
• as 1/4 of the total pollution charges paid in the past year
• as 1/4 of pollution charges calculated based on the statutory emission limits, temporarily approved emissions limits, temporarily approved discharge and industrial and consumer waste placement limits
• as the total environmental pollution charges, calculated based on the environmental damage inflicted in the past quarter, according to the environmental control data.
The selected option will have to be indicated in the pollution charges report.
If adopted, the law will enter into force on 1 January 2018.
Russian tax legislation outlook
Environmental laws

Expanded Producer Responsibility (EPR) compliance updates

A bill aimed at streamlining the recycling compliance reporting by manufacturers and importers was developed and proposes the following important changes to Federal Law No. 89 “On Consumer Waste”:

- To oblige Russian suppliers of goods originating from the EAEU to report the recycling of goods and packaging imported into Russia or pay an environmental fee, starting from 2018
- To authorise producers and importers of goods and packaging to delegate the filing of recycling reports to their nominated agents

The bill amends certain key definitions, singling out packaging as a separate term and defining the following new terms:
- Waste processing item
- Separate collection of waste
- Container site
- Return of consumer waste

Article 24.5 contains the following important provisions:

- The environmental fee for packaging must be paid by the producers or importers of the goods the packaging is attributable to
- The producers and importers of goods and packaged goods sold for further production of other goods need to comply with the recycling targets with respect to packaging only
- The environmental fee for returnable shipping package is paid by the producer/importer of such package.

For more details, please refer to the LT in Focus of 12 September 2017.

Other expected regulatory changes

A number of material changes are expected in the regulation of Expanded producer responsibility (EPR), to name but a few:

- Separate product packaging groups classified in accordance with the Customs Union’s Packaging Safety Regulations are planned to be incorporated in Russian Government Resolution No. 1886-r of 24 September 2015
- The increase of consumer waste recycling targets set by Russian Government Resolution No. 2491-r of 4 December 2015 for 2018-2020 is pending approval
- The amendments to the Regulation on Declaring of Recyclable Finished Goods and Packaging Released into Circulation in Russia over the Past Calendar Year are underway
- The forms of recycling reports to be filed by producers, importers, and their associations that were developed and recommended by Rosprirodnadzor in Letter No. AC-10-01-36/25460 of 15 December 2016 will be approved for mandatory use
Russian tax legislation outlook
Other changes

Initiatives to remove excessive administrative barriers
The Russian State Duma is considering a bill amending the Russian tax legislation.
In particular, the document calls for the following measures:
• To reduce the time of desk tax audit from three months to one month
• To set forth that a repeated field audit of amended tax returns can only be investigating the reasons behind the reduction of tax (or increase of loss)
• To regulate the review of materials collected by the tax authorities during additional tax control activities and oblige them to reflect such activities in a separate report
• To refine the procedure for confirming zero VAT on export transactions, in particular:
  – To exclude the provision permitting the use of a zero VAT rate only if exported goods are purchased by a foreign entity
  – To amend the procedure for confirming the eligibility for the zero VAT
  – To ban the repeated request of earlier submitted documents
  – To permit the use of zero VAT for railroad cars used in international shipping irrespective of ownership/lease rights over them.
Other changes in laws and regulations
Other legislative changes
Development of paperless technology

Order of Judicial Department of the Russian Supreme Court No.252 on filing of electronic documents with Russian commercial courts enables filing via a personal account created in "My Arbitrator" information system, starting from 1 January 2017, and sets forth the requirements to certified scans of documents.

Effective 1 July 2017, a new mandatory format of electronic tax invoices was introduced.

FTS Order No. MMV-7-15/155@ of 24 March 2016

Starting from 1 July 2017, the use of electronic sick leave certificates is permitted, provided a written consent of the insured person (employee) is in place and the medical provider and the employer are members of the electronic sick leave data exchange framework.

Federal Law No. 86-FZ of 1 May 2017

The framework approved by the Russian Government in December 2017 introduces the rules for exchanging data between insurers, policyholders, medical providers, and federal medical expert institutions for electronic sick leave generation purposes.

Russian Government Resolution No. 1567 of 16 December 2017

Starting from 1 July 2018, mortgage deeds can be executed electronically, subject to signing with a qualified digital signature.


A digital format of the employment record book has been developed; its introduction is expected in 2018.

Other legislative changes
Changes in currency regulations

The Central Bank of Russia (CBR) introduced new filing guidelines for documents and information on currency transactions with the authorised banks by residents and non-residents (the Guidelines). The Guidelines repeal the requirement to produce statements of currency transactions and transaction passports; instead, they require the recording of import (export) contracts and delegate certain administrative responsibilities to the banks. The Guidelines were originally expected to apply as of 1 January 2018; however, the CBR decided to postpone them until 1 March 2018.

**CBR Guidelines No. 181-I of 16 August 2017**

Amendments to Federal Law No. 173-FZ of 10 December 2003 “On Currency Regulation and Control”, which will become effective on 14 May 2018, require that residents inform banks of the exact latest date of rouble and currency revenue repatriation (not an estimated date, as previously). Also, the authorised banks will be able to deny currency transactions, breaching the Law.

Article 15.25 of the Administrative Offences Code (as amended), establishing the penalties for currency offences, will also apply to the corporate officials that are now exempt from liability. This development may be especially relevant for companies with foreign management. A foreign manager with multiple administrative penalties may be denied entrance to Russia.

For more details, please refer to LT in Focus of 9 November 2017.

**Federal Law No. 325-FZ of 14 November 2017**

A law introducing amendments to Law “On Currency Regulation and Control” was adopted on 28 December 2017. The Law treats all Russian citizens as currency residents. Residents staying abroad for a total of more than 183 days in a calendar year will not be required to notify the tax authorities of opening/changing/closing accounts with foreign banks and produce cash flow reports.

For more details, please refer to Prosperoscope of 20 October 2017.

**Federal Law No. 436-FZ of 28 December 2017**
Other legislative changes
Changes in labour regulations

Changes in part-time employment regulation
The amended version of the Russian Labour Code preserves part-time employment arrangements, which now can be both short-hours and short-week, as agreed by the parties.

_Body text_:

Federal Law 125-FZ of 18 June 2017

Procedures for amending Russian Labour Code
Any amendments to the Russian Labour Code, the suspension or cancellation of its provisions may only be introduced by separate federal laws and cannot be part of the federal laws, amending other laws and regulations.

_Federal Law No. 255-FZ of 29 July 2017_

Additional grounds for extraordinary inspections
A federal law signed on 31 December 2017 introduces amendments to Article 360 of the Russian Labour Code and expands the grounds for extraordinary labour inspections. Such inspections may now be carried out following any person’s request/report, citing
- That an employer’s avoids signing a labour contract
- An improper execution of a labour contract
- Signing a services (work) contract in lieu of a labour contract

_Federal Law No. 502-FZ of 31 December 2017_

State Labour Inspection’s checklists approved
The State Labour Inspection approved inspection checklists. Each of the 107 approved checklists contains statutory requirements an inspector must check.

The checklists are used when auditing a company’s compliance with the regulatory requirements to the recruitment processes, labour contracts, payroll, working hours, and occupational safety, to name but a few areas.

Order of Russian Labour Inspectorate* No. 655 of 10 November 2017
* The document was submitted for registration with the Russian Ministry of Justice and may yet change.

The regulation of rest breaks at work and overtime compensation
Federal Law No. 125-FZ of 18 June 2017 also amended the requirements for statutory rest breaks.

According to the amended Article 108 of the Russian Labour Code, employers are not obliged to provide lunch breaks to the employees who work four hours a day or less. The absence of a lunch break must be formalised either in the labour contract or in the internal policies. The previous wording of the article entitled the employees to lunch breaks regardless of their working hours.

_Federal Law No. 125-FZ of 18 June 2017_
Other legislative changes

Immigration legislation

The restrictions banning Turkish citizens from working in Russia are lifted

Effective from 1 January 2016, employment of Turkish citizens in Russia was restricted to those who had effective employment or service (work) contracts as at 31 December 2015 or were employed by the entities from a list approved by the Russian Government.

These restrictions were cancelled effective 31 May 2017, entitling the Turkish candidates to apply for work in Russia.

Decree of the President of the Russian Federation No. 244 of 31 May 2017 “On Cancellation of Special Economic Measures Towards Turkey”.

No four-month visa required to obtain residence permit

To ensure accurate interpretation of the law and minimise the breaches of immigration rules, the Russian Constitutional Court ruled on amending the existing regulations.

Now the foreign citizens temporarily staying in Russia must obtain a temporary residence permit and a long-term visa for the period of such permit (unless otherwise provided for by Russia’s international treaties). Visas do not have to be obtained by the holders of valid residence permits.


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Immigration legislation

The Russian State Duma is to consider a bill meant to amend the provisions of Federal Law No. 109-FZ of 18 July 2006 “On Registration of Foreign Nationals and Stateless Persons for Migration Purposes in the Russian Federation”

Employers will still be able to register the foreign employees for immigration purposes at their corporate legal address, provided such employees reside in the same city/town and are employed by or have other relations with such employer.

The provision will not apply to family members or to foreign employees staying in Russia on the basis of a business visa.

The proposed changes are primarily aimed at ensuring the registration of foreign citizens solely at the address of their actual stay/residence (in particular, to keep record of apartment/building numbers). The apartment/building owners will then be treated as hosts, responsible for the registration of foreigners.


Special registration requirements will apply both to Russian and foreign citizens in the cities of Volgograd, Yekaterinburg, Kazan, Kaliningrad, Moscow, Nizhny Novgorod, Rostov-on-Don, Samara, St. Petersburg, Saransk, and Sochi

Foreign nationals and stateless persons must be registered for migration purposes within one day of their arrival at their place of stay (residence) at a territorial immigration authority.

Registration will be required from all categories of foreigners, regardless of their immigration status.

Decree of the President of the Russian Federation No. 202 “On Strengthening the Security Measures during FIFA 2018 World Cup and 2017 FIFA Confederations Cup” of 9 May 2017
Legislative and economic trends by industry
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Technology, media & telecommunications

Foreign players expand their footprint

Amazon’s VOD service is now available in Russia; plans to open 33 movie theaters in Russia were announced by the South Korean multiplex cinema chain CJ CGV. Local players respond by consolidating: Cinema Park merges with Formula Kino, plans to develop a domestic VOD channel are negotiated by Channel One, VGTRK, STS Media, and the National Media Group.

The state looks to limit the impact of foreign companies

The Russian Ministry of Culture considers financing the national film-making industry at the expense of foreign films, increasing the distribution fee rate or setting a one-off three-percent distribution fee for cinemas. Other initiatives include the ‘Google tax’ and the law on the status of foreign media agents.

Taxi aggregators are consolidating to share client acquisition costs

In summer 2017, merger plans were announced by Yandex.Taxi and Uber, preceded by the merger of RuTaxi and Fasten.

Mail.ru Group, operating the food delivery service Delivery Club, announced the acquisition of its competitor ZakaZaka; FoodFox was taken over by Yandex several days before the New Year.

The year was shaped by the growing interest of foreign players in the Russian market, the consolidation and diversification of local businesses, the blockchain boom, and the intensification of regulatory activities

Financial institutions and mobile network operators are exploring business diversification opportunities

Sberbank invests in telemedicine and online retail; Tinkoff-Bank launches a financial services marketplace and a virtual mobile operator. Megafon acquires a stake in Mail.ru and enters the legal services market, while MTS negotiates with Ticketland.

Blockchain boom

Russia quickly joined into the global blockchain boom: various projects are raising funds through ICOs and major Russian players experiment with incorporating blockchain in their business processes. The government rushed to develop cryptocurrency regulations and is also looking into the options of using blockchain in the public sector: the St. Petersburg Economic Forum gave rise to a whole range of ideas, from fully switching Rosreestr to blockchain to issuing a national cryptocurrency.

"We expecting the foreign players’ interest in the Russian market to grow even more in 2018. The established market players will continue consolidating and testing alternative business models, which may result in a number of big-ticket mergers.

The government will likely proceed with its protectionist policy and cryptocurrency regulation efforts: if an adequate regulatory framework is put in place, big businesses will be able to look at the blockchain technology from a new perspective and make the most of it to develop new products and optimise business processes."

Digital economy

Blockchain regulation activities were strongly shaped by the Digital Economy programme that the government plans to invest nearly RUB 200 billion in and that has been joined by Russia’s largest IT companies.

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Vladimir Elizarov
Partner
Technology, Media & Telecommunications

Deloitte's publications
Tax landscape 2018: key developments and outlook
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Financial Services Industry

**CBR to the rescue**

Unlike in 2016, remembered by a large-scale licence cancellation campaign, in 2017 the CBR was committed to rescuing the largest financial institutions in distress, including the "too-big-to-fail" banks.

The recovery and resolution mechanisms were utilised and provisional administration set up at Russia’s largest privately owned financial institutions.

**Banking rescue reloaded**

The focus on financial rescue was predetermined by a number of statutory changes that replaced the previous bank resolution mechanism involving the Deposit Insurance Agency. The financial rescue of banks is now handled by the Managing Company of the Banking Sector Consolidation Fund, set up by the CBR. Prior to being put up for sale, the assets of a distressed bank are cleaned up.

**Blockchain marches across Russia**

The distributed register technology gained strong momentum in 2017.

The regulators around the world have been increasingly active in expressing their positions about blockchain and cryptocurrencies. Starting off with the general warnings, they now turned to clarifications and elaborations. Russia has no official blockchain regulation so far; however, the Russian Government was tasked to introduce such terms as “distributed register technology”, “token”, and “smart contract” into the legislation.

The first blockchain-based payment transaction was performed by the country’s largest state-owned bank and a number of private banks in November 2017.

“In 2017, Russia enacted the national CRS law. The law has a fundamental impact on financial institutions as it puts a much heavier administrative burden on the banks now required to identify foreign tax residents. Given the tight deadlines for filing the first reports, it will take the FIs an extra effort to implement all relevant procedures.”

**Only the universal and the basic banking licence will remain**

Starting from 1 June 2017, banking licences of only two types can be issued in Russia, the universal and the basic; general licences are put out of use.

This categorisation takes into account the different profiles of existing banks and secures a regulatory balance for banks with different transaction volumes and types. Banks holding a universal licence will be entitled to perform all transactions permitted by law and will be subject to all requirements applicable to credit institutions.

Banks holding a basic licence will enjoy the simplified requirements along with a number of restrictions, such as inability to open accounts with foreign banks and acquire rights of claim against foreign persons.
All in all, 2017 was marked by quite a few positive developments shaped by the focus on intensive technology development and efficiency. The government remains committed to improving the regional investment appeal, especially in the Far East. We can see some tangible efforts to support projects in the Far East and Siberia, such as tax incentives. New technologies are gaining momentum: a new LNG plant is launched, the Eastern Gas Programme is rapidly developing.

The focus is obviously shifted from the extensive approach to efficiency, including in taxation. The much-discussed introduction of imputed income tax for oil and gas producers and MET deductions on gas condensate processed into natural gas liquids are two good examples of this shift.”
**Key industry developments**

**Metals and Manufacturing**

**Tax deduction of investment**

Article 286 is added to the tax Code, introducing a profit tax deduction on investments that will apply from 2018 until 2027. Subject to the adoption of a relevant regional law, a company may reduce the regional profit tax component by up to 90 percent of its fixed asset investment, and the federal tax component - by up to 10 percent. The limits on the deduction and its additional parameters, e.g. the size of business, the categories of taxpayers and fixed asset eligible and the right to carry forward the unused deductions will be determined by the regions independently.

The deduction will only apply to fixed assets of depreciation categories 3 to 7. Having applied a deduction to its fixed asset investments, a taxpayer looses the right to charge depreciation on such fixed assets.

The application of the investment deduction will be a separate controlled transaction criteria (for transactions that total over RUB 60 million p.a.).

**Tax treatment of highly energy-efficient facilities**

Starting from 1 January 2018, the property tax benefits for highly energy-efficient assets or assets of the High energy efficiency class envisaged by Item 21, Article 381 of the Russian Tax Code will apply only subject to the adoption of a respective regional law. The list of highly energy-efficient assets (assets that were assigned the High energy efficiency class) that qualify for accelerated depreciation at a rate of up to x2 the regular rate will no longer include buildings.

**The application of the corporate property tax benefit to movable property**

Effective 1 January 2018, the regions will have the right to decide on the application of tax benefits for movable property envisaged by Item 25, Article 381 of the Russian Tax Code. A transitional period is envisaged for the regions that did not adopt a relevant law: in 2018, the property tax rate for movables envisaged by Item 25, Article 381 of the Russian Tax Code cannot exceed 1.1 percent; since 2019, the standard rate will apply.

**VAT treatment of sales of non-ferrous and ferrous metals scrap and waste**

Starting from 1 January 2018, the sales of non-ferrous and ferrous scrap metal and waste will no longer be VAT-exempt. Also, VAT on such goods will be reverse-charged to the withholding agent (the buyer), unless such goods are sold by exempt taxpayers or persons not qualifying as taxpayers. The change also applies to the domestic sale of secondary aluminium and its alloys.

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*Yulia Orlova
Partner
Metals and Manufacturing*

“In 2017, we witnessed the increase of the regions’ role in defining the corporate tax burden. The cancelled tax benefits for movable corporate property is a major change that may increase the tax load for the companies from the manufacturing and processing sectors (e.g. metals & mining and chemical companies) that may have a considerable share of such property in their fixed assets. The 2018 may also be challenging for the metals sector due to the cancellation of VAT exemptions on ferrous and non-ferrous scrap metal. This measure, which is primarily meant to combat the shell companies and shadow economy sector will, in the long run, give rise to tax disputes and will be detrimental to the legitimate scrap metal recycling business. Vendor integrity checks and compliance with Article 54.1 of the Russian Tax Code become especially relevant under the circumstances.”
Key industry developments

Consumer Products

Public health initiatives

The Russian Ministry of Health proposed banning the advertising and marketing of alcohol products, restricting product placement for alcohol and the advertising of alcohol-free beer, prohibiting alcohol sales on weekends, banning the use of display advertising of alcohol, and introducing penalties for selling alcohol online. The Ministry also developed an anti-smoking campaign, but it was returned by the Government for rework.

Introduction of monitoring and labelling; control strengthening initiatives

The Russian Government announced its plans to introduce a nation-wide labelling system for all industrial products by 2024. The pilot will start in 2018 from the labelling of jackets, blouses, shirts, perfumes – 10 types of products of the light and automotive industries. Another initiative is a pilot to test labelling and tracking of tobacco products that producers and importers can voluntarily join from 15 January to 31 December 2018.

The labelling initiative also envisages stronger control over hard liquor: to label glass bottles, ban their re-use and sale to non-licensed producers. The monitoring of liquor producers and importers will be automated using a special software.

A similar initiative for controlling the sale of livestock products was postponed until July 2018 upon request of the world’s largest livestock producers due to the operational immaturity of the Mercury software.

Online sale of alcohol

Despite the above-mentioned initiatives, the Ministry of Finance developed a bill regulating the online sales of alcohol. The document was lobbied by the Russian Association of Internet Trade Companies and beer producers and aligned with the Russian Ministry of Industry and Trade.

The anti-intermediaries campaign

According to a recently signed charter, players of the grain and fish markets in some regions will have to procure directly from producers, with no intermediaries allowed. The FTS plans to apply this approach across the agricultural processing industry.

“Oxana Zhupina
Partner
Consumer Products”

“The closure of 2017 was quite optimistic for the industry. The real household income is growing, the retail sales are growing faster than in previous periods, the consumer sentiment index is in the green since February 2017, reflecting the consumers’ confidence that things are getting better. This year will test the sustainability of these trends.

At the same time, a stricter regulation cannot but affect the performance of consumer industry companies. The Ministry of Finance is committed to combatting the intermediaries, which causes the re-arrangement of the agricultural supply chain. The regulator’s short-term plans include the introduction of mandatory labelling for nearly all products to fight counterfeiting and control taxable revenues. These measures may improve operational transparency, but are likely to result in a heavier burden for the business and trigger a price increase, especially in the lower segments.

The focus on improving the public health will continue: new restrictions on alcohol and tobacco advertising and sales are underway. Companies need to assess the impact these changes will have on their performance and take necessary actions to cut costs and improve efficiency of their business processes.”
Key industry developments
Pharmaceuticals

**Medicine labelling and track-and-trace projects**

A voluntary medicine labelling pilot was launched in February 2017 for a limited list of drugs. Labelling all medicines and reporting stages in their life-cycle (such as production, import, sale and other forms of disposal) in the ‘Markirovka’ database operated by the FTS will be mandatory effective 1 January 2020. However, the Russian Government may resolve on an earlier launch of mandatory labelling and monitoring for certain medical drugs, e.g. for items from the lists of seven high-cost nosologies and for essential drugs.

On the one hand, the introduction of mandatory labelling and track-and-trace mechanisms will mean extra costs for producers, distributors, pharmacies, and medical providers who will have to buy equipment and software and integrate it into the existing IT systems. On the other, it will prevent bad-faith medicine supply practices (such as double-selling) and counterfeiting; will provide reliable sales and distribution analytics and enable business process optimisation (e.g. going paperless).

**Government procurement and price regulation**

The Russian Government is committed to cutting the costs of public medicine procurement. The system to monitor and control the government procurement of medical drugs will enable streamlining the price caps and will automatically flag any pricing violations. It must be hard-launched in 2018 (the system has been tested since 1 March 2017). To ensure the system’s proper functioning, medicine description rules and procurement procedures will be unified.

Furthermore, starting from 1 January 2018, the state register of medicines will display information on their interchangeability, which is likely to impact procurement and the competitive environment.

Over 60 new items are included into the list of essential drugs, which was not updated in 2017, effective 1 January 2018. At the same time, the new method for calculation of federal price caps for such drugs, which was expected to apply from 1 January 2018, is still under discussion.

Under the existing draft regulation, current price caps must be re-registered in accordance with the new method by 1 January 2019. The regulation enables potential price raises, conditional upon increased production costs, but limits the producer’s profit margin (including those that do primary and secondary packaging in Russia) at 30 percent. It also sets discount rates for generics and biosimilars and guarantees the reduction of registered sales prices in the instances where the actual sales price (including in the reference countries) for a particular medicine is lower than the statutory cap.
Key industry developments
Pharmaceuticals

Manufacturing going local and special investment contracts

Starting from 1 January 2017, carrying out primary/secondary packaging operations with imported medicines has been insufficient to obtain a domestic product status and bid for government contracts. Many foreign pharma producers have localised (or are preparing to localise) their production in Russia, using their existing or purchased production capacities or outsourcing. The Russian Government is considering the granting of an extra incentive (25 percent of government contract’s price) for medicines produced of Russian substances; however, a relevant resolution is still being developed and will unlikely enter into force before 1 January 2019.

In 2017, special investment contracts (SPIC) were pioneered in the industry, with three signed and two more requests approved. According to these SPICs, pharma producers must invest in the modernisation of their local production and deepen its localisation, while their federal and regional counterparties guarantee the stability of tax and regulatory conditions and provision of incentives and subsidies (e.g. tax benefits, the status of a local producer, and the status of the sole supplier for government procurement purposes). In December 2017, the Russian Government introduced changes in the SPIC regulations, simplifying their execution and broadening the scope.

Digital technologies in healthcare

The Law on Telemedicine entered into force on 1 January 2018; it permits remote medical services only after an in-person examination. The law establishes a legal framework for the already existing doctor-to-doctor and doctor-to-patient communication modes. It sets forth the key principles for the application of information technologies in healthcare (e.g. the development and use of information systems, issue of electronic prescriptions, identification and authentication of stakeholders). At the same time, a full-scale implementation of the law depends on the adoption of subordinate regulations that are still pending (e.g., a bill permitting the online sales of OVC drugs passed the first reading only in December 2017).

One of the remaining shortcomings of the SPIC model is that investors have no guarantee that their products will be procured. To address the issue, the so-called "offset contracts" are used, whereby the government agencies pre-order a set volume of medicines against the supplier’s obligations to invest in production and localisation.

"The pharma sector does not demonstrate a double-digit growth, the regulators increase pressure on pricing and anti-monopoly efforts, and more restrictions are introduced on government procurement – with all this in the background, foreign producers strive to preserve their market share while the local players enjoy the new opportunities for launching their own production and signing on foreign partners. In the mid- and long-term perspective, as the digital and big data are gaining momentum, those who are the first to capture the new technologies to get closer to the patients are likely to reap all benefits."

Oleg Berezin
Partner
Pharmaceuticals
Key industry developments

Automotive

Automotive trends
In 2017, sales of new and used passenger cars and commercial vehicles started on a growth trend, expected to continue into 2018, marking a consistent recovery of the Russian automotive industry.

New industrial assembly regime
The Russian Ministries of Industry and Trade and Economic Development released a package of automotive strategies until 2025. Among the priorities they set are boosting the exports, developing and implementing new technologies, and increasing the domestic production of auto components. The industry regulators are working on a new industrial assembly regime meant to replace the existing agreements, mostly expiring in 2018-2020. The new investment regime is expected to provide for the use of SPICs and update the list of transactions envisaged by Russian Government Resolution No. 719.

The new industrial assembly regime is expected to foster the production of car parts and R&D. Incentivising the export of cars and auto components are also high on the government’s agenda.

Government incentives for the automotive industry in 2018
The Russian Government approved a RUB 35 billion investment plan to support the domestic automotive industry.
In 2018, the focus is on:
• New jobs, R&D, production localisation, and domestic manufacturing
• Compensating the shipment costs of exported domestic products
• Subsidised loans for first-time and family-car buyers
• Incentivising the development of electric and natural gas-powered vehicles

"Last year was a turning point for most car producers, which finally posted sales growth. Investment into the localisation of production increased. Government support was also focused on incentivising the local producers. New support measures planned for 2018 will be consistent with this trend."

Stay up-to-date with the latest industry news in Deloitte’s Automotive Update.

Tatiana Kofanova
Director
Automotive

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Key industry developments
Retail, Wholesale, and Distribution

The online use of cash register equipment

The amended law on cash register equipment, introducing online submission of information on cash or electronic payments to the tax authorities via a fiscal data operator, became effective for most taxpayers on 1 July 2017. The rules of use and registration of such equipment and issue of cash receipts (including electronically) materially changed.

For sole traders using tax patents and payers of the unified tax on imputed income, similar requirements will come in force on 1 July 2018.

Tax free in Russia

This year will be marked by the launch of tax free in Russia. The system will be tested by a number of retailers that were actively involved in the law-making process. Please refer to page 15 for a detailed description of how tax free will be implemented.

Anti-monopoly authorities might loosen grip

Additional criteria are proposed for recognising a “retail chain”: a sales floor exceeding 400 sq m and self-service as the key customer interaction format. Stores that do not meet these criteria will not be subject to the information disclosure requirements and supplier bonus restrictions and will be able to charge fees for services to suppliers.

Online sale of alcohol

The Russian Ministry of Finance developed a bill permitting the online sales of liquor that conflicts with the position of the Russian Ministry of Health. The document was lobbied by the Russian Association of Internet Trade Companies and beer producers and aligned with the Russian Ministry of Industry and Trade. The Russian Ministry of Health proposed banning the advertising and marketing of alcohol products, restricting product placement for alcohol and the advertising of alcohol-free beer, prohibiting alcohol sales on weekends, the use of display advertising of alcohol, and introducing penalties for selling alcohol online.

Artem Vasyutin
Partner
Retail, Wholesale and Distribution

“The implementation of automatic conveyance of revenue data recorded by cash register equipment to the tax authorities was one of the landmark changes of the year. Naturally, the costs of upgrading the equipment will be a bitter pill for the business, but hopefully the measure will help tackle the shadow economy. The effect will be more visible once the initiative is applied on a larger scale and becomes mandatory for the small business.

The introduction of tax free should not go unmentioned either: luxury retailers are expecting a revenue growth of up to 10 percent.

Next year we are expecting to see the finalisation of VAT rules for foreign online retailers that will ensure equal treatment of Russian and foreign entities.”
Key industry developments
Real Estate

**Continued clampdown on 214-FZ developers**

Federal Law No. 218-FZ of 29 July 2017 amended Federal Law No. 214-FZ, toughening the requirements for developers: now they must have a track record of multi-family construction projects of at least three years; the gross floor area of a project must be at least ten thousand sq m; the minimum equity investment must be ten percent of a construction project’s value. The document requires that developers have no outstanding loans (except for special-purpose ones) obtained to finance the project, sets a limit on their administrative costs (advertising, payroll, etc.) and the number of construction permits (one per developer); only one bank may be used for settlements between developers, the EPCM contractor and general contractor; no expenditure is permitted other than expressly named in the law. Changes will enter into force as of 1 July 2018.

**The Russian Ministry of Construction, Central Bank of Russia, and the Agency for Housing Mortgage Lending propose a mechanism to do away with 214-FZ construction projects**

According to an assignment given by the President of the Russian Federation, 214-FZ construction projects will be replaced by a project financing mechanism within three years. A plan developed by the Russian Ministry of Construction, Central Bank of Russia, and the Agency for Housing Mortgage calls for banning the developers from accepting money for off-plan sales. Instead, the funds will be deposited in special escrow accounts with authorised banks.

"While the sector performed quite well in 2017, the continuing statutory restrictions and the general outlook on residential development projects cause serious concerns among the market players. Experts expect that some developers will exit the market, dependency on bank financing will increase, and prices for residential properties will go up."

Yulia Krylova
Director
Real Estate

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