

Client Alert

TAX | RUSSIA |

MARCH 2015

RECENT CHANGES TO TAX LEGISLATION

TAX CODE

Federal Laws No. 52-FZ dated 2 April 2014, No. 284-FZ dated 4 October 2014, No. 347-FZ dated 4 November 2014, No. 348-FZ dated 4 November 2014, No. 366-FZ dated 24 November 2014, No. 376-FZ dated 24 November 2014, No. 382-FZ dated 29 November 2014 and No. 462-FZ dated 29 December 2014 have introduced numerous amendments to the Tax Code of the RF (the "TC RF") which came into force on 1 January 2015 subject to certain exemptions. The main changes are as follows:

Tax monitoring

- Tax monitoring has been established, i.e. voluntary cooperation with tax authorities of taxpayers which meet criteria established by the legislation (*in particular, the total amount of VAT, excise duties, profit tax and mineral and extraction tax for the year preceding the year in which an application is submitted by the taxpayer should be at least RUB 300 million, and the total income of the taxpayer in said year, as recorded in the statutory financial statements, should be at least RUB 3 billion, etc.*) based on the rules of cooperation which should define:
 - (i) the procedure for the provision by the taxpayer of information and documents to the tax authorities (in electronic format or taxpayers could provide to the tax authorities access to their respective information systems), and
 - (ii) the rules of review by the tax authorities of the original documents, if required, etc..
- The period covered by the tax monitoring is a calendar year following the year in which the taxpayer submitted the respective application.
- The taxpayers which are under the tax monitoring regime are (i) exempt from tax audits in respect of periods covered by the tax monitoring, subject to certain exemptions and (ii) have a right to request tax clarifications from the tax authorities (except clarifications related to transfer pricing issues).

De-offshorization

See our Flash Tax Report for December 2014 regarding CFC rules, beneficial ownership, the tax residency of legal entities; etc.

Profit tax

- Agreements regarding the creation of consolidated groups of taxpayers which were registered within the year 2014 will come into force from 1 January 2016.
- The profit tax rate on dividends received by Russian legal entities from Russian and foreign legal entities was raised from 9% to 13%.
- A 30% withholding profit tax rate on certain types of income on certain securities paid to foreign entities acting on behalf of third parties was abolished (*said rate was formerly applicable if the required information had not been provided at all or not fully provided to a tax agent within the deadlines established in the TC RF*), i.e. a 15% withholding profit tax will apply in such cases.

VAT

- The offset of input VAT is allowed within 3 years after putting related goods, services, etc. into accounting.
- The tax declaration should be submitted no later than the 25th (instead of the 20th) day of the month following the tax period and VAT should be paid by equal instalments no later than the 25th (instead of the 20th) of each of the 3 months following the tax period.
- If the taxpayer receives a VAT invoice in the period following the period in which related goods, works, services, etc. were put into accounting (the "Period") but before the deadline for submission of the tax declaration for the Period, the taxpayer has a right to declare input VAT under said VAT invoice as offsettable in the tax period starting from the Period.

Property tax of legal entities

- The taxable base should be calculated based on cadastral values in respect of office premises from 3,000 square meters (instead of 5,000 square meters).

Trade levy

- The trade levy, a new local tax, has been established by the TC RF.
- Local law should establish the rates (rates cannot exceed according to the TC RF for a legal entity of retail markets RUB 550 per square meter) and may establish particularities regarding the taxable base and tax concessions.
- The taxable base is the area of sales premises used for commercial activity in respect of which the trade levy is established (in particular, sales made through a stationary distribution network either with dedicated sales areas or without dedicated sales areas, sales made through non-stationary distribution network, etc.). Sales means commercial activity related to the retail sale of goods, small-scale sale and wholesale of goods through stationary or non-stationary distribution networks as well as through warehouses.
- The trade levy is deductible for profit tax purposes.
- The tax period for the trade levy is a calendar quarter.
- The payment should also be made quarterly not later than the 25th of the month following the reporting quarter.
- The trade levy in Moscow is established by Moscow Law No. 62 dated 17 December 2014 and comes into force from 1 July 2015.

Personal income tax ("PIT")

- The PIT rate on dividends received by Russian resident individuals from Russian and foreign legal entities was raised from 9% to 13%.
- Exemption from PIT in respect of income in the form of interest received between 15 December 2014 and 31 December 2015 on deposits in roubles in banks in Russia was raised to 18.25%.
- Individuals who are Russian tax residents will be exempted from PIT, in general, if they have owned the relevant real estate property for five years (instead of 3 years) or more, however, the three-year rule will still be applicable in a limited number of cases established by the law. These changes will come into force from 1 January 2016 in respect of real estate acquired after that date.

Property tax of individuals

- The taxable base of property tax of individuals starting from 1 January 2015 is the cadastral value (instead of the inventory value) of the real estate which is subject to the property tax of individuals.
- Local law should establish the tax rate (within limitations established by the TC RF) and may establish particularities regarding the taxable base and tax exemptions.

CONTRIBUTIONS TO NON BUDGETARY STATE FUNDS

According to Regulation of the Government of the Russian Federation No. 1316 dated 4 December 2014, the ceiling for calculating contributions to the pension fund and social insurance fund has been increased as follows:

- gross remuneration not exceeding RUB 711,000 (instead of RUB 624,000) per year per each employee in respect of contributions to the pension fund;
- gross remuneration not exceeding RUB 670,000 (instead of RUB 624,000) per year per each employee in respect of contributions to the social insurance fund.

The ceiling for contributions to the medical fund is no longer applicable (it was RUB 624,000 in the year 2014), i.e. the contribution to the medical insurance fund is calculated based on total gross remuneration.

CRIMINAL PROCEDURE CODE

Federal law of the RF No. 308-FZ dated 22 October 2014 has introduced amendments to the Russian Criminal Procedure Code according to which criminal investigators may independently initiate tax-related criminal cases.

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