

THE RUSSIAN FEDERATION TAX LAW UPDATES

WWW.VEGASLEX.RU

DECEMBER 2012



Amortisation and interest

On November 29, 2012 Vladimir Putin signed into law the Federal law No. 206-FZ «On introduction of amendments into the second part of the Tax Code of the Russian Federation», and on the same day the Federal law was published on the Official Internet Portal of Legal Information www.pravo.gov.ru.

In accordance with this law the taxpayers will be entitled to amortize real property immediately upon putting it into operation and will not have to wait until submission of documents for the property registration.

Moreover, if the fixed assets are sold before the five year period since their putting into operation ends the bonus depreciation must be added back if the objects are sold to affiliated company.

Under the law the application of coefficient 1,8 to the refinancing rate was also prolonged till the end of 2013 for referring Interest on debt liabilities to outlays, if the debt obligation is drawn up in roubles.

The tangible chattel is not subject to the corporate property tax

On November 29, 2012 the Federal law No. 202-FZ «On introduction of amendments into the second part of the Tax Code of the Russian Federation» was also signed into law and published.

Under the law the tangible chattel included for accounting purposes as fixed assets on January 1, 2013 and later will be exempt from the corporate property tax. If the Property was included for accounting purposes before 2013 it will be taxable during the whole period of service.

The corporate property tax relief will no longer be available for the companies with regard to public railway tracks, main pipelines, power transmission lines as well as buildings constituting an integral technological part of such facilities.

The law also makes the land plots, which cannot be freely sold and purchased under the Russian law, such as land plots allotted for the defence and safety support as well as customs needs, available for charging the land tax.

The first agreement on price setting

On November 20, 2012 the Federal Tax Service and OJSC NK Rosneft executed an agreement on formation of prices which for the purposes of taxation defines the pricing methods for deals with the oil on the Russian market.

According to official site of the company 6 subsidiaries of OJSC NK Rosneft were also parties to the agreement. The agreement provides for the possibility to plan the amount of tax liabilities which Rosneft enterprises will assume when trading oil on the internal market. One of the purposes of the agreement was to prevent possible disputes over pricing issues in such deals.

The agreement was executed within framework of a new scheme for the tax control over the compliance of price levels in related party transactions with the market prices which was introduced on January 1, 2012 by the Federal law No. 227-FZ of July 18, 2011.

The market indicator is applicable not only to the controlled transactions

The letter of the Russian Ministry of Finance of 18 October 2012 No. 03-01-18/8-145 on application of market prices to related party transactions was published on November 2, 2012 on the official site of the Federal Tax Service of the RF.

The Ministry of Finance issued instructions binding for the tax authorities which specify that when concluding transactions which do not meet the criteria for controlled transactions between related parties, the control over the market level of prices in such transactions may be subject to the field and desk audit. If there are grounds to believe that the tax due to be paid to the budget system of the Russian Federation was understated in order to define the actual price of transaction it is possible to use methods established in chapter 14.3 of the Tax Code of the RF.

With regard to transactions where the taxpayers intentionally make it look like a transaction which does not meet the criteria for a controlled transaction, it is necessary to establish the actual association of the parties or to recognise the transaction controlled in a judicial proceeding.

In other case of tax avoidance resulting from manipulation of transaction prices by a taxpayer it is necessary to prove that the taxpayer received an unjustified tax benefit by means of the field and desk audit.

Please note that in accordance with the position of the Supreme Arbitrazh Court taken in the rulings of January 27, 2012 No. 16291/11, January 26, 2009 No. 16758/08, January 24, 2008 No. 16720/07, October 17, 2007 No. 8464/07, March 06, 2007 No. 15182/06 and ruling of the Praesidium of the SAC of the RF of October 09, 2007 No. 7526/07 in the essence the above instructions constitute a legal act.

Cyprus was excluded from the list of offshore countries

31 October 2012 the Rossiyskaya Gazeta published the Order of the Ministry of Finance of Russia of 21 August 2012 No. 115H on exclusion of the Republic of Cyprus from the list of states and territories providing preferential tax treatment and (or) avoiding disclosure of information when performing financial operations.

Therefore, the dividends received by Russian entities from the Cyprus companies will be subject to taxation at the rate of 0% subject to the minimum period of ownership of 365 days and participation interest of 50%.

Moreover, the transactions which do not involve the products of the global exchange trade with independent Cyprus companies will no longer be considered controlled for the purposes of the Russian rules on funds-transfer-pricing.

CONTACT INFORMATION:



YURY
IVANOV

Senior Associate
Tax Practice

Ivanov@vegaslex.ru



NIKOLAY
RUDOMANOV

Associate
Tax Practice

Rudomanov@vegaslex.ru

Additional information about the products and services of VEGAS LEX can be found at www.vegaslex.ru.

Current issue contains an overview of recent legislative changes.

The presented material should be treated as general information and not as professional advice.

© Law firm VEGAS LEX

VEGAS LEX is one of the largest law firms headquartered in Russia, with over 100 lawyers based in Moscow, Volgograd and Krasnodar. Since 1995 we have been providing services in every region of Russia, as well as in other countries of the world.

PRACTICE AREAS

- Competition & Antitrust
- Dispute resolution and pretrial conflict settlement. Mediation
- Energy
- Real Estate, Land & Construction
- Capital Markets, Securities, Listings
- PPP & Infrastructure
- Investments. Project Finance
- Corporate and M&A
- Taxation
- Environment
- Forensics
- Compliance. Anti-bribery compliance.
- Innovative Projects
- International Arbitration
- International Property
- International Taxation
- Regulatory and GR issues.
- Law-Making

KEY INDUSTRIES

- Automotive
- Aviation
- Chemical & Petrochemical
- Industries
- Energy & Natural Resources
- Finance & Securities Markets
- Food Products & Agriculture
- Housing & Utilities
- Information Technology
- Infrastructure & PPP
- Insurance
- Life sciences
- Metallurgy & Mining
- Nanotechnology
- Public sector
- Real Estate & Construction
- Telecommunications

RECOMMENDATIONS & RECOGNITION

- Best Lawyers 2012
- IFLR1000 2012
 - ▶ M&A
 - ▶ Project finance
 - ▶ Restructuring & Insolvency
- Chambers Europe 2012
 - ▶ PPP
 - ▶ Competition/Antitrust
 - ▶ Dispute Resolution
- The Legal 500 EMEA 2012
 - ▶ PPP
 - ▶ Dispute Resolution
 - ▶ Real Estate
 - ▶ Corporate and M&A
 - ▶ Tax
 - ▶ Energy & Natural Resources
- European Legal Experts 2012
- Russia's leading rankings Pravo.Ru-300 in 2011
 - ▶ Competition/Antitrust
 - ▶ Corporate and M&A
 - ▶ Dispute resolution
 - ▶ Tax
 - ▶ Real Estate
 - ▶ Energy and natural resources
 - ▶ Employment

OUR CLIENTS

Belon, British Airways, Gazprom dobycha Astrakhan, Gazprom neft, HOCHTIEF, Ilyushin Finance Co., Interregional Distribution Grid company of Volga, MAN, MirLand Corp., Mosenergosbyt, MTD Europe Holding GmbH, Mobile TeleSystems, M.Video, Peter Hambro Mining, PhosAgro AG, PPF Real Estate, R-Quadrat, RESO Holding, RusHydro, ROSNANO, ROSNO, Russian Funds, Rockwool, Sun InBev, SITRONICS, WABCO, WPP, Vitkovice Power Engineering, etc.

COOPERATION

Ministry of Economic Development, Ministry of Transportation of the RF; Ministry of Regional Development, Federal Antimonopoly Service, Federal Financial Markets Service, Committees of the State Duma and the Federation Council, Vnesheconombank, various Federal agencies, PPP and Investment Commission of the Russian Union of Industrialists and Entrepreneurs, Protection Committee of the National Securities Market Association, Agency of Strategic Initiatives, etc.

MOSCOW

tel. +7 (495) 933 08 00
fax +7 (495) 933 08 02
vegaslex@vegaslex.ru

VOLGOGRAD

tel. +7 (8442) 26 63 12/13/14/15
fax +7 (8442) 26 63 16
volgograd@vegaslex.ru

KRASNODAR

tel. +7 (861) 274 74 08
fax +7 (861) 274 74 09
krasnodar@vegaslex.ru