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CONTENTS

1. OVERVIEW OF LEGISLATIVE AMENDMENTS FOLLOWING THE 28th SESSION

Topic	Description	Status in October 2014	Status in October 2015
1. Tax administration	**1. No need to notify the tax authority of interests in Russian business partnerships and limited liability companies**	Corporate taxpayers and individual entrepreneurs are obliged to notify the tax authority at the place of registration of an organization and at the place of residence of an individual entrepreneur, respectively: Of all interests in Russian **organizations (except for interests in business partnerships and limited liability companies)** and foreign organizations not later than one month from the date on which such an interest arose (Article 23.2.2 of the Code as amended by Federal Law No. 248-FZ of 23 July 2013).	In addition to the obligations stipulated by Article 23.1 of the Code, corporate taxpayers and individual entrepreneurs are obliged to notify the tax authority at the place of registration of an organization and at the place of residence of an individual entrepreneur, respectively: of their interests in Russian organizations (except for interests in business partnerships and limited liability companies), should the direct interest exceed 10 percent, not later than one month from the date on which such interest arose (Article 23.2.2 of the Code as amended by Federal Law No. 376-FZ of 24 November 2014.
	2. Taxpayers will have to send to the tax authority an acknowledgement of the receipt of documents which were transferred to them in electronic form.	Persons obligated by the Code to submit a tax declaration (calculation) in electronic form **must receive documents used by the tax authorities in exercising their powers** in relations governed by legislation on taxes and levies from a **tax authority in electronic form** via telecommunications channels through an electronic document interchange operator. The **persons are obliged to transmit an acknowledgement of the receipt of such documents to the tax authority** in electronic form via telecommunications channels through an electronic document interchange operator within six days from the date on which they were sent by the tax authority (new clause 5.1 of Article 23 of the Code; clause 5.1 was introduced by Federal Law No. 134-FZ of 28 June 2013). Takes effect on 1 January 2015.	

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	3. Rules for consolidated taxpayer groups — additional restrictions for participation in consolidated taxpayer groups were introduced.	Article 25.2 of the Code: 6. The following organizations may not be members of a consolidated taxpayer group: **12) Credit consumer co-operatives;** **13) Microfinance organizations** The restriction was introduced by Federal Law No. 301-FZ of 02 November 2013.	Article 25.2 of the Code: 6. The following organizations may not be members of a consolidated taxpayer group: **14) organizations that are participants in a free economic zone.** The restriction was introduced by Federal Law No. 379-FZ of 29 November 2014.
	4. Formalization of documents sent by the tax authorities when debiting and transferring funds from taxpayers' accounts	Russian Federal Tax Service Order No. MMV-7-8/330 of 23 June 2014 (took effect on 21 September 2014) approved: 1) **Form** of the instruction for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation; 2) **Form** of the instruction for the transfer of the electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation; 3) **Form** of the instruction for the sale of a foreign currency from a foreign currency account of a taxpayer (payer of a levy, tax agent); 4) **Form** of the decision to suspend instructions for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent), as well as for the transfer of electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation; 5) **Form** of the decision to cancel the suspension of instructions for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent), as well as for the transfer of electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation; 6) **Form** of the decision to revoke unexecuted instructions for the debiting and transfer of funds from the accounts of a taxpayer (payer of a levy, tax agent), as well as for the transfer of electronic funds of a taxpayer (payer of a levy, tax agent) to the budget system of the Russian Federation.	Order No. MMV-7-8/116@ of 20 March 2015 of the Federal Tax Service on Amendments to Order No. MMV-7-8/330@ of 23 June 2014 of the Federal Tax Service introduced a new form: 7) **Form** containing an instruction for the transfer of funds from a deposit account of a taxpayer (payer of a levy, tax agent).

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	5. Introduction of a procedure for individuals to inform the tax authorities if they have items that are subject to property taxes but receive no tax notices **And a fine for the failure of individuals to report such information**	**From 1 January 2015:** Individuals subject to property taxes that are paid based on tax notices are **obliged to submit a communication** that they have items of immovable property and (or) vehicles to a tax authority at the place of residence or at the location of items of immovable property and (or) vehicles **if they received no tax notices and paid no taxes in respect of the objects** of taxation for the period of ownership. A communication accompanied by the copies of documents of title (documents certifying rights) for items of immovable property and (or) documents confirming the state registration of vehicles is presented to a tax authority in respect of each object of taxation on a one-off basis by 31 December of the year following the expired tax period. No communication is submitted if an individual received a tax notice regarding the payment of tax in respect of the asset, or if he/she did not receive a tax notice due to the provision of a tax exemption. The form of such a communication in accordance with established procedure has not yet been approved (Article 23.2.1 of the Code).	**From 1 January 2017:** **Article 129.1 of the Code** **"3. The unlawful non-submission (delay in submission) by an individual taxpayer of a communication to a tax authority,** provided for by clause 2.1 of Article 23 of the Code, **entails a fine of 20% of the unpaid amount** of tax in respect of a property and (or) vehicle, for which the communication was not submitted (was delayed)".
	6. Bank guarantee	As of 01 April 2014, the list included 345 banks. http://minfin.ru/common/upload/library/2014/05/main/Perechen_Bankov_01.04.14.pdf	Pursuant to subclause 4, clause 3 of Article 74.1 of the Code: The bank guarantee must be provided by a bank included in the list of banks which meet the established requirements for the acceptance of bank guarantees for taxation purposes (hereinafter referred to as the "list"). The list shall be maintained by the Ministry of Finance of

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			the Russian Federation on the basis of information received from the Central Bank of the Russian Federation, and must be displayed on the official web-site of the Ministry of Finance of the Russian Federation. In order to be included in the list, the bank must meet the following requirements: no requirement by the Central Bank of the Russian Federation to undergo financial rehabilitation on the basis of paragraph 4.1 of Chapter IX of Federal Law No. 127-FZ of 26 October 2002 “On Insolvency (Bankruptcy)”. This subclause shall not apply to the banks in respect of which bankruptcy preventive measures are being implemented with the participation of state corporation the Deposit Insurance Agency (subclause 4 as amended by Federal Law No. 462-FZ of 29 November 2014). As of 1 August 2015, the above list contained 344 banks. http://www.minfin.ru/common/upload/library/2015/09/main/Perechen_Bankov_01.08.15.pdf
	7. Introduction of a new basis for suspending operations on taxpayers' accounts	Article 76.3 of the Code has been revised as follows: A decision to suspend the operations of a corporate taxpayer on its bank accounts and the transfers of its electronic funds may also be made by the director (deputy director) of a tax authority in the following cases: 1) In the event that the corporate taxpayer does not submit a tax declaration to the tax authority within 10 days after the expiry of the established time period for the submission of such a declaration - within three years from the date of the expiry of the time period established by this subclause; **2) In the event that the corporate taxpayer fails to fulfil the obligation to submit to the tax authority an acknowledgement of the receipt of a demand for the presentation of documents, a demand for the presentation of clarifications and (or) a notice of the summons to the**	

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		tax authority - within 10 days from the date of the expiry of the time period established for the submission by a corporate taxpayer of an acknowledgement of the receipt of documents sent by the tax authority. **The provision will take effect on 1 January 2015** together with the obligation to submit the respective documents to a tax authority clause 3 as amended by Federal Law No.134-FZ of 28 June 2013).	
	8. Expansion of the list of cases in which documents may be requested during the in-house tax audit of a VAT declaration	The list of cases in which a tax authority will be able to request documents from a taxpayer during an in-house tax audit will be expanded from **1 January 2015**. According to the amended clause 8.1 of Article 88 of the Code (as amended by Federal Law No.134-FZ of 28 June 2013), a tax authority has the right to request from a taxpayer the invoices, primary and other documents relating to operations, the information about which is included in a VAT declaration in the following cases: - If discrepancies are identified in the information about operations which is contained in a VAT declaration; - If the information about operations which is contained in a VAT declaration submitted by a taxpayer is found to be inconsistent with the information about the operations which is contained in a VAT declaration submitted to the tax inspectorate by another taxpayer or another person who is obliged to submit VAT declarations; - If the information about operations which is contained in a VAT declaration submitted by a taxpayer is found to be inconsistent with the information about the operations which is contained in a journal of invoices received and issued, and which was submitted to the tax authority by a person who has the respective obligation. A tax authority may request the documents only if the discrepancies and inconsistencies identified indicate that the amount of VAT payable is understated or that the amount of tax refundable is overstated.	An additional paragraph was added to clause 1 of Article 88 of the Code. This paragraph states that a special declaration submitted pursuant to the Federal Law “On Voluntary Declaration by Individuals of Assets and Accounts (Deposits) in Banks and on Amendments to Certain Legislative Acts of the Russian Federation” and (or) documents and (or) information attached to it, as well as information contained in the above special declaration and (or) documents, may not be a basis for an in-house tax audit (as amended by Federal Law No. 150-FZ of 8 June 2015).

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	9. Tax control in the form of tax monitoring		On 1 January 2015, a new tax oversight form — "Tax monitoring" — was introduced (Section V.2, Chapters 14.7 and 14.8; introduced by Federal Law No. 348-FZ of 4 November 2014). "Tax monitoring" provides for the following: - Transparency: taxpayers will submit to the tax authority either documents/information in electronic form serving as the basis for the calculation of tax obligations, and (or) else direct access to their information systems; - Efficient interaction: taxpayers will obtain the opportunity to quickly discuss unclear taxation issues with the tax authority using a new instrument "motivated opinion of the tax window" (Article 105.30 of the Code); - Confidence: tax monitoring participants will in nearly all cases not have to carry out in-house and on-site audits during the tax monitoring period (clause 1.1 of Article 88 of the Code, clause 5.1 of Article 89 of the Code). Participants: Taxpayers meeting the following criteria (clause 3 of Article 105.26 of the Code) may participate in tax monitoring: 1) the aggregate amount of value added tax, excise, profit tax on organizations, and mineral tax due and payable to the budget system of the Russian Federation for the calendar year preceding the year in which the application for tax monitoring is submitted, excluding taxes due and payable in connection with the movement of goods across the customs border of the Customs Union, is not less than RUB 300 million; 2) the total amount of revenues according to the annual accounts (financial statements) of the organization for the calendar year preceding the year in which the application for tax monitoring is submitted is not less than RUB 3 billion;

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			3) the total value of assets according to the annual accounts (financial statements) of the organization as of 31 December of the calendar year preceding the year in which the application for tax monitoring is submitted is not less than RUB 3 billion. Consolidated taxpayer group members shall be bound by the tax monitoring chapter beginning from 1 January 2016 (Part 2, Article 2 of Federal Law No. 348-FZ of 4 November 2014). Tax monitoring periods (clause 5 of Article 105.26 of the Code): - the period for which tax monitoring is conducted is the calendar year following the year in which the organization submitted the application for tax monitoring to the tax authority; - the period during which tax monitoring procedures are conducted is from 1 January of the reporting year to 1 October of the following year. Procedure for joining and withdrawing from tax monitoring The procedure for joining tax monitoring is voluntary, the taxpayer has to submit an application which the tax authorities then consider; after considering the application, the tax authorities shall either take a decision to accept the applicant for tax monitoring, or else issue a motivated refusal (Article 105.27 of the Code). The tax monitoring regime may be terminated early by a decision of the tax authority in the following cases (Article 105.28 of the Code): - failure of the taxpayer to adhere to the information exchange rules, which has created obstacles to monitoring their taxes;

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			- systematic failure to provide information upon demand of the tax authority; - submission of unreliable information by the taxpayer. Tax monitoring procedure The taxpayer shall submit to the tax authority the Information Exchange Rules (the "Rules"), which define among other things (clause 6 of Article 105.26 of the Code): - the procedure for submission of documents and information to (by) the tax authority (a) in electronic form and (or) (b) by providing access to its own information system (ERP), and the procedure for familiarizing the tax authority with original copies of submitted documents, if necessary; - information on the system for the taxpayer's internal check that its tax calculation is correct (if such a system exists); - the procedure for the taxpayer entering information in the tax ledgers on its income and expenses, and taxable items, as well as information on tax ledgers, etc. The form and the requirements to the Rules were approved by Order No. MMV-7-15/184@ of 7 May 2015 of the Russian Federal Tax Service. The key amendments are as follows: the taxpayer is granted the right to choose the format and method for submitting data to the tax authority, as well as the opportunity to use its own internal check system to limit the volume of control procedures during the audit: - tax monitoring is conducted at the location of the tax authority - when conducting tax monitoring, the tax authority has the right to request documents and explanations from the

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			taxpayer; the tax authority has no right to request certified copies of those documents which were submitted earlier. - if tax monitoring reveals discrepancies in the information contained in submitted documents (information), or inconsistencies in the information provided by the organization and the information in the documents that the tax authority has received, the latter shall inform the organization thereof and demand that it submit the necessary clarifications within five days, or make appropriate amendments within ten days. Should the tax authority, after considering the clarifications submitted by the organization, or in the absence of clarifications, ascertain that the taxpayer made an incorrect assessment (deduction), or incomplete or delayed payment (transfer) of taxes and levies, the tax authority is obliged to issue a motivated opinion. Additional measures of tax oversight (clause 1.1 of Article 88 and clause 5.1 of Article 89 of the Code). The taxpayer shall be exempt from in-house and on-site tax audits, except for the following cases: - submission of the declaration later than 1 July of the year following the period for which tax monitoring (in-house tax audit) was conducted; - submission of a VAT/excise tax declaration with an amount subject to refund (in-house tax audit); - submission of an updated declaration with reduced tax/increased loss in comparison with the declaration submitted earlier (in-house or on-site tax audits); - early termination of tax monitoring (in-house or on-site tax audits); - on-site audit conducted by a higher tax authority in the form of oversight (on-site tax audit); - non-compliance with the “motivated opinion” by the taxpayer (on-site limited scope audit on the issues in the “motivated opinion”).

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			Reconciliation of tax positions ("motivated opinion" of the tax authority) The law introduces an absolutely new instrument for the reconciliation of uncertain positions with the tax authority — the "motivated opinion", which can be understood as the tax authority's explanation to the taxpayer on how correct the assessment and payment by the latter of taxes and levies on its business activity are. Article 105.30 of the Code: The "motivated opinion" shall be issued by the tax authority (a) upon request of the taxpayer, or (b) at the initiation of the tax authority, if the latter has ascertained facts of incorrect/incomplete assessment and payment of taxes. The tax authority is obliged to provide the "motivated opinion" within 1 month following the taxpayer's request. If the taxpayer disagrees with the "motivated opinion", it must send its arguments to the tax authority, and the latter must consider them in accordance with the mutual agreement procedure with the participation of the Russian Federal Tax Service; based on the results of this procedure the tax authority may change the "motivated opinion". If the taxpayer disagrees with the "motivated opinion" it is obliged to notify the tax authority thereof within 1 month. Compliance by the taxpayer with the "motivated opinion" protects it from fines and penalties; while failure to comply with the "motivated opinion" may result in an on-site tax audit being ordered. The tax authority has no authority to issue a "motivated opinion" on transfer pricing issues. Not later than two months after tax monitoring is terminated the tax authority shall notify the organization whether or not it is in compliance with the "motivated opinions".

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	10. The tax authority may carry out inspections during the in-house tax audit of the VAT declaration.	The amended clause 1 of Article 92 of the Russian Tax Code (as amended by Federal Law No.134-FZ of 28 June 2013) **will take effect on 1 January 2015**. It establishes the right of the tax authorities to inspect the sites and premises of the person being audited, documents and items. According to the new provisions, a tax authority will be able to carry out inspections during both the field and in-house audits of VAT declarations in the following cases: - If a declaration has been submitted with an amount of tax refundable; - If certain discrepancies and inconsistencies have been identified which indicate that tax payable is understated or that the amount of tax refundable is overstated. Inspections will be carried out based on the well-grounded resolution of an official of the tax authority that carries out an audit. The resolution must be approved by the head of a tax authority or his/her deputy.	
	11. Reporting to the tax authorities (guardianship authorities, diplomatic missions and consulates)	**Starting 1 January 2015, the guardianship authorities** are obliged to report guardian appointment and removal cases to the tax authorities while **civil registry offices** are obliged to report not only births and deaths but also marriages and divorces as well as paternity establishment cases to the tax authorities (in accordance with amendments to Article 85 of the Code (as amended by Federal Law No. 52-FZ of 02 April 2014). **Starting 1 January 2015, diplomatic missions and consulates** are obliged to report not only the births and deaths of Russian nationals temporarily staying abroad but also marriages, divorces, paternity establishment cases as well as guardian appointment and removal cases (in accordance with amendments to Article 85 of the Code (as amended by Federal Law No. 52-FZ of 02 April 2014).	

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	12. Transfer pricing	**Chapter 14.4:** **1.** Transactions entered into by the Russian Federation and foreign states as part of their **military and technical cooperation** as provided for by Federal Law No. 114-FZ "On Military and Technical Cooperation between the Russian Federation and Foreign States" of 19 July 1998 **shall not be deemed to be controlled**. (clause 105.14.4.5 of the Code was introduced by Federal Law No. 52-FZ of 02 April 2014 and applies to transactions for which income and (or) expenses must be recognized for tax purposes in accordance with Chapter 25 of the Russian Tax Code starting 1 January 2012). Interbank **loans (deposits) with maturities of less than seven calendar days (inclusive) shall not be deemed to be controlled**, as amended by Federal Law No. 420-FZ of 28 December 2013. Transactions entered into by taxpayers (new deposit operators or license holders) in the course of hydrocarbon extraction activities at a new offshore hydrocarbon deposit in respect of the same deposit shall be deemed to be uncontrolled irrespective of whether they satisfy the criteria. **2. A transaction shall be deemed to be controlled** if it simultaneously satisfies the following conditions (Sublause 6 of Article 105.14.2 of the Code, Subclause 6 introduced by Federal Law No 268-FZ of 30 September 2013): - One of the parties is a taxpayer (new deposit operator or license holder) which recognizes income (expenses) relating to this transaction when determining the profits tax base; - Any other party to the transaction is not a taxpayer (new deposit operator or license holder) or is a taxpayer (new deposit operator or license holder) but does not recognize income (expenses) relating to this transaction when determining the profits tax base.	**Additional conditions were introduced for the determination of an organization's ownership interest in another organization or of an individual's interest in an organization** (Article 105.2 of the Code as amended by Federal Law No. 376-FZ of 24 November 2014): The following clauses were added to the Article: 3.1. When determining an organization's ownership interest in another organization, ownership resulting from holding securities purchased under a repurchase agreement concluded pursuant to the Federal Law "On the Securities Market", or under a transaction deemed to be a REPO transaction in accordance with legislation of a foreign state, shall not be included. Direct and (or) indirect interest in these securities is deemed to be held by the person who sells these securities during the first part of the REPO, except for cases when the securities sold by the seller under the first part of the REPO were received by the seller under either another REPO transaction or a securities lending transaction. In the event that the second part of the REPO is not fulfilled or only partially fulfilled, an organization's interest in another organization shall be determined without taking this clause into account. 3.2. When determining an organization's ownership interest in another organization, ownership resulting from holding securities received under a securities lending agreement concluded in accordance with legislation of the Russian Federation, or with legislation of a foreign state, shall not be included. Direct and (or) indirect interest in these securities is deemed to be held by the person who is the creditor (who lends the securities), except for cases when the securities transferred under a securities lending agreement were received by the creditor under another securities lending transaction or a REPO transaction.

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		3. Reporting controlled transactions. Taxpayers must annually report the controlled transactions of the previous year to the tax authorities. The reporting deadline is not later than the 20th of May of the year following the reporting year. If the taxpayer fails to file such a report to the tax authorities, the taxpayer will face a fine of RUB5,000.The same fine will be imposed on the taxpayer for reporting incorrect data. At the same time, the Code says that the taxpayer may file adjustments where the initial report has contained incomplete, inaccurate or incorrect data. By doing so, the taxpayer would give the tax authorities grounds for holding the taxpayer liable. Therefore, filing such adjustments would be to the detriment of the taxpayer. This loophole has been filled by exempting taxpayers starting 2 May 2014 from the fine for reporting incorrect data on controlled transactions if the relevant adjustments are submitted before the tax authorities establish any irregularities.	In the event that the obligations that would result in the securities being returned in accordance with the relevant securities lending transactions are not fulfilled or only partially fulfilled, an organization's interest in another organization shall be determined without taking this clause into account. 3.3. When determining ownership interest in an organization, ownership by an individual or organization in a foreign institution without an established legal entity, which pursuant to its personal law has the right to participate in the capital of other organizations or in other foreign institutions without an established legal entity, shall also be included. Paragraph 2 of clause 1 of Article 105.3 of the Code clarifies that, if "non-market prices" applied in controlled transactions did not result in the overstatement of **losses** (and not only in the understatement of the tax amount, as it was before), then the tax base need not be adjusted. This rule is also valid if the taxpayer independently adjusted the amount of **losses** (clause 3 of Article 105.3 of the Code). Furthermore, the tax authority may adjust not only the tax amount, but also the **loss** amount, if it was overstated (clause 5 of Article 105.3 of the Code, as amended by Federal Law No. 150-FZ of 8 June 2015 that came into force on 8 July 2015). If the taxpayer makes an adjustment independently, such taxpayer is obliged to provide information enabling the identification of the transaction in respect of which the adjustment was made. This information must be included in the clarifications attached to the **revised** tax declaration (clause 6 of Article 105.3 of the Code).

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			The **added** provision states that transactions are controlled, if one of the parties is a resident of a free economic zone, and the other party is not (subclause 5, clause 2 of Article 105.14 of the Code as amended by Federal Law No. 379-FZ of 29 November 2014). The transfer pricing documentation must contain not only tax base adjustments, but also loss adjustments (if such adjustments were made (paragraph 8, subclause 2, clause 2 of Article 105.15 of the Code)). It is specified that in case the revised tax declaration was submitted with a decreased tax base (the loss increased) as a result of an adjustment in connection with transfer pricing, then the tax authority may carry out an audit within 2 years of the day of submission of the revised declaration. Furthermore, the tax authority has the right to carry out repeat audits in respect of one controlled transaction, should such revised declarations be submitted (clause 2 of Article 105.17 of the Code). An additional clause 2.1 was added to Article 105.17 of the Code. It states that a special declaration submitted pursuant to the Federal Law "On Voluntary Declaration by Individuals of Assets and Accounts (Deposits) in Banks and on Amendments to Certain Legislative Acts of the Russian Federation" and (or) documents and (or) information attached to it, as well as information contained in the above special declaration and (or) documents, may not be the basis for a decision by the territorial tax authority to carry out an audit and (or) to issue a notice. The taxpayer can carry out a **symmetrical adjustment** not only when the tax authority has taken a decision to charge additional tax, but also in the event of a decrease in the loss amount (clause 2 of Article 105.18 of the Code).

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			The right to make a symmetrical adjustment arises following receipt of a respective notification from the tax authority. Taxpayers are given the right to demand interest from the tax authority (calculated on the basis of the refinancing rate of the Central Bank of Russia), should it delay in notifying the other party of the controlled transaction that a symmetrical adjustment may be made (clause 5 of Article 105.18 of the Code). Such interest shall be charged on the entire possible symmetrical adjustment amount and for the whole period from the expiry date of the notification period until the date that this obligation is fulfilled. The amendments on symmetrical adjustments have retroactive effect and extend to relations that arose from 1 January 2015.
	13. Deoffshorization		The deoffshorization concept was introduced into the Tax Code by Federal Law No. 376-FZ of 24 November 2014. Deoffshorization includes 3 concepts: 1) controlled foreign companies (CFCs); 2) tax residency of legal entities; 3) de-facto income recipient (the "beneficiary owner" concept).
	13.1. <u>Controlled foreign companies (CFCs)</u>		Criteria for recognizing a company as a CFC (Article 25.13 of the Code): • the foreign company is not a Russian tax resident; and • is controlled by tax residents of the Russian Federation (organizations or individuals). A foreign institution without an established legal entity, the controller of which is an organization and (or) an individual deemed to be tax residents of the Russian Federation, is

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			also deemed to be a controlled foreign company. A company meeting the following conditions is deemed to be the controlling foreign company: Before 2016, an entity shall be deemed to be the controlling person pursuant to clause 3 of Article 25.13 in case its ownership interest in an organization (for individuals — together with spouses and minor children) is over 50 percent. After 2016: 1) an individual or a legal entity, the ownership interest of which in this organization is over 25 percent 2) an individual or a legal entity, the ownership interest of which in this organization (for individuals — together with spouses and minor children) is over 10 percent, if the ownership interest of all the entities deemed to be tax residents of the Russian Federation in this organization (for individuals — together with spouses and minor children) is over 50 percent. The entity is not deemed to be the controlling entity of a foreign organization, if its interest in this foreign organization is exercised only by means of direct and (or) indirect participation in one or more publicly traded companies that are Russian organizations (as amended by Federal Law No. 150-FZ of 8 June 2015). A entity in respect of whose interest in the organization the above conditions are not met, but who controls this organization for its own benefit or for the benefit of its spouse and minor children, is also deemed to be a CFC.

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			Control over an organization is deemed to be the exercise of influence or the possibility to exercise controlling influence on decisions made by this organization in respect of distribution of the organization's profit (income) after tax, as a result of (i) direct or indirect participation in such organization, (ii) being party to a contract (agreement), the subject of which is management of this organization, or (iii) other aspects of relations between the entity and this organization and (or) other entities (clause 6, clause 7 of Article 25.13 as amended by Federal Law No. 150-FZ of 8 June 2015). For the purposes of this Code, the founding shareholder (founder) of a foreign institution without an established legal entity is deemed to be the controlling entity of this institution (as amended by Federal Law No. 150-FZ of 8 June 2015). The founding shareholder (founder) of a foreign institution without an established legal entity is deemed not to be the controlling entity of this institution, if all the following conditions are met simultaneously in respect of this founding shareholder (founder): 1) this entity has no right to collect (demand the collection of), directly or indirectly, the profit (income) of this institution, in full or in part; 2) this entity has no right to dispose of the profit (income) of this institution or its part; 3) this entity has not reserved the right to property transferred to this institution (the property has been irrevocably transferred to this institution); The condition established in respect of the entity being the founding shareholder (founder) of a foreign institution without an established legal entity is deemed to be met, if

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			this entity has no right to reclaim ownership of the assets of this institution in full or in part in accordance with the personal law and (or) the constituent documents of this institution during the whole period of existence of this institution, as well as if it is wound up (liquidated, contract terminated). 4) this entity does not control this institution. Another entity, not being the founding shareholder (founder) of a foreign institution without an established legal entity, is also deemed to be its controlling entity, if such entity controls this institution, and in respect of such entity at least one of the following conditions is met: 1) this entity has the actual rights to the profit (its part) obtained by this institution; 2) this entity has the right to dispose of property of this institution; 3) this entity has the right to obtain property of this institution in case of its winding up (liquidation, contract termination) (clauses 10 to 12 of the Code as amended by Federal Law No. 150-FZ of 8 June 2015). The profit of the CFC shall be exempt from taxation if at least one of the below listed conditions is met (Article 25.13-1 of the Code as amended by Federal Law No. 150-FZ of 8 June 2015). 1) it is a non-profit organization that, pursuant to its personal law, does not distribute its profit (income) among shareholders (participants, founders) or other entities; 2) it is established in conformity with the legislation of a member state of the Eurasian Economic Union and has its domicile in this state;

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			3) the effective tax rate on income (profit) for this foreign institution, determined in conformity with this Article following the results of the period for which, pursuant to the personal law of this institution, financial statements of the financial year are drawn up, is not less than 75 percent of the weighted average tax rate of the profit tax on organizations (the effective and weighted average rates are determined by formulas); 4) it is one of the following controlled foreign companies: - an active foreign company; - an active foreign holding company; - an active foreign subholding company; An organization, no more than 20% of whose income is **passive** income, is deemed to be an active foreign company. Passive income is specified in subclauses 1 to 12, clause 4 of Article 309.1 of the Code: dividends, royalty, income from staffing services, etc. (clause 3 of Article 25.13-1 of the Code). 5) it is a bank or an insurance company carrying out their activities pursuant to their personal laws on the basis of a license or any other special permit for carrying out banking or insurance activities; 6) it is one of the following foreign companies: - an issuer of negotiable bonds; - an organization empowered to receive interest income due on negotiable bonds; - an organization to which rights and obligations on negotiable bonds issued by another foreign organization have been ceded;

Topic	Description	Status in October 2014	Status in October 2015
			7) it participates in mineral production projects implemented on the basis of production sharing agreements, concession agreements, license agreements or service agreements (contracts) similar to production sharing agreements or other similar agreements, concluded on a risk sharing basis (on condition that the income share from such projects must be not less than 90%), concluded with a foreign state (territory) or organizations empowered by the government of this state (territory); 8) it is an operator of a new offshore field of raw hydrocarbon deposits or the shareholder (participant) of an operator of a new offshore field of raw hydrocarbon deposits.
	13.2. Tax administration of CFCs		Taxpayers deemed to be tax residents of the Russian Federation shall notify the tax authority (clause 1 of Article 25.14 of the Code): 1. of their participation in foreign organizations (of the foundation of foreign institutions without an established legal entity). The notice of participation in foreign organizations shall be submitted not later than one month from the date when the ownership interest in this institution arose (changed) that is the basis for submitting this notice. The notice of participation in foreign organizations (of the foundation of foreign institutions without an established legal entity) set for 2015 shall be submitted to the tax authority with due regard to the following information: 1) the notice in respect of the ownership interest in foreign organizations (of the foundation of foreign institutions without an established legal entity) as of 15 May 2015 shall be submitted not later than 15 June 2015;

Topic	Description	Status in October 2014	Status in October 2015
			2) the notice shall not be submitted in case the ownership in the foreign organization was terminated, or the founded foreign institution without an established legal entity was liquidated in the period from 1 January 2015 to 14 June 2015, inclusive (subclause 1, clause 4 of Article 4 of the Code as amended by Federal Law No. 85-FZ of 6 April 2015). Should the grounds for submission of the notice of ownership in foreign organizations not change after this notice is submitted, then repeat notices shall not be submitted (paragraph 3, clause 3 of Article 25.14 of the Code). If the taxpayer‘s ownership in foreign organizations is terminated then it shall inform the tax authority thereof not later than one month from the date the ownership is terminated (paragraph 4, clause 3 of Article 25.14 of the Code) 2. of controlled foreign companies which they control. The notice regarding controlled foreign companies shall be submitted not later than 20 March of the year following the tax period in which the profit share of the controlled foreign company is subject to registration by the controlling person (paragraph 2, clause 3 of Article 25.14 of the Code). **Tax liability of CFCs:** The non-payment or underpayment of tax as a result of failure to include a share of CFC profit in the tax base entails a fine of 20% of the unpaid tax amount, but no less than RUB 100,000 (Article 129.5 of the Code). Unlawful failure to submit a notice of ownership in CFCs to the tax authority entails a fine of RUB 100,000 for each CFC (clause 1 of Article 129.6 of the Code).

Topic	Description	Status in October 2014	Status in October 2015
			Unlawful failure to submit a notice of ownership in a foreign organization to the tax authority entails a fine of RUB 50,000 for each foreign organization (clause 2 of Article 129.6 of the Code).
	13.3. CFC profit tax		The profit (loss) of the CFC is deemed to be the profit (loss) of the CFC before tax according to its financial statements drawn up pursuant to the personal law of this company for the given financial year, if, pursuant to its personal law, these financial statements are subject to compulsory audit, on condition that the domicile of this controlled foreign company is a foreign state with which the Russian Federation has an international agreement on taxation issues, taking into account the specifics stipulated in this Article. In other cases, the profit (loss) of the CFC is deemed to be the profit (loss) of the CFC determined in conformity with the rules stipulated by Chapter 25 of the Russian Tax Code (clause 1 of Article 309.1 of the Code as amended by Federal Law No. 376-FZ of 24 November 2014). The profit (loss) of each CFC must be confirmed by its financial statements prepared in conformity with the personal law of this company for the respective period(s), with its financial statements and tax returns appended. In case the profit (loss) of the CFC is determined according to general rules, the profit (loss) of the CFC must be confirmed by documents that enable the determination of the profit (loss), (for instance, bank account statements of the foreign controlled organization, source documents justifying transactions effected pursuant to normal business practice of the foreign company). The calculation of the CFC's profit excludes this company's income (expenses) in respect of the revaluation of securities and derivatives at market value,

Topic	Description	Status in October 2014	Status in October 2015
			as well as expenses on creating reserves and income from reserve recoveries. CFC profit includes the following types of income: 1) dividends received by this foreign company; 2) income received as a result of profit or property distributions by organizations, other persons or their associations, including in the event of their liquidation; 3) interest on debt obligations of any type, including participation and convertible bonds; 4) income from the use of intellectual property rights. These types of income include, among others, any payments received as compensation for exercising or granting the right to exercise any copyright in works of literature, art or science, including motion picture films and films or records for television or sound broadcasting, using (granting the right to use) any patents, trademarks, drawings or models, plans, secret formulas or processes, or using (granting the right to use) information relating to industrial, commercial or scientific experiments. 5) income from the sale of shares (equities) and (or) the cession of rights in foreign organizations that are not legal entities according to foreign law; 6) income from operations involving spot financial instruments (derivatives); 7) income from the sale of real estate; 8) income from the lease or sublease of property, including income from leasing transactions, except for income from the lease or sublease of sea-craft or aircraft and (or) vehicles, as well as containers used for

Topic	Description	Status in October 2014	Status in October 2015
			international carriage. Income from leasing transactions relating to the purchase and use of a leased asset by the lessee shall be calculated on the basis of the whole lease payment amount, excluding compensation of the cost of the leased asset (in the case of leasing) to the lessor; 9) income from the sale (including redemption) of investment units of unit investment trusts; 10) income from advisory, legal, accounting, audit, engineering, advertising, marketing, information processing services, as well as from R&D; 11) income from staffing services; 12) other income similar to the types of income listed above (passive revenue from paragraph 1 to paragraph 12); 13) other types of income (active revenue). The tax base shall be determined separately for each CFC. Should the financial statements of the CFC prepared pursuant to its personal law for a financial year show a loss, this loss may be carried forward to future periods without limitation, and it may be taken into account when determining the tax base of this company, unless otherwise provided for by the Code. The loss of an CFC as per the financial statements may not be carried forward to future periods if the taxpayer, as the controlling person, failed to submit a notice about the controlled foreign company in the period for which this loss was made.

Topic	Description	Status in October 2014	Status in October 2015
			A loss made by the CFC before 1 January 2015 as per the financial statements prepared pursuant to its personal law may be carried forward to future periods as long as its size does not exceed the amount of losses for the three financial years preceding 1 January 2015, and it may be taken into account when determining the tax base of this company. RF (clauses 2 to 9 of Article 309.1 of the Code as amended by Federal Law No. 376-FZ of 24 November 2014). Income received by the CFC from the sale of securities and (or) proprietary rights (including participation, units) to an organization deemed to be the controlling entity of this controlled foreign company pursuant to the provisions of the Code, or to its Russian affiliated entity, as well as expenses of the CFC associated with deriving such income, which are taken into account when determining the profit, of the controlled foreign company, accounted for in relation to the taxpayer - controlling person, shall be taken into account when determining the tax base to the extent confirmed by the accounting data of the CFC as of the date of transfer of ownership in such securities and (or) proprietary rights (including participation, units), but not higher than the market value of such securities and (or) proprietary rights (including participation, units) as of the date of ownership transfer determined in conformity with Article 280 of the Code, including specifics stipulated by Article 105.3 of the Code. Provisions of this clause shall also apply in the event that the shareholders (founding shareholders) of the CFC take a decision to liquidate the entity and its liquidation procedure is completed before 1 January 2017. The value of securities and (or) proprietary rights (including participation, units) purchased from the CFC by the taxpayer deemed to be the controlling entity, or its affiliated entity, shall be taken into account for this

Topic	Description	Status in October 2014	Status in October 2015
			taxpayer (its affiliated entity) to the extent confirmed by the accounting data of the CFC as of the date of transfer of ownership in such securities and (or) proprietary rights (including participation, units), but not higher than the market value of such securities and (or) proprietary rights (including participation, units) as of the date of transfer of ownership determined in conformity with Article 280 of the Code, including specifics stipulated by Article 105.3 of the Code (clause 10 of Article 309.1 of the Code shall apply before 1 January 2017). The tax amount assessed in respect of the CFC's profit for the respective period shall be reduced by the tax amount assessed in respect of this profit pursuant to the legislation of foreign states and (or) the legislation of the Russian Federation, as well as the tax on profit of organizations assessed in respect of the profit of the permanent establishment of this CFC in the Russian Federation. The tax amount assessed pursuant to legislation of the foreign state must be documented (clause 11 of Article 309.1 of the Code). The minimum threshold for inclusion of the CFC's profit in the tax base is RUB 10 million (clause 7 of Article 25.15 of the Code). Transition period: the minimum profit threshold is set at RUB 50 million for 2015, and at RUB 30 million for 2016. The CFC's profit shall be reduced by dividends paid to it in the calendar year following the year for which financial statements are prepared, taking into account interim dividends paid during the financial year for which these financial statements are prepared (clause 1 of Article 25.15 of the Code).

Topic	Description	Status in October 2014	Status in October 2015
			The taxpayer, being the controlling person, shall submit a tax declaration for tax, whose tax base takes into account the profit of the foreign company controlled by this person, appending the following documents: 1) financial statements of the controlled foreign company for the period, the profit for which is taken into account when determining the tax base for the tax in respect of which the tax declaration was submitted, or other documents in the absence of financial statements; 2) the audit report on financial statements of the controlled foreign company stipulated in subclause 1 of this clause, if the personal law or constitutive (corporate) documents of this controlled foreign company envisage the compulsory audit of such financial statements, or the audit is carried out by the foreign organization of its own free will (clause 5 of Article 25.15 of the Code as amended by Federal Law No. 150-FZ of 8 June 2015). If at the end of the period for which financial statements are prepared, the foreign organization has no possibility of distributing profit because the personal law obliges it to spend the profit on increasing the authorized capital, such profit is not accounted for when determining the tax base of the controlling person (clause 8 of Article 25.15 of the Code).
	13.4. Tax residency of foreign organizations		The following entities are deemed to be tax residents of the Russian Federation (Article 246.2 of the Code as amended by Federal Law No. 150-FZ of 8 June 2015): 1) foreign organizations deemed to be tax residents of the Russian Federation pursuant to the international agreement of the Russian Federation on taxation issues — for the purposes of application of this international agreement;

Topic	Description	Status in October 2014	Status in October 2015
			2) foreign organizations whose place of management is the Russian Federation, unless otherwise stipulated in the international agreement of the Russian Federation on taxation issues. The Russian Federation is deemed to be the place of management of the foreign organization, if at least one of the following conditions in respect of the foreign organization in question, and its activity, is met: 1) the executive body (bodies) of the organization regularly carry out activities thereof in respect of this organization from the Russian Federation; 2) senior executives (managers) of the organization (the persons empowered to plan, control and manage the company's activity, and who bear liability for it) mainly manage this foreign organization in the Russian Federation. If the above listed conditions are met in respect of the foreign organization, and this organization has submitted documents confirming that the same conditions are met in respect of another foreign state, then the Russian Federation is deemed to be the place of management of this foreign organization, if at least one of the following conditions is met in respect of this organization: 1) the bookkeeping or cost and management accounting of the organization (except for the preparation and drawing up of consolidated financial and management reports, as well as the activity analysis of the foreign organization) is maintained in the Russian Federation; 2) the records of the organization are kept in the Russian Federation;

Topic	Description	Status in October 2014	Status in October 2015
			3) the staff of the organization is managed on a daily basis in the Russian Federation. The following activities carried out by the foreign organization in the Russian Federation may not by themselves be deemed to be management of the foreign organization in the Russian Federation: 1) preparation and (or) decision making on issues pertaining to the competence of the general shareholders' (participants') meeting of the foreign organization; 2) preparation for a meeting of the Board of Directors of the foreign organization; 3) exercise in the territory of the Russian Federation of certain functions of planning and control of the activity of the foreign organization. These functions include among others strategic planning, budgeting, preparation and drawing up of consolidated financial and management statements, analysis of the activity of the foreign organization, internal audit and internal control, as well as adoption (approval) of standards, methodologies and (or) policies covering all the subsidiaries of this organization or their substantial part. The organizations meeting one of the following conditions (no matter whether they meet the conditions listed above) are deemed to be tax residents of the Russian Federation (clause 6 of Article 246.2 of the Code): 1) the foreign company participates, that being its main activity, in projects under production sharing, concession, license or service agreements (contracts) on the basis of risk, or other similar agreements with the government of the respective state (territory), or with the institutions (government bodies, state companies) empowered by this government, and is a party to these agreements;

Topic	Description	Status in October 2014	Status in October 2015
			2) the foreign organization is deemed to be, pursuant to the Tax Code, an active foreign holding company or an active foreign subholding company; 3) the foreign organization is an operator of a new offshore field of raw hydrocarbon deposits or the shareholder (participant) of the operator of a new offshore field of raw hydrocarbon deposits. Foreign organizations simultaneously meeting all the following conditions are deemed **NOT** to be tax residents of the Russian Federation (clause 7 of Article 246.2 of the Code): 1) the foreign organization is the issuer of negotiable bonds, an organization empowered to receive interest income and other types of income due on negotiable bonds, or an organization to which rights and obligations arising from negotiable bonds issued by another foreign organization were ceded; 2) the requirements stipulated in clause 2.1 of Article 310 of the Code are met in respect of negotiable bonds; 3) the foreign organization is domiciled in a state with which the Russian Federation has international agreements that govern matters of income taxation of organizations and individuals; 4) the specified income share of the foreign organization for the period, for which financial statements of the financial year are drawn up, is not less than 90 percent of the total amount of the aggregate income of this organization for the specified period. A foreign organization domiciled in a foreign state that carries out its activity in the Russian Federation via an

Topic	Description	Status in October 2014	Status in October 2015
			autonomous subdivision has the right to recognize itself independently as a tax resident of the Russian Federation. For the purpose of profit tax assessment, a foreign organization has the right to choose whether to recognize itself independently as a tax resident of the Russian Federation from 1 January of the calendar year in which it applied for self-recognition as a tax resident of the Russian Federation, or from the moment that it submitted the application for self-recognition as a tax resident of the Russian Federation to the tax authority at the place of registration of its permanent establishment. If a foreign organization recognizes itself as a tax resident of the Russian Federation independently and complies with the Code provisions and other rules and regulations of the Russian Federation in respect of tax residents of the Russian Federation, it is not deemed to be a controlled foreign company. The foreign organization mentioned in this clause shall notify the tax authority at the place of registration of any autonomous subdivision of its self-recognition as a tax resident of the Russian Federation, as well as of any refusal of status of tax resident of the Russian Federation.

Topic	Description	Status in October 2014	Status in October 2015
	13.5. De-facto income recipient ("beneficiary owner" concept)		A person with actual the right to income (the income "beneficiary owner") for the purposes of application of the Code and international agreements of the Russian Federation shall be recognized as (clause 2 of Article 7 of the Code): ▪ a person who in virtue of direct and (or) indirect participation in the organization or control over the organization, or in virtue of other circumstances has the right to use and (or) dispose on his own of this income, OR ▪ a person in whose benefit another person has the right to dispose of this income. When determining whether a person has the actual right to income, the functions exercised by the persons shall be taken into account, as well as the risks that they accept, (clause 3 of Article 7 of the Code). If the recipient of income has no actual right to this income, then provisions of a double taxation agreement concluded with the jurisdiction where the company being the beneficiary owner was founded may applied (where such double taxation agreement exists) (subclause 2, clause 4 of Article 7 of the Code). The Code allows the possibility to apply national legislation (the tax is not collected from source) on condition that the tax authority at the place of registration is informed (subclause 1, clause 4 of Article 7 of the Code).
	13.6. Indirect disposal of property		Amendments were introduced to the "indirect disposal of property" concept that existed earlier and is formalized in subclause 5, clause 1 of Article 309 of the Code. The new version contains the condition under which the sale of a company, not only directly, but also indirectly, over 50% of whose assets are properties, is treated as generating income of a foreign organization from sources in the Russian Federation and is taxable (as amended by Federal Law No. 376-FZ of 24 November 2014).

Topic	Description	Status in October 2014	Status in October 2015
	14. Procedure and conditions for granting a deferral of tax and levy payments and the possibility to pay by instalments		The Russian Tax Service, and not the Government of the Russian Federation as it was previously, now has the power to grant a deferral (the possibility to pay by instalments) of payment of federal taxes relating to the part payable to the federal budget, and for a period of no more than three years. The provision allowing the deferral (the possibility to pay by instalments) in respect of payments of federal taxes for a period not exceeding 5 years if agreed by the Minister of Finance of the Russian Federation, has been abolished (clause 1 of Article 64 of the Code as amended by Federal Law No. 49-FZ of 8 March 2015). The amendments became effective as of 9 April 2015.
	15. Collection of debts on taxes, fines and penalties		Tax (penalty, fine) debts not exceeding RUB 5 million may be collected by the tax office from the bank account of the organization without recourse to the courts (subclause 1, clause 2, clause 8 of Article 45 of the Code as amended by Federal Law No. 347-FZ of 4 November 2014).
2. VAT	**1. Tax benefits**	Sellers of critical and vital medical devices claiming a tax benefit are required to present to the tax authorities a **registration certificate for a medical device or, until 1 January 2017, a registration certificate for a device for medical use (medical equipment).** (Article 149.2.1 of the Code as amended by Federal Law No. 317-FZ of 25 November 2013). Since Federal Law No. 215-FZ of 23 July 2013 took effect, **tax exemption shall apply to services involving the provision of museum objects and museum collections, the organization of exhibitions of displays and the presentation of shows, concerts and concert programs and other entertainment programs at a location other than the location of an organization which carries out activities in the area of culture and art** (Article 149.2.20 of the Code). Since Federal Law No. 198-FZ of 23 July 2013 took effect, tax exemption shall not apply to **services related to the**	Federal Law No. 83-FZ of 6 April 2015 suspended the effect of the provisions of paragraph 3, subclause 7, clause 2 of Article 149 of the Code until 1 January 2017 in relation to rail passengers on suburban trains.

Topic	Description	Status in October 2014	Status in October 2015
		organization and conduct of gambling (the wording is a duplicate of an updated version of Federal Law No. 244-FZ, "On State Regulation of Gambling Organization and Conduct and Amending Certain Legislative Acts of the Russian Federation" of 29 December 2006). However, the new wording is broader than the old provision that ceased to be in force: "tax exemption applied to the organization of pari-mutuel betting and other risk-based games, including games involving gambling machines, by legal entities and individual entrepreneurs in the gambling industry" (Article 149.2.28 of the Code). **Federal Law No. 420-FZ of 28 December 2003 amended Article 149.2 of the Code to include the following two provisions:** **29) VAT shall not apply to services involving the fiduciary management of pension assets, payment reserve resources and pension assets** of insured persons who have been awarded a fixed-term pension payment which are rendered in accordance with the legislation of the Russian Federation relating to the formation and investment of pension assets; **30) VAT shall not apply to the cession (assignment) of rights (claims)** in respect of obligations arising on the basis of term transaction financial instruments, the sale of which is exempt from taxation according to Article 149.2.12 of the Code. Starting 1 January 2014, tax also shall not apply to work financed from certain sources. According to a new version of Article 149.3.16 of the Code, **VAT shall not apply to research and development activities financed by foundations for the support of scientific, scientific and technical, and innovation activities**. Such foundations shall be established in accordance with Federal Law No. 127-FZ, "On Science and State Scientific and Technical Policy" of 23 August 1996.	

Topic	Description	Status in October 2014	Status in October 2015
		In addition, the legislation was amended to specify that VAT shall not apply to research and development activities financed out of treasuries that comprise Russia's budgetary system, not research and development activities financed with public funds, as stated previously. **No question should now arise as to whether VAT exemption should apply to research and development activities financed out of the treasuries of foreign states – such activities would be taxed.** Starting 1 October 2014, VAT shall not apply to the import of consumables into Russia for scientific research purposes where such consumables are not manufactured in the country. The list of such materials and the exemption procedure shall be established by the Government of the Russian Federation (Article 150.1.17 of the Code, introduced by the Federal Law 151-FZ of 04 June 2014).	
	2. Moment of the tax base determination	The general rule is that goods which are not shipped or transported but undergo a change of ownership shall be deemed to have been shipped at the moment of transfer of ownership. **The only exclusion** is the sale of immovable property for which the VAT base shall be determined starting 1 October 2014 at the date of transfer of immovable property to the buyer thereof **under a certificate of transfer or another immovable property transfer document** (Article 167.16 of the Code, introduced by the Federal Law 420-FZ of 28 December 2013).	
	3. VAT invoices, purchase and sales ledgers and journals	According to the amendments, the VAT invoice issuance requirement shall remain in force only for persons exempted from fulfilling taxpayer obligations under Article 145 of the Code. Where goods (work, services) are sold by taxpayers that are exempted from fulfilling taxpayer obligations under Article 145 of the Code, **VAT invoices shall be issued with no tax actually charged** (Article 168.5 of the Code, as amended by	**The general obligation to keep journals of VAT invoices is abolished from 1 January 2015** (clause 3 of Article 169 of the Code as amended by Federal Law No. 81-FZ of 20 April 2014). Beginning from this date, such journals shall only be kept for VAT invoices received and (or) issued in the course of entrepreneurial activities carried out for the benefit of another entity, either by a property developer or on the

Topic	Description	Status in October 2014	Status in October 2015
		the Federal Law 420-FZ of 28 December 2013). Starting 1 January 2014, **neither VAT invoices nor journals of VAT invoices nor purchase/sale ledgers shall be required for VAT-exempt operations specified in Article 149 of the Code.** According to the Russian Ministry of Finance, **this exemption should also apply to tax agents in respect of such operations.** In addition, starting 1 October 2014, the **VAT invoice issuance requirement shall not apply to the sale of goods** (work, services, property rights) to **persons with VAT-exempt status** or taxpayers that are **exempted from fulfilling taxpayer obligations subject to mutual agreement**. Federal Law No. 81-FZ of 20 April 2014 introduced amendments stipulating that VAT invoices **issued by an individual entrepreneur shall be signed by this individual entrepreneur or another person authorized to do so on behalf of the individual entrepreneur by the power of attorney that carries the state registration details of this individual entrepreneur (Article 169.6** of the Code, as amended by the Federal Law 81-FZ of 20 April 2014).	basis of the following: • a commission agreement; • an agency agreement that provides for the sale and (or) purchase of goods (works, services, proprietary rights on behalf of the agent); • a freight forwarding agreement. VAT invoices issued (received) in the course of these activities shall be registered both by taxpayers, irrespective of whether they are exempted from fulfilling taxpayer obligations, and by entities with VAT-exempt status. VAT invoices issued by intermediaries (freight forwarders, property developers) for amounts equal to their fees under the respective contracts shall not be recorded in the journals of VAT invoices received and issued after 31 December 2014 (clause 3.1 of Article 169 of the Code as amended by Federal Law No. 238-FZ of 21 July 2014). **From 1 January 2015** clause 5.2 of Article 174 of the Code became effective. **It provides for the obligation to submit electronic journals of received and issued VAT invoices to the tax authorities**. **This rule shall apply to:** • entities with VAT-exempt status (e.g., entities applying the simplified taxation system); • taxpayers exempt from assessing and paying VAT. These entities shall submit journals **in the event that they are not tax agents and issue (receive) VAT invoices when carrying out activities in favor of another entity on the basis of intermediary agreements (an agency agreement, a commission agreement) or on the basis of a freight forwarding agreement, as well as when exercising the functions of a property developer**. The said obligation shall apply

Topic	Description	Status in October 2014	Status in October 2015
			to freight forwarders provided that they include fees received in their income when determining the base for personal income tax, profit tax, taxes paid under the simplified taxation system, and the unified agricultural tax. **Journals of received and issued VAT invoices shall be submitted no later than the 20th day of the month following the expired tax period** (clause 5.2 introduced by Federal Law No. 134-FZ of 28 June 2013, as amended as of 21 July 2014).
	4. Tax deductions and restoration	Starting 1 October 2014, the following amendment was introduced to paragraph 3 of Article 170.3.3 of the Code. The purchaser shall restore the amounts of VAT to the extent of the amount claimed as a deduction for the acquired goods (work performed, services rendered and property rights) with respect to payment or partial payment made in respect of the future supply of goods pursuant to the contractual terms, provided such terms are included. **The rule makes it clear that in cases when the cost of the goods shipped equals or exceeds the amount of payment made in respect of the future supply of goods, the amount of VAT shall be restored in the full amount previously claimed as a deduction. Where the cost of goods shipped is less than the amount of payment made in respect of the future supply of goods, the amount invoiced shall be restored.** **Where shipping is in stages, and where the terms of the contract prescribe to offset only a part of prepayment against the amount of goods shipped (and the rest of the amount, for example, shall be paid additionally by the purchaser), the amount of VAT shall be restored in this part 9**(as amended by the Federal Law 238-FZ of 21 July 2014). Article 172.6 of the Russian Tax Code amended on **1 October 2014 stipulates that the purchaser shall have the right to allow VAT as deduction in the amount calculated on cost of the goods shipped (work performed, services rendered, transferred property rights) where the amount of the**	When fixed and intangible assets are used in transactions that are subject to zero VAT, the previously deducted tax need not be restored (subclause 5, clause 3 of Article 170 of the Code ceased to be in force; Federal Law No. 366-FZ of 24 November 2014). VAT shall be deducted in full in respect of expenses whose amounts are regulated in law for the purpose of the profit tax, except for entertainment expenses (paragraph 2, clause 7 of Article 171 of the Code ceased to be in force; Federal Law No. 366-FZ of 24 November 2014). **A new Article 171.1 of the Code on the restoration of tax amounts deducted in respect of purchased or built items of fixed assets was introduced (Federal Law No. 366-FZ of 24 November 2014). This Article stipulates the following:** Tax amounts that will be deducted by the taxpayer in respect of purchased or built items of fixed assets according to the procedure envisaged in this Chapter are subject to restoration as provided for by the Code. The provisions of this Article (171.1 of the Code) in respect of the restoration of tax amounts shall apply to the tax amounts charged to the taxpayer (or paid or assessed by the taxpayer) and shall be deducted in the event of the following operations:

Topic	Description	Status in October 2014	Status in October 2015
		previous prepayment or partial prepayment are offset against the payment of such goods pursuant to the contractual terms, provided such terms are included (Clause 6 as amended by the Federal Law 238-FZ of 21 July 2014). The clarified provision corresponds to amended paragraph 3 of Article 170.3.3 of the Russian Tax Code.	1) construction of properties by contractors which are accounted for as fixed assets; 2) purchase of properties (except for aerospace-related properties); 3) purchase in the territory of the Russian Federation or import into the Russian Federation and other territories under its jurisdiction of sea craft, inland vessels, mixed river-sea-going vessels, aircraft and their engines; 4) purchase of goods (works, services) for construction and installation works; 5) carrying out of construction and installation works by the taxpayer for its own use. Tax amounts to be deducted by the taxpayer in respect of purchased or built fixed assets shall be restored in case such fixed assets will be later used by this taxpayer for tax-exempt operations, except for fixed assets that are fully depreciated or after at least 15 years since they were commissioned. The taxpayer is obliged to record the restored tax amount in the tax declaration submitted to the tax authorities at the place of registration for the last tax period of each calendar year during the ten years from the year when the asset was commissioned, irrespective of its state registration date. The tax amount to be restored and paid to the budget shall be calculated proportionately on the basis of one tenth of the tax amount to be deducted. The said proportion shall be determined on the basis of the value of goods shipped (works performed, services rendered), tax-exempt property rights transferred in the

Topic	Description	Status in October 2014	Status in October 2015
			total value of goods (works, services), property rights shipped (transferred) for the respective calendar year. The tax amount to be restored is not included in the value of this property, but in other expenses (clause 5 of Article 171.1 of the Code). In case of refurbishment (renovation) of fixed assets (including upon expiration of the period of 15 years) resulting in a change in their base cost, tax amounts for construction and installations works, as well as goods (works, services) purchased for the performance of construction and installation works during the refurbishment (renovation) to be deducted by the taxpayer according to the procedure stipulated in this Chapter shall be restored, should the said fixed assets be later used for tax-exempt operations. The taxpayer is obliged to record the restored tax amount at the end of each calendar year during the ten years from the first year of charging depreciation from the changed base cost of the fixed assets, in the tax declaration submitted to the tax authorities at the place of registration for the last tax period of each calendar year of the ten years (clause 6 of Article 171.1 of the Code). The tax amount to be restored and paid to the budget shall be calculated proportionately on the basis of one tenth of the tax amount to be deducted in respect of construction and installation works, as well as goods (works, services) purchased for the performance of construction and installation works during the refurbishment (renovation). The said proportion shall be determined on the basis of the value of goods shipped (works performed, services rendered), tax-exempt property rights transferred in the total value of goods (works, services), property rights shipped (transferred) for the calendar year. The tax

Topic	Description	Status in October 2014	Status in October 2015
			amount to be restored is not included in the value of this property, but in other expenses (clause 7 of Article 171.1 of the Code). If, before the expiration of the 15-year period, the fixed assets under refurbishment (renovation) are no longer included among the depreciated property, and are not used in the course of the taxpayer's activity for one year or several full calendar years, the tax amounts deducted for these years shall not be restored. The taxpayer is obliged to record the restored tax amount in the tax declaration submitted to the tax authority at the place of registration for the last tax period of each calendar year of the years remaining before the expiration of the ten-year period, beginning from the year of charging depreciation from the changed base cost of the fixed assets. The Article also specifies the calculation of tax amounts to be paid and restored (clauses 8, 9 of Article 171.1 of the Code).
	5. Tax declaration	**1) Starting 1 January 2014, taxpayers (including those which are tax agents) shall be obliged to submit VAT declarations in electronic form only via telecommunications channels (paragraph 1 of Article 174.5 of the Russian Tax Code).** The appropriate amendments were introduced as well to Article 80 of this Code. Under the amended Article effective from 1 January 2014, the list now includes taxpayers which shall be obliged to submit a declaration in electronic form as stipulated by Part II of the Code, i.e. VAT payers. It should be noted that tax agents which are not VAT payers or tax agents which are exempt from the performance of taxpayer obligations associated with the calculation and payment of tax have the right to submit VAT declarations in paper. **2) The revised Article 174.5 of the Code became effective on 1 January 2014 and requires the submission of VAT**	**1) From 1 January 2015 onwards, the last date of submission of the declaration is shifted from the 20th to the 25th day of the month following the expired tax period** (as amended by Federal Law No. 382-FZ of 29 November 2014). **1) From 1 January 2015 onwards, the last date of submission of the declaration is shifted from the 20th to the 25th day of the month following the expired tax period. This rule also applies to tax agents** (as amended by Federal Law No. 382-FZ of 29 November 2014).

Topic	Description	Status in October 2014	Status in October 2015
		declarations by taxpayers which are not VAT payers as well, when the invoice is issued with the amount of tax indicated in it. The declaration shall be submitted in electronic form via telecommunications channels. **3) Starting 1 January 2015, Article 174 will provide sources containing information to be included in the VAT declaration.** There must be included in a tax declaration information which is contained in the following documents: - The taxpayer's purchase ledger and sales ledger; - The record journal of received and issued invoices. This is related to cases when the invoices are issued and (or) received in the course of entrepreneurial activities carried out by a taxpayer (tax agent) in the interests of another individual on the basis of contracts of delegation. The information in relation to such activities shall also be provided; - In the invoices issued. This rule covers individuals which are referred to in Article 173.5 of this Code. Such individuals particularly include those which are exempt from VAT when they issue invoices with the amount of tax indicated in it. The Federal Tax Service of Russia regulates the scope of information which shall be included in the tax declaration and which is contained in the purchase and sales ledger, the record journal of received and issued invoices and in the invoices issued. The appropriate regulatory legal act has not yet been adopted.	
	6. Confirmation of zero VAT rate		**Effective as of 1 October 2015:** The register of shipping documents submitted to confirm the applicability of the zero VAT rate and tax deductions in the event of the provision of passenger and luggage carriage services, on condition that the departure and destination points are located outside the Russian Federation, shall also contain numbers of shipping documents, date and cost of passenger and luggage carriage services (subclause 2, clause 6 of Article 165 of

Topic	Description	Status in October 2014	Status in October 2015
			the Code as amended by Federal Law No. 452-FZ of 29 December 2014). Electronic registers, including registers of customs declarations (full customs declarations), shipping and other documents confirming the fact that services were provided may be submitted to confirm the zero VAT rate and tax deductions under certain sale of goods (works, services) transactions (clause 15 of Article 165 of the Code introduced by Federal Law No. 452-FZ of 29 December 2014).
	7. Taxable item		Transactions involving the sale of property and (or) property rights of bankrupt debtors shall not be subject to VAT (subclause 15, clause 2 of Article 146 of the Code introduced by Federal Law No. 366-FZ of 24 November 2014).
3. Excise duties	**1. Administration**		On 1 January 2015, Article 179.4 of the Code became effective. It provides for the issue of a certificate of registration of an entity carrying out operations with benzol, paraxylene or ortoxylene (as amended by Federal Law No. 366-FZ of 24 November 2000). On 1 January 2015, Article 205.1 of the Code was introduced. It provides rules for setting, assessment and payment of excise duty for natural gas (as amended by Federal Law No. 366-FZ of 24 November 2000).
	2. Increased rates	**The additional indexing affected the rate of excise duty for classes 4 and 5 of petrol.** The rate of excise duty on class 4 petrol in 2014 shall be RUB9,916 thousand (instead of RUB9,416 thousand) and the rate of excise duty on class 5 petrol shall be RUB6,450 thousand instead of the planned RUB5,750 (Article 193.1 of the Code, as amended by Federal Law No. 269-FZ of 30 September 2013).	**On 1 January 2015, the rates of excise duty for motor petrol were decreased.** For instance, for class 4 petrol it was reduced to RUB 7,300, for class 5 it was reduced to RUB 5,530 (clause 1 of Article 193 of the Code amended by Federal Law No. 366-FZ of 24 November 2014).
	3. Report on the use of denatured ethyl alcohol	Starting 1 January 2014, this regulation **ceased to be in force** (Federal Law No. 269-FZ of 30 September 2013).	

Topic	Description	Status in October 2014	Status in October 2015
	4. Exemption from paying excise duty	Starting 1 January 2014, an exemption from taxation is granted in the case of transfer of excisable goods, produced using raw materials, to the owner or to other parties under the instructions of the owner, **when excisable goods are shipped out of the territory of the Russian Federation under the export customs procedure (within natural wastage norms)** (Article 183.1.4 of the Code, as amended by Federal Law No. 269-FZ of 30 September 2013). Starting 1 January 2014, when performing operations which are exempt from paying excise duty, a **taxpayer shall present only a bank guarantee to the tax authority**. Content requirements of the bank guarantee, requirements to banks which may choose the guarantee and the list of such banks are established similar to the requirements stipulated by Article 74.1 of the Part I of the Code subject to certain specifics established by Article 184.2 of the Code. The bank guarantee shall stipulate a requirement for the bank to pay excise duty. The period of validity of a bank guarantee must not be less than 10 months.	From 1 July 2015, taxpayers, whose aggregate amount of paid VAT, excise duties, profit tax, and MET for the three calendar years preceding the current year is not less than RUB 10 bn, are exempt from submitting bank guarantees. This rule also applies to the owners of raw materials under raw materials processing agreements (clause 2.1, Article 184 of the Code introduced by Federal Law No. 150-FZ of 8 June 2015).
	5. Advance payments of excise duty	Starting 1 July 2014, where the manufacturers of alcoholic and (or) excisable alcohol-containing products use **crude ethyl alcohol imported from the territories of member states of the Customs Union, they shall make an advance payment** of excise duty under Article 194.8 of this Code (as amended by Federal Law No.269-FZ of 30 September 2013).	
	6. Tax deductions/refund of excise duty	**The technical updates were made** with the goal of eliminating difficulties that taxpayers face when applying for a refund. 1) The crediting or refund shall be executed in accordance with the procedure envisaged by Article 78 of the Code (the arrears shall be settled and the overpayments shall be refunded) (Article 203.2 of the Code); 2) Export confirming **documents** shall be presented **with the submission of a tax declaration**, which contains the right to a refund (Article 203.4 of the Code); 3) **The procedure of decision making** is aligned with the	Clauses 15 and 20 of Article 200 of the Code establish the rules for applying tax deductions (including with the use of a coefficient) to the excise duty amount assessed by the taxpayer who has a certificate for processing straight-run naphtha, or a certificate for carrying out operations with benzol, paraxylene or ortoxylene. These rules also apply to the excise duty amount assessed upon delivery of jet fuel to a taxpayer included in the Register of Civil Aviation Air Operators of the Russian Federation and possessing an air operator certificate (clause 21 of Article 200 of the Code as amended by Federal Law No. 366-FZ of 24

Topic	Description	Status in October 2014	Status in October 2015
		general rules established by Article 101 of the Code (Article 203.4 of the Code); 4) The declaration shall contain export information (contract date and number, tax period, amount of shipped excisable goods, the amount claimed for refund). **The new form of the tax declaration has not been adopted yet** (Article 203.4 of the Code, as amended by Federal Law No. 269-FZ of 30 September 2013).	November 2014). Clause 15 of Article 201 of the Code contains a list of documents that allow tax deductions from excise duties in respect of a taxpayer who has a certificate for processing straight-run naphtha, in the event that it is engaged in operations stipulated in the Code, providing that the obtained straight-run naphtha is used in the petrochemical industry and for the production of benzol, paraxylene or ortoxylene (clause 15 of Article 200 of the Code and clause 15 of Article 201 of the Code as amended by Federal Law No. 366-FZ of 24 November 2014). The new Article 203.1 of the Code (version of Federal Law No. 366-FZ of 24 November 2014) stipulates the procedure for recovery of excise duty for entities possessing a certificate for processing straight-run petrol and (or) a certificate for carrying out operations with benzol, paraxylene or ortoxylene, and (or) which are included in the Register of Civil Aviation Air Operators of the Russian Federation and possess an air operator certificate.
4. Personal income tax	**1. Tax base**		The tax base on income received from equity participation shall be determined separately from other types of income in respect of which the tax rate of 13% is applied, subject to rules stipulated in Article 275 of the Code (Article 210 of the Code as amended by Federal Law No. 366-FZ of 24 November 2014).
	2. Property-related tax deductions	As amended by Federal Law No. 212-FZ of 23 July 2013 (of 02 November2013): Starting from 1 January 2014, a taxpayer which has not used the amount of tax deduction in full when purchasing an item of property may use the rest of the amount of deduction in the event of an acquisition (construction) of another item of property (Article 220.9 of the Code).	Tax deductions (including property-related ones) shall not apply in respect of income from equity participation in an organization (clause 3 of Article 210 of the Code).

Topic	Description	Status in October 2014	Status in October 2015
		Starting 1 January 2014, a property-related tax deduction shall be attributed to an individual and not an item of property. Consequently, each of the co-owners shall have the right to claim the property-related tax deduction for the items of property they find appropriate. In this respect, it should be noted that the deductions related to the repayment of interests on special-purpose borrowings (loans) can be claimed only for one item of property in an amount not exceeding RUB3 million (Article 220.4 of the Code). Starting 1 January 2014, an application doesn't have to be presented (Article 220.3.7 of the Code). Starting 1 January 2014, parents (guardians, trustees, adoptive and foster parents) are granted the right to apply property-related tax deductions on expenses for the acquisition of an apartment and for the repayment of interests associated with items of property purchased by such individuals for the possession of their minor children (wards) (Article 220.6 of the Code). A taxpayer shall have the right to claim the property-related tax deductions from **one or several tax agents at his own discretion** (Article 220.8 of the Code). The right to a property-related tax deduction received from tax agents shall be approved by a tax authority over the period not exceeding 30 calendar days from the date of submission of a taxpayer's application and the documents confirming the right to receive property-related tax deductions (Article 220.8 of the Code). Where the taxpayer's income received from all the tax agents during the tax period is less than the amount of property-related tax-deductions, a taxpayer shall have the right to receive property-related tax deductions as envisaged by Article 220.7 of the Code (Article 220.8 of the Code).	

Topic	Description	Status in October 2014	Status in October 2015
		Where the taxpayer submits an application to receive the property-related tax deductions to the tax agent in due course and the tax agent withholds tax without taking this property-related deduction into account, the excess tax withheld after the application is received is to be refunded to the taxpayer (Article 220.8 of the Code).	
	3. Tax agents in securities transactions and transactions involving term transaction financial instruments	A list of individuals regarded as tax agents is updated, and the procedure for calculating and withholding tax by tax agents is unified. **Starting 1 January 2014, the new Article 226.1 took effect, "Special Considerations Relating to the Calculation and Payment of Tax by Tax Agents in the Context of Securities Transactions and Transactions Involving Term Transaction Financial Instruments and with Respect to Payments on Securities of Russian Issuers."** (introduced by Federal Law No. 306-FZ of 2 November 2013, as amended by Federal Law No. 420-FZ of 28 December 2013). The Article provides special considerations relating to the calculation and payment of personal income tax within securities transactions, transactions involving term transactions financial instruments, repo transactions involving securities, and securities lending operations. **The tax agent in the context of securities transactions and transactions involving term transaction financial instruments and with respect to payments on securities shall be:** 1) A fiduciary or broker which carries out securities transactions and (or) transactions involving term transaction financial instruments in the interests of the taxpayer; 2) A fiduciary in relation to income which is paid to the taxpayer on securities issued by Russian organizations for which related rights are recorded in the ledger account or depositary account of that fiduciary as at the date specified in the decision to pay (declare) income on the securities if the fiduciary is a professional participant in the securities market as at the date of acquisition of the securities referred to in this subsection;	

Topic	Description	Status in October 2014	Status in October 2015
		3) A Russian organization which pays income to the taxpayer on securities issued by that organization for which related rights are recorded in the register of securities; 4) A Russian organization which pays income to the taxpayer on securities issued by that Russian organization which, at the date specified in the decision to pay (declare) income, are recorded in an unidentified individuals' account opened by the register keeper, for individuals identified as having the right to receive the income in question; 5) A depositary which pays income to the taxpayer on securities issued; 6) A depositary which pays income to the taxpayer on securities issued by a Russian organization which, at the date specified in the decision to pay (declare) income on the securities, are recorded in an unidentified individuals' account opened by that depositary, for persons identified as having the right to receive the income in question; 7) A depositary which pays (transfers) income in monetary form to the taxpayer on the following types of securities which are recorded in a depositary account of a foreign nominee holder, a depositary account of a foreign authorized holder and (or) a depositary program depositary account. An individual who pays income to a taxpayer on securities issued by Russian organizations shall not be deemed to be a tax agent in relation to those payments if they are made in favor of a management company acting in the interests of a mutual investment fund. Where a tax agent determines the tax base for securities transactions, on the basis of an application from the taxpayer the tax agent may take into account actually incurred and documented expenses which are connected with the acquisition and storage of the securities in question and which the taxpayer incurred without the involvement of the tax agent, including prior to the conclusion of the agreement with the tax agent by reason of which the tax agent determines the tax base of the taxpayer.	

Topic	Description	Status in October 2014	Status in October 2015
		A tax agent shall also be obliged to calculate and withhold amounts of tax which were not withheld in full by an issuer of securities which is deemed to be a tax agent in relation to the payments in question. **The amount of tax shall be calculated and paid by a tax agent in the context of securities transactions and transactions involving term transaction financial instruments at the following times:** • After the end of a tax period; • Before the expiry of a tax period; • Before the expiry of a contract in favor of an individual. The amount of tax in respect of income on securities shall be calculated and paid by a tax agent with respect to payments of such income in favor of an individual. **A tax agent shall be obliged to withhold the calculated amount of tax from the RUB-denominated cash of the taxpayer which is at the disposal of the tax agent** in brokerage accounts, special brokerage accounts, special client accounts or special depositary accounts or in the bank accounts of a tax agent/fiduciary which are used by that fiduciary for the separate holding of monetary resources of principals, on the basis of the balance of the RUB-denominated cash of a client which has accrued in the accounts concerned at the date on which tax is withheld.	
	4. Payment of personal income tax on income from securities paid to foreign organizations acting in the interests of third parties	Where information is available, the tax shall be withheld at the rate set for this type of income. Where no information is available, the 30% tax rate shall be applied (Article 224.6 of the Code, introduced by Federal Law No. 306-FZ of 02 November 2013). Starting 1 January 2014, an additional exception was introduced to clause 8 of Article 214.6 of the Code according to	Income in the form of dividends was excluded from this rule (clause 6 of Article 224 of the Code as amended by Federal Law No. 366-FZ of 24 November 2014).

Topic	Description	Status in October 2014	Status in October 2015
		which: where income is received **in the form of dividends on shares in Russian organizations which are taxable at a tax rate** which is lower than the tax rate established by the Code or an international treaty of the Russian Federation, and the application of that reduced rate depends on compliance with conditions laid down in the Code or the above-mentioned international treaty, **the tax agent shall calculate and pay tax on that income at the rate which is established by this Code or the above-mentioned international treaty without applying the concessions in question.** Summarized information shall be presented to a tax agent by a foreign nominee holder, a foreign authorized holder or a person for whom a depositary opened a depositary program depositary account within the following time periods (Article 214.9 of the Code): 1) In the case of securities with mandatory centralized custody – **not later than five days** from the date as at which the depositary which carries out the mandatory centralized custody of the securities discloses information on the transfer to its depositors of payments due to them in respect of securities; 2) In the case of shares in Russian organizations – **not later than seven days** from the date as at which persons who have a right to receive dividends are determined in accordance with a decision of an organization. Tax audits Starting 1 January 2014, a special Article 214.8 was introduced to the Code, stipulating the types of documents that tax authorities shall have the right to request when performing in-house and on-site tax audits, as well the procedure for making the request and presenting the requested documents (introduced by Federal Law No. 306-FZ of 02 November 2013). Tax authorities shall have the right to request the following:	

Topic	Description	Status in October 2014	Status in October 2015
		1) Copies of identification documents for an individual who exercised rights in respect of securities; 2) Copies of identification documents for an individual in whose interests a fiduciary exercised rights in respect of securities; 3) Copies and originals of documents confirming that an individual exercised rights in respect of securities; 4) Copies and originals of documents confirming that a fiduciary exercised rights in respect of securities in the interests of an individual, and documents confirming the tax residence of the individual; 5) Other documents confirming the correct calculation and payment of tax, including documents supporting information presented by foreign organizations acting in the interests of third parties. The request to present documents shall be made to the tax agent in accordance with the procedure envisaged by Article 93 of the Code. Where the requested information and (or) documents are not available, the tax agent shall send to the foreign organizations acting in the interests of third parties to which the income on securities of Russian organizations was paid a request to present the documents in question. Documents shall be presented to the tax authority not later than three months from the day on which the tax agent receives the relevant request. The time period for the presentation of documents requested in accordance with this Article may be extended by the decision of a tax authority, but not by more than three months. Documents may also be requested by tax authorities from a competent authority of a foreign state in cases provided for in international agreements of the Russian Federation.	
	5. Dividend tax		The dividend tax rate was increased to 13% (previously, it was 9%) (clause 4 of Article 224 of the Code ceased to be in force — Federal Law 366-FZ of 24 November 2014).

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5. Mineral extraction tax (MET)	**1. Zero tax rate**	**Oil extraction on subsurface sites which lie wholly or partially within the borders of the Republic of Sakha (Yakutia), the Irkutsk Region and Krasnoyarsk Territory is subject to taxation at a zero rate until the accumulated volume of oil extraction reaches 25 million tons** on a subsurface site and provided that the period of development of the reserves of a subsurface site **does not exceed 10 years** or is equal to 10 years in the case of a license to use subsurface resources for the purposes of prospecting for and the extraction of mineral resources, and **does not exceed 15 years** or is equal to 15 years in the case of a license to use subsurface resources simultaneously for geological survey (exploration, prospecting) and extraction of mineral resources from the date of state registration of the respective license to use subsurface resources (Article 342.1.8 of the Code). In the case of subsurface sites t**he development of which is to be completed by 1 January 2022 and the level of its reserve depletion (L_d)** as of 1 January 2015 **is less than or equal to 0.05**, a zero tax rate shall apply to the quantity of mineral resources extracted on a particular subsurface site until the accumulated volume of oil extraction reaches 25 million tons on subsurface sites which lie wholly or partially within the borders of the Republic of Sakha (Yakutia), the Irkutsk Region and Krasnoyarsk Territory, and provided that the development term for the subsurface site does not exceed seven years or is equal to seven years beginning on 1 January 2015 (Article 342.1.8 of the Code). Subsurface sites which lie to the north of the Arctic Circle wholly or partially within the borders of Russia's inland sea waters, territorial waters, and on the continental shelf. In the case of subsurface sites for which a **license to use subsurface resources was issued prior to 1 January 2009 and the level of its reserve depletion (L_d)** according to the state's balance sheet of mineral resource reserves as of 1 January 2015 **is less than or equal to 0.05**, a zero rate shall	The provisions of clause 9 of Article 339 of the Code (determination of oil quantity) also apply to hydrocarbon reservoirs classified as Bazhenov, Abalak, Khadum or Domanik productive formations (as amended by Federal Law No. 366-FZ of 24 November 2014). It also specifies a requirement when determining oil quantity with a coefficient Cde of less than 1. According to this requirement, the quantity of oil produced shall be recorded for each separate well operating in the hydrocarbon field (or 'fields', in the event that the same coefficient Cde is applied in respect of all such fields) (subclause 1, clause 9 of Article 339 of the Code). Clause 1 of Article 342 of the Code concerning taxation based on the rate of 0%, or RUB 0 was amended as follows: - subclause 9, clause 1 of Article 342 of the Code — the exemption relates to subsurface areas with oil that has viscosity of at least **10,000 mPa×/s** (under reservoir conditions) (previously it was 200 mPa/s). - clauses 8, 10 to 12 and 14 to 16 of Article 342 of the Code ceased to be in force. They provided for taxation in respect of fields located within the boundaries of the Republic of Sakha (Yakutia), the Irkutsk Region, the Krasnoyarsk Territory, to the north of the Arctic Circle in full or in part within the borders of Russian inland waters and territorial waters, on the continental shelf of the Russian Federation, in full or in part in the Sea of Azov and the Caspian Sea, located in full or in part in the territory of the Nenets Autonomous District, the Yamal peninsula in the Yamal-Nenets Autonomous District, in full or in part in the Black Sea, in full or in part in the Sea of Okhotsk, in full or in part to the north of the 65th degree of latitude north of the equator in full or in part within the boundaries of the Yamal-Nenets Autonomous District, except for field sites situated in full or in part in the

Topic	Description	Status in October 2014	Status in October 2015
		apply to the quantity of mineral resources extracted at a particular subsurface site **until the accumulated volume of oil extraction reaches 35 million tons** at subsurface sites which lie to the north of the Arctic Circle wholly or partially within the borders of inland sea waters, territorial waters and on the continental shelf of the Russian Federation, **and provided that the development term for the subsurface site does not exceed seven years or is equal to seven years beginning on 1 January 2015** (Article 342.1.10 of the Code). Subsurface sites which lie wholly or partially in the territory of the Nenets Autonomous District and the Yamal peninsular in the Yamal-Nenets Autonomous District. In the case of subsurface sites the **development of which is to be completed by 1 January 2022 and the level of its reserve depletion (L_d)** as of 1 January 2015 **is less than or equal to 0.05**, a zero rate shall apply to the quantity of mineral resources extracted at a particular subsurface site until **the accumulated volume of oil extraction reaches 15 million tons** at subsurface sites which lie wholly or partially in the territory of the Nenets Autonomous District and the Yamal peninsular in the Yamal-Nenets Autonomous District, **and provided that the development term for the subsurface site does not exceed seven years or is equal to seven years beginning on 1 January 2015** (Article 342.1.12 of the Code). Subsurface sites which lie wholly within the borders of Russia's inland sea waters, territorial waters and on the continental shelf of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea. Tax shall be levied at a zero rate in the case of the extraction of hydrocarbons from a hydrocarbon reservoir at a subsurface site which lies wholly within the borders of inland sea waters, territorial waters and on the continental shelf of the Russian Federation or in the Russian part (Russian sector) of the bed of the Caspian Sea, provided that at least one of the following	territory of the Yamal Peninsula within the boundaries of the Yamal-Nenets Autonomous District. The tax shall be levied at a tax rate of 0% (RUB 0) in the case of production of: - oil from hydrocarbon fields classified as Bazhenov, Abalak, Khadum or Domanik productive formations, in conformity with the data of the State Register of Mineral Reserves, if all the following conditions are simultaneously met: - oil shall be produced from wells operating in compliance with the duly agreed project documentation, solely in hydrocarbon fields featuring the above mentioned productive formations; - oil produced from the above mentioned hydrocarbon fields shall be measured in conformity with the requirements stipulated by the Code; - oil shall be produced from hydrocarbon fields, the reserves of which are recorded in the State Register of Mineral Reserves approved as of 1 January 2012, and the level of reserve depletion of which, pursuant to the data of the State Register of Mineral Reserves as of 1 January 2012, is less than 13 percent, or oil reserves which were included in the State Register of Mineral Reserves after 1 January 2012. The said provisions shall apply from the tax period following the tax period in which oil reserves of the given hydrocarbon field were included in the State Register of Mineral Reserves, and until the expiration of 180 tax periods beginning from one of the following dates: 1 January 2014 — for hydrocarbon fields, whose level of reserve depletion, pursuant to data of the State Register

Topic	Description	Status in October 2014	Status in October 2015
		conditions is met: - The level of depletion of reserves of each type of hydrocarbon (excluding associated gas) extracted from the hydrocarbon reservoir in question as of 1 January 2016 is less than 0.1%; - Reserves of hydrocarbons extracted from the hydrocarbon reservoir in question as of 1 January 2016 have not been placed on the state balance sheet of reserves of commercial minerals (Article 342.1.20 of the Code). **These provisions shall apply** until the end of the tax period in which falls the date on which the process design for the development of the offshore hydrocarbon deposit within whose boundaries the relevant reservoir (reservoirs) is situated was first approved in accordance with the established procedure, but not for more than sixty calendar months beginning on the 1st of the month following the month in which any type of hydrocarbon from the relevant hydrocarbon reservoir which is subject to tax is first placed on the state balance sheet of commercial minerals (Article 342.1.20 of the Code).	of Mineral Reserves as of 1 January 2012, is over 1 percent or equal to 1 percent, but less than 3 percent; 1 January 2015 — for hydrocarbon fields, whose level of reserve depletion, pursuant to data of the State Register of Mineral Reserves as of 1 January 2012, is over 3 percent or equal to 3 percent; 1 January of the year in which the level of reserve depletion of the given hydrocarbon field (calculated by the taxpayer pursuant to the data of the State Register of Mineral Reserves approved in the year preceding the tax period year) exceeded 1 percent for the first time — for other hydrocarbon fields (subclause 21, clause 1 of Article 342 of the Code).
	2. Change in rates, including the application of adjustment coefficients	An adjustment coefficient reflecting the method of extraction of standard ores of ferrous metals (C_{und}) and determined in accordance with Article 342.1 of the Code will be effective from 1 January 2014 till 31 December 2023 (introduced by Federal Law No. 152-FZ of 02 July 2013). The coefficient reflecting the method of extraction of standard ores of ferrous metals (C_{und}) shall be taken to be equal to: 1) 0.1 in the case of the extraction of standard ores of ferrous metals at a subsurface site at which balance sheet reserves of ferrous metals to be worked by underground methods account for more than 90% of balance sheet reserves of ores of ferrous metals at that subsurface site; 2) 1 in the case of the extraction of standard ores of ferrous metals at a subsurface site which does not meet the criterion specified in subsection 1 of this clause. The value of the coefficient C_{und} shall be applied in relation to a	

Topic	Description	Status in October 2014	Status in October 2015
		subsurface site at which the extraction of standard ores of ferrous metals is expected to be completed in full not later than 1 January 2024. The procedure for confirming the completion of the extraction of standard ores of ferrous metals at a subsurface site as of a particular date shall be determined by the Government of the Russian Federation. RUB530 (during the period from 1 January through 31 December 2015) RUB559 per ton of extracted dewatered, desalted and stabilized oil (during the period from 1 January 2016) Additional adjustment coefficients for new offshore deposits are to be introduced (Article 342.2.1 of the Code). Tax shall be levied at the tax rate of: 1) 30% in the case of the extraction of commercial minerals until the expiry of the time periods and at the deposits which are referred to in Article 338.6.1 of the Code (the deposits which lie wholly in the Sea of Azov or have 50% or more of their area in the Baltic Sea); 2) 15% in the case of the extraction of commercial minerals until the expiry of the time periods and at the deposits which are referred to in Article 338.6.2 of the Code (the deposits which have 50% or more of their area in the Black Sea (up to 100 meters deep inclusively), the Pechora Sea, the White Sea or the Sea of Japan, the southern part of the Sea of Okhotsk (south of 55 degrees north latitude) or the Russian part (Russian sector) of the bed of the Caspian Sea); 3) 10% in the case of the extraction of commercial minerals (with the exception of natural fuel gas) until the expiry of the time periods and at the deposits which are referred to in Article 338.6.3 of the Code (the deposits which have 50% or more of their area in the Black Sea (more than 100 meters deep), the northern part of the Sea of Okhotsk (at or north of 55 degrees north latitude) or the southern part of the Barents Sea (south of	RUB 766 (for the period from 1 January to 31 December 2015, inclusive), RUB 857 (for the period from 1 January to 31 December 2016, inclusive), RUB 919 (for the period from 1 January 2017) per 1 ton of produced desalted, dehydrated and stabilized oil. The said tax rate shall be multiplied by the coefficient reflecting the trend of world oil prices ($К_{ц}$). The obtained product shall be decreased by the value of the indicator $Д_{м}$ reflecting the specifics of oil production. The indicator value $Д_{м}$ shall be determined as stipulated in Article 342.5 of the Code (subclause 9, clause 2 of Article 342 of the Code as amended by Federal Law No. 366-FZ of 24 November 2014). Subclauses 4 and 5, Clause 2 of Article 342 of the Code providing for the coefficient reflecting the level of reserve depletion of a certain subsurface site (Cd) and the coefficient reflecting the value of reserves of a certain subsurface site (Cr) ceased to be in force (as amended by Federal Law No. 366-FZ of 24 November 2014).

Topic	Description	Status in October 2014	Status in October 2015
		72 degrees north latitude); 4) 5% in the case of the extraction of commercial minerals (with the exception of natural fuel gas) until the expiry of the time periods and at the deposits which are referred to in Article 338.6.4 of the Code (the deposits which have 50% or more of their area in the Kara Sea, the northern part of the Barents Sea (at or north of 72 degrees north latitude) and the eastern Arctic (the Laptev Sea, the East Siberian Sea, the Chukchi Sea and the Bering Sea). In this respect, tax shall be levied at the tax rate of 4.5% in the case of the extraction of commercial minerals (with the exception of natural fuel gas) by organizations which do not have the right to export liquefied natural gas produced from natural fuel gas extracted at new offshore hydrocarbon deposits to world markets, until the expiry of the time periods and at the deposits which are referred to in Article 338.6.4 of the Code; 5) 1.3% in the case of the extraction of natural fuel gas until the expiry of the time periods and at the deposits which are referred to in Article 338.6.3 of the Code (the deposits which have 50% or more of their area in the Black Sea (more than 100 meters deep), the northern part of the Sea of Okhotsk (at or north of 55 degrees north latitude) or the southern part of the Barents Sea (south of 72 degrees north latitude); 6) 1% in the case of the extraction of natural fuel gas until the expiry of the time periods and at the deposits which are referred to in Article 338.6.4 of the Code (the deposits which have 50% or more of their area in the Kara Sea, the northern part of the Barents Sea (at or north of 72 degrees north latitude) and the eastern Arctic (the Laptev Sea, the East Siberian Sea, the Chukchi Sea and the Bering Sea). An additional adjustment coefficient reflecting the territory in which a commercial mineral is extracted (C_{te}) is to be introduced (with the exception of tax rates which are applied in relation to common commercial minerals and underground industrial and thermal waters) (Article 342.3 of the Code, as amended by Federal Law No. 267-FZ of 30 September 2013).	From 1 January 2015 onwards, the coefficient C_{te} may also be applied by the territories of advanced social and economic growth (clause 1 of Article 342.3 of the Code as amended by Federal Law No. 380-FZ of 29 November 2014). From 1 January 2015 onwards, the MET rate shall also be multiplied by one more coefficient, i.e. the adjusting coefficient (Cad) (subclause 15 of Article 342.4 of the Code as amended by Federal Law No. 366-FZ of 24 November 2014). The adjusting coefficient shall be taken to be equal to 4.4 from 1 January to 31 December 2015, 5.5 from 1 January to 31 December 2016, and 6.5 for the period from 1 January 2017. From 1 January 2015 onwards, the conventional rate of

Topic	Description	Status in October 2014	Status in October 2015
		The coefficient reflecting the territory in which a commercial mineral is extracted (C_{te}) shall be applied by a participant in a regional investment project aimed at the extraction of commercial minerals commencing from the tax period in which the organization was included in the register of participants in regional investment projects. The coefficient (C_{te}) shall be applied by a taxpayer provided that the conditions of the license to use subsurface resources are met and the requirements of the duly agreed and approved technical plan for the exploration and (or) development of a subsurface site are fulfilled. The coefficient (C_{te}) shall be taken to be equal to zero until the application of the zero tax rate of tax on the profit of organizations. During the one hundred and twenty tax periods from the commencement of the application of the zero rate of tax on the profit of organizations the coefficient (C_{te}) shall be taken to be equal to: 1) 0 – during the first twenty-four tax periods; 2) 0.2 – from the twenty-fifth to the forty-eighth tax period inclusively; 3) 0.4 – from the forty-ninth to the seventy-second tax period inclusively; 4) 0.6 – from the seventy-third to the ninety-sixth tax period inclusively; 5) 0.8 – from the ninety-seventh to the one hundred and twentieth tax period inclusively; 6) 1 – in subsequent tax periods. Formulas for calculating the MET rate for natural fuel gas and gas condensate. Starting 1 July 2014, new formulas for calculating the MET rate for natural fuel gas and gas condensate will become effective.	export customs duty for gas condensate $П_{н}$ shall be calculated by the taxpayer for each tax period pursuant to the procedure introduced by subclause 16 of Article 342.4 of the Code. The introduced Article 342.5 of the Code prescribes the procedure for determining the indicator reflecting the specifics of oil production $Д_{м}$ (as amended by Federal Law No. 366-FZ of 24 November 2014). On 1 January 2015, the coefficient “0”, that had been applied before in the case of oil production from a specific hydrocarbon field, was abolished (subclause 1, clause 1 of Article 342.2 of the Code). From 1 January 2015 onwards, the reduced coefficient shall be applied only before the expiration of 15 years (replacing ‘10 years’). Furthermore, reduced coefficients Cde shall be applied before the expiration of 15 years beginning from 1 January 2014 for hydrocarbon fields whose level of reserve depletion, pursuant to data of the State Register of Mineral Reserves as of 1 January 2013, is over 1 percent. Upon expiration of the said period, the value of the coefficient Cde shall be taken to be equal to 1 (clause 2 of Article 342.2 of the Code as amended by Federal Law No. 366-FZ of 24 November 2014).

Topic	Description	Status in October 2014	Status in October 2015
		According to Article 342.2.10 of the Code, new MET rate will be RUB42 per ton of the gas condensate. This amount shall be multiplied by the base value of a unit of standard fuel (Usf) and by a coefficient reflecting the degree of difficulty of the extraction of natural fuel gas and (or) gas condensate from a hydrocarbon reservoir (Cdf). Starting 1 July 2014, the tax rate for natural fuel gas is set at RUB35 per 1,000 cubic meters of gas. It shall be multiplied by Ufs and Cdf, and the product obtained shall be added to the value of the indicator reflecting expenses for the transportation of natural fuel gas (Tg). The tax rate calculated in accordance with the above principle shall be rounded to a whole rouble. The procedure for determining the coefficient Cdf as well as indicators Ufs and Cdf is given in Article 342.4 of the Code. Starting 1 January 2014, the tax rate for gas condensate extracted from all types of hydrocarbon deposits will be RUB647 per ton (Article 342.2.10 of the Code). The tax rate for natural fuel gas extracted from all types of hydrocarbon deposits will be RUB700 per 1000 cubic meters of gas (Article 342.2.11 of the Code). The tax rate shall be multiplied by 0.673 by the following taxpayers: - Taxpayers which are not during the entire tax period organizations which are owners of facilities of the Unified Gas Supply System; - Taxpayers which are not during the entire tax period organizations in which the owners of facilities of the Unified Gas Supply System have a direct and (or) indirect participating interest with the aggregate of such participating interests amounting to more than 50%. The coefficient reflecting the degree of difficulty of oil extraction (Cde) used to calculate the tax rate for dewatered, desalted and stabilized oil.	

Topic	Description	Status in October 2014	Status in October 2015
		Clause 1 of Article 342.2 of the Code determines five values of the coefficient reflecting the degree of difficulty of oil extraction (Cde): 0, 0.2, 0.4, 0.8 and 1. In order to apply the first four coefficient values the following conditions should be met: the extraction of oil from the deposits which are classed as occurring within certain productive formations or compliance with established permeability and net pay of the reservoir. As a general rule, a reduced coefficient Cde may be applied for a period of 10 to 15 years (depending on the grounds for the application of this exemption), beginning on 1 January of the year in which the depletion of a hydrocarbon deposit's reserves first exceeded 1%. However, starting 1 January 2015, there will be exceptions to this rule for: - All reservoirs that are subject to any reduced coefficient Cde. In the case when the level of depletion of reserves as of 1 January 2013 exceeds 1% and at the same time is less than 13% or 3% (depending on the grounds for the application of this exemption) for reserves recorded in the state balance sheet as of 1 January 2012, the 10- or 15-year period required to determine the end date of the period of use of the reduced coefficient Cde is calculated starting 1 January 2014; - The reservoirs which are classified as occurring within the Bazhenov, Abalak, Khadum and Domanik productive formations. The Cde zero tax rate is applied for oil extracted from these reservoirs before 1 January 2030 provided that the level of depletion as of 1 January 2012 exceeds 3%, but is less than 13% for reserves entered on the state balance sheet. The provisions listed above are aimed to encourage the development of hard-to-recover reserves. Refined procedure for calculating coefficient Cd for reserves which are not entered on the state balance sheet. In order to calculate the coefficient reflecting the level of depletion of reserves of a particular subsurface site (Cd) the	

Topic	Description	Status in October 2014	Status in October 2015
		initial recoverable oil reserves indicator as of 1 January 2006 is required. The amended clause specifies how to determine the value of Cd in the event that oil reserves as of the specific date were not entered on the state balance sheet of commercial minerals. According to Article 342.4.5 of the Code, in this case the initial recoverable oil reserves shall be determined on the basis of the indicator as of 1 January of the year following the year in which oil reserves were first entered on the state balance sheet of reserves of commercial minerals. According to clause 2 of Article 342.2 of the Code (amendments will take effect starting 1 January 2015), the date of the entry of oil reserves on the state balance sheet of reserves of commercial minerals shall be deemed to be the date when the federal executive body that maintains it approves the report on the state expert appraisal of reserves of commercial minerals.	
6. Corporate profits tax	**1. Interest on debt obligations**	According to paragraph 3 of Article 269.1 of the Code (the version effective from 1 January 2015), **with regard to any kind of debt obligation arising from transactions regarded as controlled transactions under the Code, interest charged based on the actual rate subject to provisions of Section V.1 of the Code shall be deemed an income (expense), unless provided otherwise.** With regard to a debt obligation arising from a transaction regarded as a controlled transaction under the Code, where any of the parties involved is a bank, the taxpayer has a right to: - Deem as an income the interest charged based on the actual rate on such debt obligations, where such a rate does not exceed the minimum value of the range of limiting values. - Deem as an expense the interest charged based on the actual rate on such debt obligations, where such a rate is less than the maximum value of the range of limiting values. If the above conditions are not met, with regard to debt obligations arising from transactions regarded as controlled	**On 1 January 2015**, the rules for registration of income from and expenses on interest for taxation purposes were amended as follows: 1. interest accrued under transactions that are not deemed to be controlled transactions pursuant to transfer pricing rules shall be accepted at the actual rate; 2. “controlled” interest rates shall be accepted at the actual rate, if they do not exceed the maximum/minimum values stipulated by clause 1.2 of Article 269 of the Code. Clause 1.2 of Article 269 of the Code defines the following ranges of values for interest rates on debt obligations: 1) on debt obligations in **roubles**: - on debt obligations in roubles arising as a result of a transaction recognized as controlled pursuant to clause 2 of Article 105.14 of this Code — from 0 to 180 percent (for the period from 1 January to 31 December 2015), from 75 to 125 percent (from 1 January 2016) of the key rate of the Central Bank of the Russian Federation; - on debt obligations in roubles not stipulated in the

Topic	Description	Status in October 2014	Status in October 2015
		transactions under the Code, where any of the parties involved is a bank, the interest charged based on the actual rate shall be deemed an income (expense). **Thin capitalization rules (Article 269.2 of the Code) remain unchanged.**	second paragraph of this subclause — from 75 percent of the refinancing rate of the Central Bank of the Russian Federation to 180 percent of the key rate of the Central Bank of the Russian Federation (for the period from 1 January to 31 December 2015), from 75 to 125 percent (beginning from 1 January 2016) of the key rate of the Central Bank of the Russian Federation; 2) on debt obligations in **EUR** — from the EUR interbank offered rate (EURIBOR) in EUR plus 4 percentage points to the EURIBOR rate in EUR plus 7 percentage points; 3) on debt obligations in **CNY** — from the Shanghai interbank offered rate (SHIBOR) in CNY plus 4 percentage points to the SHIBOR rate in CNY plus 7 percentage points; 4) on debt obligations in **GBP** — from the LIBOR rate in GBP plus 4 percentage points to the LIBOR rate in GBP plus 7 percentage points; 5) on debt obligations in **CHF or JPY** — from the LIBOR rate in the respective currency plus 2 percentage points to the LIBOR rate in the respective currency plus 5 percentage points; 6) on debt obligations in **other currencies** not mentioned in subclauses 1 to 5 of this clause — from the LIBOR rate in USD plus 4 percentage points to the LIBOR rate in USD plus 7 percentage points. 3. if the “controlled” interest does not comply with the above requirements, the interest shall be accounted for pursuant to transfer pricing rules.

Topic	Description	Status in October 2014	Status in October 2015
			Earlier, the new interest recognition rules for controlled transactions (CT) applied only to transactions with banks, but now they apply to all transactions (clause 1.1 of Article 269 of the Code as amended by Federal Law No. 32-FZ of 8 March 2015).
	2. Payment of profit tax on income from certain types of securities paid to foreign organizations acting in the interests of third parties	Starting 1 January 2014, an exception was introduced to clause 9 of Article 310.1 of the Code. The 30% tax rate does not apply to income received in the form of dividends on shares in Russian organizations which are taxable at a tax rate which is lower than the tax rate established by this Code or an international agreement of the Russian Federation, and the application of that reduced rate depends on compliance with conditions laid down in this Code or the above-mentioned international agreement. The tax agent shall calculate and pay the amount of tax at the rate which is established by this Code or the above-mentioned international agreement for income in the form of dividends on shares in Russian organizations without applying the appropriate exemptions. Summarized information shall be presented to a tax agent by a foreign nominee holder, a foreign authorized holder or a person for whom a depositary opened a depositary program depositary account within the following time periods (Article 310.10 of the Code): 1) In the case of securities with mandatory centralized custody – **not later than five days** from the date as at which the depositary which carries out the mandatory centralized custody of the securities discloses information on the transfer to its depositors of payments due to them in respect of securities; 2) In the case of shares in Russian organizations – **not later than seven days** from the date as at which persons who have a right to receive dividends are determined in accordance with a decision of an organization. **Special tax audits** Starting 1 January 2014, a separate Article 310.2 was introduced to the Code stipulating the types documents that tax	A condition has been added stipulating that if the summarized information on organizations has not been submitted to the depository, then income may be taxed at a rate of 15% (and not only at 30%). This concerns dividends paid on securities issued by Russian organizations, the rights to which are recorded on the depositary account of the foreign nominal holder, the depositary account of the foreign authorized holder and (or) the depositary program account, and paid to entities, information on which has not been submitted to the tax agent in conformity with the requirements of clause 310.1 of the Code (clause 4.2 of Article 284 of the Code, clause 9 of Article 310.1 of the Code).

Topic	Description	Status in October 2014	Status in October 2015
		authorities shall have the right to request when performing in-house and on-site tax audits, as well as the procedure for making the request and presenting the requested documents (introduced by Federal Law No. 306-FZ of 02 November 2013). **Tax authorities shall have the right to request the following:** 1) Copies of documents confirming the state registration and full name of an organization which, at the date specified in the decision of a Russian organization to pay income on securities, exercised rights in respect of securities of the Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization); 2) Copies of documents confirming the state registration and full name of an organization in whose interests, at the date specified in a decision of a Russian organization to pay income on securities, a fiduciary exercised rights in respect of securities of that Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization); 3) Copies and originals of documents confirming that, at the date specified in a decision of a Russian organization to pay income on securities, an organization exercised rights in respect of securities of that Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization), and documents confirming the tax residence of that organization; 4) Copies and originals of documents confirming that, at the date specified in a decision of a Russian organization to pay income on securities, a fiduciary exercised rights in respect of securities of that Russian organization (securities of a foreign organization certifying rights in respect of shares in the Russian organization) in the interests of an organization, and documents confirming the tax residence of that organization;	

Topic	Description	Status in October 2014	Status in October 2015
		5) Other documents confirming the correct calculation and payment of tax, including documents supporting information presented by foreign organizations acting in the interests of third parties. **The request to present documents shall be made in accordance with the procedure envisaged by Article 93 of the Code.** Where the requested information and (or) documents are not available, the tax agent shall send to the foreign organizations acting in the interests of third parties to which the income on securities of Russian organizations was paid a request to present the documents in question. Documents **shall be presented to the tax authority not later than three months** from the day on which the tax agent receives the relevant request. The time period for the presentation of documents requested in accordance with this Article **may be extended by the decision of a tax authority, but not by more than three months.** Documents **may also be requested by tax authorities from a competent authority** of a foreign state in cases provided for in international agreements of the Russian Federation.	
	3. Securities	Article 280 of the Code, "Special Considerations Relating to the Determination of the Tax Base Arising from Securities Transactions" is stated in a new version. Amendments pertain to the following (as amended by Federal Law 420-FZ of 28 December 2013): 1. The procedure for classifying the objects of civil rights as securities, **and the procedure for classifying securities as issuance securities** shall be established by the civil legislation of the Russian Federation and the applicable legislation of foreign states. **Securities issued in accordance with the applicable legislation of foreign states are classified as issuance**	Clause 1 of Article 280 of the Code now contains a new reference to clause 9 of Article 309.1. According to it, the tax base on income received by the controlled foreign company may be adjusted (as amended by Federal Law No. 376-FZ of 24 November 2014).

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		securities if they meet the criteria established by the Federal Law "Concerning the Securities Market." 2. **Where securities are recognized as circulating on the Russian organized securities market, the applicable legislation shall be understood to be the legislation of the Russian Federation.** 3. **The general procedure for determining expenses is also applied in the following cases:** - The liquidation of an organization which is the issuer of securities; - The liquidation of a borrower organization for the financing of whose loan (credit) debentures were issued; - The absence of obligations on the part of the organization which is the issuer of the securities to make payments in respect of those securities upon their redemption on any other grounds specified in the conditions of issue of the securities. **4. Amounts paid by a taxpayer upon the acquisition of securities in relation to which the conditions of issue provide for partial redemption of the nominal value of a security while it is in circulation shall be recognized as expenses as of the date on which the taxpayer actually receives partial redemption** of the nominal value in amounts corresponding to the proportion of payments actually received upon partial redemption of the nominal value to the total amount of nominal value payments which are redeemable under the conditions of issue of the security after the date on which the taxpayer acquired the security. Part 6 of Article 5 of Federal Law No. 420-FZ of 28 December 2013 provides for transitional provisions under which during the period until the full sale (disposal) of such securities a taxpayer shall apply the procedure for determining the tax base, which has been applied before the effective date of the Federal Law. 5. **Securities (except for those provided earlier for offsetting homogeneous counter-claims) shall be considered to have been sold (acquired) in the following cases:** 1) The offsetting of counter-claims arising from contracts concluded on the basis of a general agreement (unified	

Topic	Description	Status in October 2014	Status in October 2015
		contract), which conforms to the model conditions of contracts which are laid down in the Federal Law "Concerning the Securities Market," where such offsetting has taken place for the purpose of determining the amount of a net obligation; 2) The offsetting of counter-claims arising from contracts concluded on the basis of organized trading rules or clearing rules, where such offsetting took place for the purpose of determining the amount of a net obligation. 6. **Expenses incurred by a taxpayer in connection with the sale or other disposal of underlying securities received upon the redemption of depositary receipts** shall be determined on the basis of the acquisition price of the depositary receipts (including expenses associated with the acquisition thereof) and expenses associated with the sale (disposal) of the underlying securities. In this respect, where a taxpayer acquired depositary receipts when they were placed subject to the transfer of the underlying securities, the acquisition price of those depositary receipts shall be determined on the basis of the acquisition price of the underlying securities (including expenses associated with the acquisition thereof) and expenses associated with the transfer of the underlying securities. Expenses incurred by a taxpayer in connection with the sale or other disposal of depositary receipts received as a result of their placement shall be determined on the basis of the acquisition price of underlying securities transferred upon the placement of the depositary receipts (including expenses associated with the acquisition thereof), expenses associated with that transfer and expenses associated with the sale (disposal) of the depositary receipts. In this respect, where a taxpayer acquired underlying securities upon the redemption of depositary receipts, the acquisition price of those underlying securities shall be determined on the basis of the acquisition price of the depositary receipts, expenses associated with that acquisition and expenses associated with the redemption of the depositary receipts.	

Topic	Description	Status in October 2014	Status in October 2015
		The following shall not constitute a sale or other disposal of securities for the purposes of this Chapter: The redemption of depositary receipts when underlying securities are received; The transfer of underlying securities upon the placement of depositary receipts certifying rights in underlying securities. 7. In the case of a transaction with circulated securities through a Russian or foreign trade organizer, **the actual price of sale (acquisition) or other disposal of securities shall be recognized for tax purposes.** 8. **A taxpayer is entitled to accept for tax purposes an estimated transaction price determined using the methods stipulated in Chapter 14.3 of the Code when determining the financial result on transactions (including those not recognized as controlled transactions) with circulated securities and not apply the rules for determining a security price for tax purposes**, set up by Article 280 of the Code, provided that at least one of the following conditions is met: 1) A buyer of securities (together with affiliates) becomes an owner of more than 5% of the relevant issue of securities; 2) The number of securities exceeds 1% of the relevant issue of securities; 3) The price of securities is established by decision of the state or local authorities; 4) A buyer (seller) of securities is an issuer of these securities, including under offer. 9. **Losses record:** Losses determined in accordance with Article 274 of the Code including all income (expenses) comprising the overall tax base may be deducted from the tax base (profit) arising from transactions involving non-circulated securities and non-circulated term transaction financial instruments. Loss in the form of expenditures actually incurred for the acquisition of issuance securities (shares and debentures) whose issuing organization has been liquidated (including as a	

Topic	Description	Status in October 2014	Status in October 2015
		result of the application of bankruptcy proceedings) shall be wholly included in the appropriate tax base, depending on the category of the securities in question, as of the date of liquidation of the issuing organization. The above-mentioned loss shall be increased by the amount of accumulated interest (coupon) income on the securities in question which was previously taken into account in determining the tax base in accordance with Articles 271 and 328 of the Code but was not actually received by the taxpayer as a result of the liquidation of the issuing organization, unless a doubtful debt reserve was created for it, and shall be taken into account in determining the tax base in which the accumulated interest (coupon) in question was included as of the date of liquidation of the issuing organization. The rules established for the treatment of losses in the event of the liquidation of an organization shall also apply in relation to a loss made upon the liquidation of: A borrower organization in the event of the termination of obligations in respect of securities issued for the purpose of financing a loan (credit); An organization which is an issuer of underlying securities where, under the conditions of issue of securities, the performance of obligations in respect of the securities is made dependent on the performance of obligations in respect of the underlying securities. 10 **Professional participants in the securities market, trade organizers, stock exchanges, management companies and clearing organizations acting as a central counteragent, shall establish the tax base arising from securities transactions and term transaction financial instruments taking into account the provisions of Article 280.21 of the Code subject to the special conditions below and Article 304 of the Code.** For the purposes of the Code management companies shall be understood to mean management companies which carry out activities in accordance with Federal Law No. 156-FZ of 29 November 2001 “Concerning Investment Funds.” For the purposes of the Code, clearing organizations which	

Topic	Description	Status in October 2014	Status in October 2015
		perform the functions of a central counterparty shall be understood to mean clearing organizations which carry out activities in accordance with Federal Law No. 7-FZ of 7 February 2011 “Concerning Clearing and Clearing Activities.” Credit organizations which possess the appropriate license of a professional participant in the securities market issued by the Central Bank of the Russian Federation shall be equated with professional participants in the securities market for the purposes of this Chapter. Taxpayers such as those referred to in paragraph 1 of this clause shall reduce the total tax base by the amount of losses made on transactions involving non-circulated securities and non-circulated term transaction financial instruments. During a tax period, losses made by taxpayers such as those referred to in paragraph 1 thereof, in a particular reporting period of the current tax period, may be carried forward only within the limits of the amount of profit earned by those taxpayers.	
	4. Dividend tax		The dividend tax rate was increased to 13% (previously, it was 9%) (subclause 2, clause 3 of Article 284 of the Code as amended by Federal Law 366-FZ of 24 November 2014).
	5. Profit tax in the territories of advanced social and economic growth		Profit tax benefits were introduced in territories of advanced social and economic growth (introduced by Federal Law No. 380-FZ of 29 November 2015). Preferential profit tax rates were introduced for residents of the territories of advanced social and economic growth: **Federal budget:** 0% (clause 1.8 of Article 280 of the Code) and shall be applied during five tax periods beginning from the tax period in which, pursuant to the tax accounting data, the first profit was received from activity carried out under agreements on activities in the territory of advanced social and economic growth, unless otherwise stipulated in the Code (clause 3 of Article 284.4 of the Code).

Topic	Description	Status in October 2014	Status in October 2015
			Budget of a constituent entity of the Russian Federation: may not exceed 5 percent during five tax periods beginning from the tax period in which, pursuant to the tax accounting data, the first profit was received from activity carried out under agreements on activities in the territory of advanced social and economic growth, and may not be less than 10 percent during the following five tax periods (clause 4 of Article 284.4 of the Code). If the resident did not receive any profit from activity carried out under agreements on activities in the territory of advanced social and economic growth during the three tax periods beginning from the tax period in which this taxpayer was included in the register of residents of the territory of advanced social and economic growth, then the calculation of periods for profit tax to be paid to the federal budget and the budget of the constituent entity begins from the fourth tax period counting from the tax period in which this participant was included in the register of residents of the territory of advanced social and economic growth (clause 5 of Article 284.4 of the Code). Preferential profit tax rates may apply provided that the following conditions are met (clause 2 of Article 284.4 of the Code): 1) income from activity carried out under agreements on activities in the territory of advanced social and economic growth amounts to no less than 90 percent of the total income taken into account when determining the tax base pursuant to the Code; 2) the taxpayer records separately income (expenses) received (incurred) from activity carried out under agreements on activities in the territory of advanced social

Topic	Description	Status in October 2014	Status in October 2015
			and economic growth and the income (expenses) received (incurred) from other activities. The right to apply preferential rates is accorded to taxpayers who have obtained resident status in compliance with the law "On Territories of Advanced Social and Economic Growth in the Russian Federation", and which at the same time meet the following conditions (clause 1 of Article 284 of the Code): 1) the state registration of the legal entity was carried out in the territory of advanced social and economic growth; 2) the organization has no autonomous subdivisions located outside of the territory of advanced social and economic growth; 3) the organization does not apply any special tax regimes stipulated in the Code; 4) the organization is not a member of a consolidated taxpayer group; 5) the organization is not a non-profit organization, a bank, an insurance organization (insurer), a non-state pension fund, a professional participant of the securities market, or a clearing organization; 6) the organization is not a resident of a special economic zone of any type; 7) the organization is not a participant in any regional investment projects. In the event that its resident status in the territory of advanced social and economic growth is terminated, the taxpayer is deemed to have lost the right to reduced tax rates from the beginning of the quarter in which it was

Topic	Description	Status in October 2014	Status in October 2015
			excluded from the register of residents of the territory of advanced social and economic growth (clause 6 of Article 284.4 of the Code).
7. Corporate assets tax	**1. Tax base — cadastral value**	General provisions In accordance with clause 2 of Article 375 (as reworded by Federal Law No. 307-FZ of 02 November 2013) starting from 1 January 2014, **the tax base for certain items of immovable property shall be determined as their cadastral value** as of 1 January of the year of the tax period in accordance with Article 378.2 of this Code. **Special considerations relating to the determination of the tax base (cadastral value), the calculation and payment of property tax in relation to certain items of immovable property** are established by the provisions of the new Article 378.2 of the Code, in particular with relation to: 1) Administrative and business centers, shopping centers (complexes), and the premises therein; 2) Non-residential premises whose designated use in accordance with the cadastral certificates of items of immovable property or technical record-keeping (inventory) documents for items of immovable property provides for the siting of offices, trade establishments and public catering and consumer service establishments, or which are actually used for the siting of offices, trade establishments and public catering and consumer service establishments; 3) Items of immovable property of foreign organizations which do not carry on activities in the Russian Federation through permanent establishments, and items of immovable property of foreign organizations which are not connected with activities carried on by those organizations in the Russian Federation through permanent establishments.	Subclause 4 of clause 1 was added to Article 378.2; it prescribes that the tax base shall also be determined on the basis of the cadastral value of the following property (introduced by Federal Law No. 284-FZ of 4 October 2014): - residential buildings and dwelling premises that are not booked on the balance as fixed assets as per the prescribed accounting procedure. The new clause 4.1 of Article 378.2 of the Code (as amended by Federal Law No. 347-FZ of 4 November 2014) prescribes that a free-standing non-residential building (structure, facility), premises in which belong to one or several owners, shall be simultaneously recognized as an administrative and business center and a shopping center (complex), if this building (structure, facility) is designed for use or is actually used for business, administrative or commercial purposes, and at the same time for the purposes of shopping, public catering and (or) domestic servicing units. The building (structure, facility) is deemed to be designed for use for business, administrative or commercial purposes, and simultaneously for the purposes of

Topic	Description	Status in October 2014	Status in October 2015
		A law of a constituent entity of the Russian Federation establishing special considerations relating to the determination of the tax base on the basis of the cadastral value of items of immovable property may be adopted only after the results of the determination of the cadastral value of the items of immovable property have been approved by the constituent entity of the Russian Federation in accordance with the established procedure. A return to tax calculation based on the average annual value shall not be permissible. Clauses 3-5 of the new Article provide for the definitions of an "administrative and business center", "shopping center", and the "actual use of a non-residential premise." **The authorized executive body of a constituent entity of the Russian Federation shall, not later than the first day of a tax period for tax:** 1) Determine for that tax period a list of items of immovable property in relation to which the tax base is to be determined as the cadastral value; 2) Send the list in electronic form to the tax authority for the location of the relevant items of immovable property; 3) Post the list on its official site or on the official site of the constituent entity of the Russian Federation on the Internet. **The amount of tax and amounts of advance tax payments payable in respect of assets for which the tax base is determined as their cadastral value shall be calculated with account taken of the following special considerations:** 1) The amount of an advance tax payment shall be calculated after a reporting period has ended as one quarter of the cadastral value of an item of immovable property as of 1 January of the year constituting the tax period, multiplied by the appropriate tax rate; 2) Where the cadastral value of an item of immovable property was determined in accordance with the legislation of the	shopping, public catering and (or) domestic servicing units, if the purpose of the premises occupying at least 20 percent of the total area of this building (structure, facility) in conformity with the cadastral certificates for the respective properties or technical record-keeping (inventory) documents of these properties prescribes the siting of offices and supporting office infrastructure (including centralized reception premises, meeting rooms, office equipment, parking lots), shopping, public catering and (or) domestic servicing units. The actual simultaneous use of the building (structure, facility) for business, administrative or commercial purposes on the one hand, and for purposes of shopping, public catering and (or) domestic servicing units on the other, is recognized in the event of the use of at least 20 percent of the total area of this building (structure, facility) for the siting of offices and supporting office infrastructure (including centralized reception premises, meeting rooms, office equipment, parking lots), shopping, public catering and (or) domestic servicing units. The Code also clarifies the procedure for determining the tax base in the event of changes in the cadastral value of the property (clause 15 of Article 378.2 of the Code). Changes in the cadastral value of taxable items within the tax period shall not be taken into account when determining the tax base in the current and previous tax periods. Changes in the cadastral value of taxable items resulting from the correction of a technical error committed by the state cadastral registration authority when maintaining the state cadaster of real estate shall be taken into account when determining the tax base, beginning from the tax period in which this technical error was committed. In the event that the cadastral value changes following a

Topic	Description	Status in October 2014	Status in October 2015
		Russian Federation during a tax (reporting) period and (or) that item of immovable property has not been included in the list as of 1 January of the tax period, the determination of the tax base and the calculation of the amount of tax (the amount of the advance tax payment) for the current period in relation to that item of immovable property shall take place without taking into account the provisions of the new Article; 3) An item of immovable property shall be taxable for the owner of that property, except as otherwise provided in the Chapter. **Where the cadastral value has not been determined for items of immovable property, the tax base for those items of immovable property shall be taken to be equal to zero.** The following clause will be introduced from 1 January 2015: Where an item of immovable property was formed during the current tax period as a result of the division of an item of immovable property or another action conforming to the legislation of the Russian Federation involving items of immovable property which were included in the list as of 1 January of the year of the relevant tax period, **the newly formed item of immovable property, provided that it meets the criteria laid down in the Article, shall be taxable on the basis of the cadastral value determined as of the date of the state cadastral registration of the item in question prior to its inclusion in the list** (Article 378.2.10, as amended by Federal Law No. 52-FZ of 02 April 2014). **Special considerations for items of immovable property where ownership right has arisen (ceased) during a tax period** Based on the provisions of clause 5 of Article 382 of the Code (as reworded by Federal Law No. 52-FZ of 02 April 2014) starting from 1 January 2015, where ownership rights in items of immovable property such as those referred to in Article 378.2 of the Code, **arise (cease) for a taxpayer during a tax (reporting) period, the amount of tax (amounts of advance tax payments) payable in relation to those items of**	decision of the committee that examines disputes in respect of cadastral values, or following a court decision, the cadastral value set by the decision of the said committee or court shall be applied when determining the tax base beginning from the tax period in which the respective application for a revision of the cadastral value was submitted, but not earlier than the date of entry in the state cadaster of real estate of the cadastral value that was the subject of the dispute.

Topic	Description	Status in October 2014	Status in October 2015
		immovable property shall be calculated with adjustment for a coefficient determined as the ratio of the number of full months for which the items of immovable property were owned by the taxpayer to the number of months in the tax (reporting) period, except as otherwise provided by the Article.	
8. Insurance contributions to the Pension Fund of the Russian Federation, the Social Security Fund of the Russian Federation, the Federal Compulsory Medical Insurance Fund of the Russian Federation and regional compulsory medical insurance funds	**1. Insurance contribution base threshold**	Under Decree No. 1101 of the Government of the Russian Federation of 30 November 2013, the **index for 2014 amounted to 1.098.** Beginning 1 January 2015, payers of insurance contributions that make payments and provide other benefits to individuals accrue compulsory pension insurance contributions to be paid to the Pension Fund of the Russian Federation during the period of 2015-2021 using the insurance contribution base threshold that is set annually by the Government of the Russian Federation with account of the average wage in Russia determined for the given year and multiplied by 12, and the following multipliers for the respective financial year: 2015 – 1.7; 2016 – 1.8. The threshold for the base of compulsory pension insurance contributions to be paid to the Pension Fund of the Russian Federation is subject to annual indexation starting in 2022 (from 1 January of the given year) (Article 8.5.2 of Federal Law 212-FZ).	Under Decree No. 1316 of 4 December 2014 issued by the Government of the Russian Federation, the **index for the year 2015 amounted to 1.073.** The base threshold shall be set only in the event of charging insurance contributions to compulsory social insurance for temporary disability and maternity paid to the Social Security Fund of the Russian Federation (clause 5 of Article 8 of Law No. 212-FZ).
	2. Information about opening or closing accounts, autonomous subdivisions, reorganization and liquidation	Clause 3.1 **ceased to be in force on 1 May 2014 based on Federal Law No. 59-FZ of 02 April 2014.**	Subclauses 2 and 3 of clause 3 **will cease to be in force from 1 January 2015 based on Federal Law No. 188-FZ of 28 June 2014**.
	3. Extension of some preferential rates	During 2012-**2018**, a 20% rate set by the Russian Pension Fund and the "zero" rate set by the Russian Social Security Fund and the Russian Compulsory Medical Insurance Fund will apply to the following types of payers of insurance contributions	

Topic	Description	Status in October 2014	Status in October 2015
		(Article 58.3.4 of Federal Law 212-FZ): - Organizations and individual entrepreneurs using the simplified taxation system, with regard to certain types of activities; - Payers of insurance contributions that pay the unified tax on imputed income with regard to certain types of activities, pharmacies and individual entrepreneurs holding a license to engage in pharmaceutical activities; - Non-profit organizations (except for public and municipal institutions) that apply the simplified taxation system and are engaged, in accordance with the foundation documents, in social services, scientific research and development, education, health care, culture and art (activities of theaters, libraries, museums and archives) and mass sports (except for professional sports), subject to specific features; - Charitable organizations that apply the simplified taxation system; - Individual entrepreneurs that apply the license-based taxation system, with regard to payments and compensations accrued for individuals engaged in the economic activity that is specified in the license, except for individual entrepreneurs engaged in the established types of entrepreneurial activities.	
	4. Preferential insurance contribution rates for organizations and individual entrepreneurs engaged in the production and distribution of mass media	**2014 (total – 30%)** Pension Fund of the Russian Federation – 23.2% Social Security Fund of the Russian Federation – 2.9% Federal Compulsory Medical Insurance Fund – 3.9% Regional compulsory medical insurance funds – 0%	**2015 (no more than the base threshold — 30%; exceeding the base threshold — 10% to the Pension Fund of the Russian Federation (clause 1.1 of Article 58.2 of the Law 212-FZ, as amended by Federal Law No. 406-FZ of 1 December 2014)** Pension Fund of the Russian Federation — 22% Social Security Fund of the Russian Federation — 2.9% Federal Compulsory Medical Insurance Fund — 5.1%

Topic	Description	Status in October 2014	Status in October 2015
	5. Organizations rendering engineering services are transferred to the overall tax rate level.	**2014 (30% – not exceeding the maximum base, exceeding the maximum base – 10% to the Pension Fund of the Russian Federation)** Pension Fund of the Russian Federation – 22% Social Security Fund of the Russian Federation – 2.9% Federal Compulsory Medical Insurance Fund – 5.1% Regional compulsory medical insurance funds – 0%	**2015 (no more than the base threshold — 30%; exceeding the base threshold — 10% to the Pension Fund of the Russian Federation (clause 1.1 of Article 58.2 of the Law 212-FZ, as amended by Federal Law No. 406-FZ of 1 December 2014)** Pension Fund of the Russian Federation — 22% Social Security Fund of the Russian Federation — 2.9% Federal Compulsory Medical Insurance Fund — 5.1%
9. Simplified taxation system (STS)	**1. Deflator coefficient**	Order No. 652 of the Russian Ministry of Economic Development of 07 November 2013 established the deflator coefficients for 2014 at 1.067.	Order No. 685 of the Russian Ministry of Economic Development of 29 October 2014 established the deflator coefficients: 1.147 for the year 2015.
10. Refinancing rate	**1. Rate amount**	Starting from 14 September 2012, the refinancing rate was set at 8.25%.	Beginning from 14 September 2012, the refinancing rate was set at 8.25%.
11. State duty	**1. Decrease in the amounts of state duty**	1) Starting from 1 January 2015, a reduced rate of a state duty shall be applied for the state registration of changes in the foundation documents of all-Russian social organizations of disabled persons (their branches). 2) A reduction factor shall be applied to calculate the amount of state duty to be paid by individuals when performing legally significant acts with the use of portals of state (municipal) services and other portals integrated with a unified system of identification and authentication, and receiving a result in an electronic form.	The duty for the state registration of basic equipment used for the production of ethyl alcohol and (or) alcohol products (RUB 10,000 per unit of basic equipment) was cancelled (subclause 85, clause 1 of Article 333.33 of the Code ceased to be in force in conformity with Federal Law No. 312-FZ of 22 October 2014).
12. Trade duty			Federal Law No. 382-FZ (hereinafter referred to as the "Law") was signed on 29 November 2014. Among other changes, it expands the list of local taxes and duties and introduces trade duty (hereinafter referred to as the "trade duty"). The **trade duty** is a compulsory quarterly payment for the right to trade in respect of units used for trade activity.

Topic	Description	Status in October 2014	Status in October 2015
			General provisions The Law introduces a new Chapter of the Tax Code of the Russian Federation (hereinafter referred to as the "TC RF") — Chapter 33 "Trade duty". Trade duty may be introduced or cease to be in force subject to the provisions of Chapter 33 of the TC RF and municipal rules and regulations/laws of constituent entities of the Russian Federation (for cities of federal importance). Pursuant to Article 4 of the Law, trade duty may be introduced only in cities of federal importance (Moscow, St Petersburg and Sevastopol) not earlier than 1 July 2015. The Law also provides for the possibility of introducing trade duty in other territories on the basis of regulations of representative bodies of municipalities, but only after the adoption of a respective Federal Law (clause 1 of Article 410 of the Code). **Payers** Payers of trade duty are deemed to be organizations and individual entrepreneurs carrying out trade activities (clause 1 of Article 411 and Article 413 of the Code). **Taxable item** A vehicle or building (hereinafter referred to as the "trade unit") actually used and designed for trade activities at least once per quarter shall be deemed a trade duty taxable item (clause 1 of Article 412 and Article 414 of the Code). Consequently, it is sufficient to use a trade unit once to become obliged to pay trade duty on it. **Trade activity** The Law prescribes that trade duty shall be charged on

Topic	Description	Status in October 2014	Status in October 2015
			the following types of trade (clause 2 of Article 413 of the Code): • trade via stationary trade network units without a sales area; • trade via stationary trade network units with a sales area; • trade via non-stationary trade network units; • trade from a warehouse; • retail markets. **Trade unit** Trade units, according to the Law, are (subclause 1, clause 4 of Article 413 of the Code): • **for trade** — a building, a facility, a premise, a stationary or non-stationary trade unit or trade point used to carry out trade activity; • **for retail markets** — a building which is used by a market administration company to organize retail markets. **Trade duty rate** The trade duty rate shall be set by regulatory legal acts of representative bodies of municipalities/laws of the cities of federal significance, but it may not exceed thresholds specified in Chapter 33 of the TC RF, clause 1 of Article 415 of the Code. In particular, the trade duty is set (clause 3 of Article 415 of the Code): **1) as a fixed rate per quarter for each trade unit for:** - a stationary trade network without a sales area; - a non-stationary trade network;

Topic	Description	Status in October 2014	Status in October 2015
			- a stationary trade network with a sales area of at least 50 m^2. **2) as a rate per quarter for 1 square meter for:** - stationary trade units with a sales area over 50 m^2 for each trade unit; - trade carried out from the warehouse; - retail markets. **Assessment and payment procedure** The trade duty amount shall be assessed by the taxpayer independently for each trade unit (clause 1 of Article 417 of the Code). The payer is obliged to pay the trade duty quarterly no later than on the 25th day following the assessment period (clause 2 of Article 417 of the Code). **Registration of payers** The registration and deregistration shall be carried out on the basis of a notice submitted to the tax authority no later than 5 days from the date when the taxable item first appeared; the notice shall specify the type of business activity and information on the trade unit (clause 1 of Article 416 of the Code). A failure to submit the notice will be treated as leading to activity carried out without registration (clause 2 of Article 146 of the Code), which may result in: (a) a fine of 10% of the income received as a result of such activity for the whole period of activity without registration, but not less than RUB 40,000 (clause 2 of Article 116 of the Code), as well as (b) a penalty charged to the relevant official from RUB 500 to RUB 2,000 (clause 1 of Article 14.1 of the Administrative Offence Code).

Topic	Description	Status in October 2014	Status in October 2015
			Trade duty amount to be deducted The payer has the right to decrease the following tax obligations by the paid amount of the trade duty: - **personal income tax**: the tax amount for the tax period, by the amount of paid trade duty in this tax period (clause 5 of Article 225 of the Code) - **profit tax**: the tax (advance payment) amount for the tax (accounting) period, paid to the consolidated budget of the constituent entity of the Russian Federation in which the trade duty was set, by the amount of actually paid trade duty from the beginning of the tax period to the tax payment (advance payment) date (clause 10 of Article 286 of the Code). - **STS**: the tax (advance payment) amount for the tax (accounting) period for this type of activity, paid to the consolidated budget of the constituent entity of the Russian Federation in which the trade duty was set, by the amount of the trade duty paid within this tax (accounting) period (clause 8 of Article 346.21 of the Code). **The following entities shall be exempt from payment of trade duty:** - individual entrepreneurs applying the license-based taxation system (clause 2 of Article 412 of the Code); - taxpayers applying the taxation system for agricultural goods producers (the unified agricultural tax) (clause 2 of Article 412 of the Code); - stationary trade units without a sales area that are gas stations (subclause 1, clause 2 of Article 413 of the Code).

2. ISSUES AND RECOMMENDATIONS OF FIAC WORKING GROUPS

Foreign Investment Advisory Council

2.1. Improvement of Customs Law

Issue 1. Possibility of adjusting a declaration after goods are released.

Following the FIAC Executive Committee meeting in Svetlogorsk on 24 May 2013, I.I. Shuvalov, Senior Deputy Prime Minister of the Russian Government, gave instructions to prepare proposals for introducing amendments into Chapter 16 of the Russian Code of Administrative Offences allowing declarations to be adjusted after goods are released without administrative liability being incurred in the event that violations made during customs declaration are identified independently.

The Federal Customs Service (FCS) prepared a block of amendments to Article 16.2 of the Code of Administrative Offences regarding relief from administrative liability if amendments and (or) additions are made to a goods declaration after goods are released.

Federal Law No. 17 dated 12 February 2015 amended Part 2, Article 16.2 of the Code of Administrative Offences in relation to possible adjustment of declarations after goods are released.

In addition, the FCS proposed that the given simplifications cover Part 1 of Article 16.2 (so-called "non-declaration"). A draft law on introducing relevant amendments into the Code of Administrative Offences has already been submitted to the State Duma (No. 822516-6). The date for consideration is yet to be fixed (as of 08 September 2015).

Recommendations

To pass draft law No. 822516-6.

Issue 2. Development and improvement of the AEO concept.

2.1. Simplification of the procedure for obtaining AEO status in the EEU.

Areas under ownership, lease, operational management and economic jurisdiction may serve as AEO sites where customs operations and temporary storage may be performed. In addition, many foreign trade participants today successfully use third party warehouses for storing goods on the basis of safe storage agreements (i.e., the warehouse belongs to third parties).

A legal evaluation shows that freight stored in an external warehouse is still in the AEO's ownership, just as, for example, during storage at a leased warehouse, the AEO remaining responsible for duty and tax, without any increase in risks.

In order to enable foreign trade participants to use third party warehouses and the entire set of simplifications, it is advisable to arrange for organisations possessing safe storage warehouses to obtain AEO status.

Recommendations

To stipulate within the Customs Union Customs Code (CUCC) review an opportunity for organisations involved in warehouse storage to obtain AEO status.

2.2. Adjustment of requirements on completing customs declarations when using the Release Before Submission simplification.

Pursuant to Article 41 of the CUCC, authorised economic operators may be provided with a special simplification: goods release before a customs declaration is submitted in accordance with Article 197 of the CUCC.

The date of goods release when this precedes submission of a goods declaration is the release date according to the obligation to submit a goods declaration. Consequently, the final goods declaration includes the release date corresponding to the goods release date under the obligation.

When applying the Release Before Submission, goods under contract 1 are imported within a month and the Obligation in the prescribed format is to be submitted to the customs authorities in respect to each

truck; and by the 10th day of the next month a goods declaration is to be lodged. When uniting several obligations with different dates in a single goods declaration, field "C" on the main and additional pages should include several release dates under several obligations under relevant numbers, this being not envisaged by the instructions under the ***Customs Union Commission (CUC) Resolution No. 257 (as amended by CUC 379, 617 and Resolutions by the EEC Board)***; moreover, the software used for issuing goods declarations lack the relevant technical capabilities.

Recommendations

1. To add the following paragraph to Chapter XI of CUC Resolution No. 257 concerning the requirements on entering information under number 2:

"If goods are released before a goods declaration has been submitted, pursuant to Article 197 of the Code, the field should include the goods release date under the obligation (XXXXXX - day, month, two last figures of the year) and registration number of the goods release if its placement is stipulated by the legislation of the CU member-state, by having a relevant mark (stamp) "Release Permitted" or "Release Refused" made (placed), the signature by the signatory and seal impression of a personal numbered stamp affixed.

If goods are released before submission of goods declarations under several obligations the dates of release under the obligations and index number of these goods from the first subsection of Field 32 of the goods declaration via "/" (slash) are to be specified".

2. To improve the software products for the purpose of having several dates to be specified in the 2nd field.

Issue 3. Reducing time limits for taking Binding Tariff Information (BTI) decisions.

The FCS of Russia has delegated to regional customs administrations the function of BTI decision-making under the Unified Commodity Classification for Foreign Trade of the Customs Union (hereinafter the "TN VED CU") with respect to major TN VED CU groups. Transfer of such powers to regional customs administrations should have implied shorter time limits for receiving BTI decisions and simplification of this procedure. But, in practice, FIAC member companies trying to obtain BTI decisions have faced the reverse.

2.1. Unnecessary delays in BTI decision-making.

Article 55 of the CUCC stipulates 90 calendar days for the customs authorities to take BTI decisions after registering an application for a BTI decision. At the same time, this Article, together with Article 54 of the CUCC, envisages the possibility of the given time limit being suspended by the customs authorities for 60 calendar days if they decide that the applicant should supply additional information.

We understand that the possibility of requesting additional documents is, first of all, stipulated so that the customs authorities have full and complete information for taking a BTI decision. Considering that all goods are specific, it is not possible to determine in the legislation a precise and exhaustive list of all documents required for BTI decision-making.

When applying for BTI decisions, it is in the interests of foreign trade participants that regional customs administrations have the full package of documents for decision-making. When additional information requested by the customs authorities includes data that might actually help them better comprehend the purpose, description and function of the goods, we understand that the regional customs administration is willing to make an unbiased decision.

Yet many foreign trade participants have recently faced abuse by regional customs administrations of the right to request additional documents and suspend the usual response time. Regional customs administrations have lately suspended the established deadline when considering most applications.

When we raise this question at meetings of working groups of different business associations, we receive comments by customs officials of different levels that the average time for taking BTI decisions is less than 90 days and, according to other sources, it is even less than 60.

FIAC member companies do not keep statistical records of the average time required to obtain BTI decisions. Yet not a single company has recently managed to obtain a BTI decision without being requested to provide additional documents.

In the absence of statistical supporting data, we believe that the situation has deteriorated since the FCS of Russia transferred the BTI decision-making function to regional customs administrations. We assume that consideration of applications by the Central Customs Department is the most critical. Considering the

essence of the requested information/documents and the specifics of the procedure for submitting such requests, we are inclined to believe that, in many cases, these requests are sent by customs authorities simply in order to protract application consideration as long as possible, rather than to obtain additional information of decision-making significance. In certain situations, additional requests are absolutely formal and redundant. For instance, one company was asked to describe the purpose of and provide the user instruction for wet wipes.

In addition, hands-on experience of cooperating with regional customs administrations over the last 12-18 months has demonstrated an increased number of BTI-decisions on specific and sophisticated spare parts and components to which the material code with the highest possible import tariff rate has been assigned. Meanwhile, design drawings, a detailed description and operation concept for each item were provided to the customs authorities.

In this situation, the time needed for regional customs administrations to consider applications for BTI decisions (including the time required for receiving the request, gathering the information/documents and submitting them to the customs authorities) is not 90 days but drags on up to 120-150 days. Such time periods slow down foreign trade transactions significantly and it is no secret that many companies, especially those that supply goods in large quantities, do not risk importing goods without BTI decisions. Given such protracted periods for taking BTI decisions, deliveries of goods are postponed by several months, this affecting not only the operations of certain companies but, considering the scope of business, the economic situation in the county as a whole. We believe it necessary to check the activities of regional customs administrations pertaining to BTI decision-making in terms of the relevance of suspending the decision-making time periods.

We would like to note that, when the FCS of Russia took BTI decisions independently, most of them were taken without additional documents being requested. It is rather difficult to conclude why, in most cases, regional customs administrations decide to request additional documents. It might be that certain units of regional customs administrations are short of staff or of proper experience or maybe even that the qualifications of their specialists are inadequate. Consequently, we ask the FCS of Russia to analyse the current situation pertaining to the time limits for taking BTI decisions. It might be reasonable to keep statistical records of such times not on the basis of average time limits but in a different way more appropriate to the current situation. When one application for a BIT decision is considered within 20 days, while another takes 120 days, the average will be 70 days, though this does not reflect the true situation.

2.2. Lack of consistent practice of taking BTI decisions.

One more issue that, we believe, was bound to emerge when BTI decision-making powers were transferred to regional customs administrations is lack of consistent goods classification practice. Irrespective of the general rules for goods classification in Russia, various Russian customs authorities interpret them differently. There are cases when one and the same goods may be classed in Kaliningrad and Vladivostok under different classification codes. Unfortunately, such practice is widely used in taking BTI decisions. Certain companies have faced situations when, with respect to similar goods, different regional customs administrations have taken BTI decisions classing them under different codes and, accordingly, designating different customs duty rates to them.

In such situations, companies may well exercise their rights to challenge one of the BTI decisions but this takes time and requires additional efforts. At the same time, one such decision may be cancelled subsequently by the FCS of Russia during a departmental review and this might result in additional recovery of customs payments and default interest from companies as a consequence of different customs duty rates.

Lack of consistent practice of taking BTI decisions might, therefore, have negative financial implications for companies. The FTC of Russia should control the existing situation.

2.3. Technical complexity.

Companies also face certain technical complexity during cooperation with regional customs administrations. The procedure for issuing BTI decisions is governed by the Administrative Rules of the Federal Customs Service and the customs authorities assigned thereby to provide government BTI decision services under the Unified Commodity Classification for Foreign Trade of the Customs Union approved by Order No. 760 of the Federal Customs Service of Russia dated 18 April 2012. These Administrative Rules allow a duplicate of the BTI decision to be obtained. They do not, however, allow a duplicate to be obtained of a decision to dismiss the application for a BTI decision or other decisions, such as one on termination /revocation/change of the BTI decision. Considering that there are facts of correspondence lost during delivery, companies face situations when such documents, though they are

formally considered to have been received thereby, are not actually delivered to the companies. Without information about the reason for an application being dismissed or a BTI decision revoked, the applicant is unable to take appropriate measures to restore its rights (for example, to challenge the customs authorities' decision or prepare a new application subject to the defects identified by the customs authorities). We ask the FCS of Russia to consider the possibility of duplicates being obtained not only of BTI decisions but of other decisions made by the customs authorities during the BTI decision-making procedure.

Recommendations

1. To check the relevance of and establish criteria for additional requests by regional customs administrations during the BTI decision-making procedure. To determine an appropriate list of documents required for taking BTI decisions.

2. To enable companies to submit additional information to the customs authorities on-line, by e-mail or by phone, without using hard copy documents sent by post in envelopes.

3. To exercise control over consistency of BTI decisions.

Issue 4. Application of the procedure for processing for domestic consumption. Establishing a favourable environment for inward processing by foreign trade participants to encourage manufacture of non-primary export-orientated commodities and processing for domestic consumption in order to step up domestic production capacity and import substitution.

Many goods segments of the Russian market today are characterised by a consistently high share of imported goods related to poor domestic supply and constant growth of domestic demand, this proving a high potential for domestic production capacity in terms of both consumer demand and import substitution.

Yet production development is blocked by certain factors, an interesting one being the structural imbalance between the import duty rates, with those for raw materials and materials exceeding those for the finished products made from them. This imbalance constitutes an objective economic barrier to domestic production development with additional investments becoming unprofitable because the costs related to paying customs duties on raw materials and materials exceed those connected with importing finished products. The result is a drop in the competitiveness of domestic products on both domestic and foreign markets. The problem is, first of all, connected with raw materials and materials not manufactured in CU countries and not substitutable by any other without a significant loss of consumer properties in the finished products.

The current situation:

1. Does nothing to encourage establishment and development of domestic production in Russia.

2. Deters foreign investment in developing high-tech innovation-based manufacture of goods requiring a high level of processing.

3. Restrains companies' plans to increase investments and expand production facilities in Russia.

Meanwhile, review of the customs duty rates for certain items of the Common Customs Tariff is a complex, labour-intensive and quite protracted process requiring sophisticated analysis of all the economic consequences; it might involve risks of unfair declaration and, consequently, not always be applied on a timely basis to resolve the above issue.

We believe that the problem could be resolved by making active use of the special customs procedure for processing for domestic consumption proposed by Article 264 of the Customs Union Customs Code (CUCC) and that of inward processing proposed by Article 239 of the Customs Union Customs Code (CUCC).

According to these procedures, raw materials and materials used for processing for domestic consumption (inward processing) are fully exempted from import duties, taxes and non-tariff regulatory measures. At the same time, compensating products are placed under a customs procedure for release for domestic consumption on payment of import duties at the relevant rates or re-export without application of non-tariff regulatory measures.

Even so, Chapters 34 and 36 of the CUCC impose clear, unambiguous and exhaustive requirements for foreign trade participants ensuring designated application of inward processing and processing for domestic consumption precluding unfair declaration for the purpose of evading import duties. This procedure may be used only on the basis of a special document issued by a competent body of the CU

member-state and containing information about both the recipient and the conditions for application of the procedure.

Moreover, exhaustive requirements are set out regarding the processing manner, conditions, timeframe and volume, as well as identification of goods and compensating products, and a requirement is imposed that the latter cannot be restored to their original condition in a cost-effective manner.

Consequently, Chapters 34 and 36 of the CUCC determine and enable effective application of a customs procedure specially designated for attracting, maintaining and developing high-tech production in the Customs Union, developing export capacity irrespective of a possible imbalance between the customs duty rates for raw materials and finished products and ensuring proper control over correct application of the procedure.

Application of these procedures is mostly precluded by the following (notes attached):

1) The limited list of goods permitted for processing for domestic consumption;

2) Difficulties related to confirming how to identify goods in compensating products.

Notes

1. Pursuant to Article 265 of the CUCC, inward processing may be applied only to a limited list of goods determined by the national laws of the CU member-states. As for Russia, this list is determined by Article 265 of Federal Law No. 311-FZ dated 27 November 2010 "On Customs Regulation in the Russian Federation" and by Russian Government Resolution No. 565 dated 12 July 2011. The list includes a very limited range of about 50 goods designated evidently for certain specific production. As a result, processing for domestic consumption is not used in practice, this blocking actual development potential of domestic high-tech production with high added value and, consequently, new investment in such production.

Please note that processing for domestic consumption is an effective mechanism, widely used around the world, for developing local production and attracting investment. The infrequent practical implementation of this procedure in Russia constitutes an obvious administrative barrier and reduces its investment appeal significantly.

For example, high duties on imported raw materials are a key factor restraining development of domestic production of disposable diapers where the current customs rates for raw materials and materials exceeding those for finished products. The current rates for raw materials and finished products make domestically produced disposable diapers uncompetitive in terms of price and, consequently, do not boost local production development. Additional investment in local production becomes unprofitable owing to the high costs related to paying the customs duties for raw materials and materials used in production.

2. Pursuant to Articles 242 and 267 of the CUCC, the following methods may be used in order to identify foreign goods in compensating products:

1) Affixing of seals, stamps, digital and other labelling on original foreign goods by the declarant, the person performing the processing or a customs official;

2) Detailed description, photographing, representation within the scope of foreign goods;

3) Comparison of preliminarily selected specimens and samples of foreign goods and compensating products;

4) Use of the current labelling of goods, including in the form of serial numbers.

5) Other methods that might be used depending on the character of the goods and processing operations, including by reviewing the full details provided about use of foreign goods in a manufacturing process, as well as about the manufacturing technology compensating products or by exercising customs control over goods processing.

Unfortunately, for most industries, the methods specified in items 1) – 4) are unacceptable because the raw materials used in the manufacturing processes:

1) do not or cannot have definite identifiers (chemical raw materials, food raw materials, small and spare parts);

2) disappear during manufacture (shrinkage, chemical transformation);

3) are difficult to isolate and identify owing to the specifics of the final product (food products, sophisticated equipment).

Recommendations

1. The Ministry of Industry and Trade (Minpromtorg) and the FCS of Russia, together with involved government agencies and the business community, should investigate the issue of extending the list of goods permitted for processing for domestic consumption approved by Russian Government Resolution No. 565 dated 12 July 2011 (the list is attached) in order to expand application of the procedure for processing for domestic consumption.

2. The FCS of Russia, together with involved government agencies and the business community, should explore the issue of simplifying the procedure for confirming the identification method by:

2.1. Authorising the use of a customs declaration for placing foreign goods under inward processing (provided that the customs value of such goods does not exceed the equivalent of EUR 200 000) as the document about inward processing conditions.

2.2 Amending FCS Order No. 532 dated 14 March 2011 and FTS Order No. 1243 dated 15 June 2011 stipulating the possibility of providing stakeholders, as confirmation of the identification method, with:

1) Engineering and manufacturing charts describing manufacture involving foreign goods subject to inward processing and processing for domestic consumption and standards for using foreign goods and output of compensating products.

2) Engineering and manufacturing schemes describing manufacture involving foreign goods subject to inward processing and processing for domestic consumption and standards for using foreign goods and output of compensating products.

Appendix 1.

List of goods codes proposed for inclusion in the list of goods permitted for processing for domestic consumption, as approved by Resolution of the Government of the Russian Federation No. 565, dated 12 July 2011. According to the Unified Commodity Classification for Foreign Trade (ETN VED), with descriptions.

TN VED code	Description
3302 90 900 0	Compounds of fragrances and compounds (including alcoholic solutions) based on one or more of such substances and used at industrial raw material; other preparations based on fragrances and used for making beverages: – other: – – other
3404 90 000 9	Waxes - synthetic and prepared: – other: – – other: – – – other
3506 91 000 0	Ready-to-use glues and other read-made adhesives not named or included elsewhere; products, fit for use as glue or adhesives, packaged for retail sale as glues or adhesives, with a net weight of up to 1 Kg: – other: – – adhesives based on polymers of commodity headings 3901 – 3913 or rubber
3906 90 900 9	Acrylic polymers in primary forms: – other: – – other: – – – other
3919 10 150 0	Blocks, sheets, film, tape, strips and other flat forms made of plastic, self-adhesive, in rolls or otherwise: – in rolls no more than 20 cm wide: – – strips or tapes covered with non-vulcanised natural or synthetic rubber: – – – of polypropylene
3919 90 000 0	Blocks, sheets, film, tape, strips and other flat forms made of plastic, self-adhesive, in rolls or otherwise: – other

3920 10 250 0	Blocks, sheets, film and strips or tapes, other, made of plastic, non-porous and unreinforced, non-lamellated, without backerboard and not similarly linked with other materials: – made of ethylene polymers: – – no more than 0.125 mm thick: – – – made of polyethylene with a specific gravity: – – – – of less than 0.94: – – – – – other
3920 10 280 0	Blocks, sheets, film and strips or tapes, other, made of plastic, non-porous and unreinforced, non-lamellated, without backerboard and not similarly linked with other materials: – made of ethylene polymers: – – no more than 0.125 mm thick: – – – made of polyethylene with a specific gravity: – – – – of 0.94 or more
3921 90 900 0	Blocks, sheets, film and strips or tapes, of plastic, other: – other: – – other
3923 21 000 0	Items for transport or packaging of plastic goods; corks, lids, caps and other means of closing, of plastic: – sacks and bags (including conical): – – of ethylene polymers
4703 21 000 9	Wood pulp, soda or sulphate, apart from soluble sorts: – semi-bleached or bleached: – – of softwood: – – – other
4911 10 900 0	Other print output, including printed reproductions and photographs: – commercial advertising materials, goods catalogues and analogous products: – – other
5404 11 000 0	Monofilaments synthetic, with a linear density or 67 dtex or more and a cross-section of no more than 1 mm; flat and analogous yarn (such as synthetic straw) of synthetic textile materials with a width of no more than 5 mm: – monofilaments: – – elastomeric
5603 11 900 0	Non-woven materials, impregnated or otherwise, coated or otherwise, laminated or otherwise: – of chemical fibres: – – with a surface density of no more than 25 g/m²: – – – other
5603 12 900 0	Non-woven materials, impregnated or otherwise, coated or otherwise, laminated or otherwise: – of chemical fibres: – – with a surface density of more than 25 g/m² but no more than 70 g/m²: – – – other
5603 92 900 0	Non-woven materials, impregnated or otherwise, coated or otherwise, laminated or otherwise: – other: – – with a surface density of more than 25 g/m², but no more than 70 g/m²: – – – other
5603 93 900 0	Non-woven materials, impregnated or otherwise, coated or otherwise, laminated or otherwise: – other:

	– – with a surface density of more than 70 g/m², but no more than 150 g/m²: – – – other
7219	Rolled metal, flat, of corrosion-resistant steel, with a width of 600 mm or more
7220	Rolled metal, flat, of corrosion-resistant steel, with a width of less than 600 mm
7222	Bars of corrosion-resistant steel, other; angle bars, shaped and special profiles of corrosion-resistant steel:
7505 12 000 9	Bars, profiles and wire, nickel: –bars and profiles: —of nickel alloys: ——other
7506 20 000 9	Blocks, sheets, strips or tapes and foil, nickel; –of nickel alloys —other
7604 29 100 9	Bars and profiles, aluminium: – of aluminium allows: – – other: – – – bars: – – – – other
7606 12 920 9	Blocks, sheets, strips or tapes, aluminium, with a thickness of over 0.2 mm: – rectangular (including square): – – of aluminium allows: – – – other, with a thickness of: – – – – less than 3 mm: – – – – – other – – – – – – other
7606 12 930 9	Blocks, sheets, strips or tapes, aluminium, with a thickness of over 0.2 mm: – rectangular (including square): – – of aluminium allows: – – – other, with a thickness of: – – – – no less than 3 mm but less than 6 mm: – – – – – other
7607 11 900 0	Foil, aluminium (without backing or with a backing of paper, cardboard, plastic or analogous materials), with a thickness (not counting the backing) of no more than 0.2 mm: – without backing: – – rolled but without further processing: – – – with a thickness of at least 0.021 mm but no more than 0.2 mm
0405 90 100 0	Butter and other fats and oils made of milk; dairy spread: - other [apart from butter; dairy spreads] - - with a fat content of 99.3% or more by mass and with a water content of no more than 0.5% by mass.
0402 21 190 0	Milk and cream, condensed or with sugar or other sweetening agents added or other: - in powder, granulated or other hard forms, with a fat content of over 1.5% by mass: - - without addition of sugar or other sweetening agents: - - - with a fat content of no more than 27% by mass: - - - - other [apart from in original packaging with a net weight of no more than 2.5 Kg] - - - - - with a fat content of more than 11% but no more than 27% by mass.

0404 10 020 0	Whey, condensed or otherwise, with or without addition of sugar or other sweetening agents; products made of natural dairy components, with or without addition of sugar or other sweetening agents, not named or included elsewhere: - whey and modified whey, condensed or otherwise, with or without addition of sugar or other sweetening agents - - in powder, granulated or other hard forms - - - without addition of sugar or other sweetening agents, with a protein content (nitrogen content x 6.38) - - - - no more than 15% by mass and with a fat content of - - - - - no more than 1.5% by mass
0402 10 190 0	Milk and cream, condensed or with sugar or other sweetening agents added or other: - in powder, granulated or other hard forms, with a fat content of no more than 1.5% by mass - - without addition of sugar or other sweetening agents - - - other [apart from in original packaging with a net weight of no more than 2.5 Kg]
0710 80 610 0	Vegetables (raw or boiled in water or steamed), frozen: - other vegetables [apart from potatoes; pulses, shelled or otherwise; spinach, New Zealand spinach and giant (garden) spinach; sweetcorn] - - mushrooms - - - Agaricus
2103 90 900 9	Products for making sauces and read sauces; flavouring agents and mixed spices; mustard powder and ready-made mustard: - other [apart from soy sauce; tomato ketchup and other tomato sauces; mustard powder and ready-made mustard] - - other [apart from liquid mango chutney; aromatic bitters containing 44.2 – 49.2% alcohol by volume and 1.5 - 6% by mass...] - - - other [apart from mayonnaise]
2004 90 910 0	Vegetables, other, prepared and preserved without addition of vinegar or acetic acid, frozen, apart from products under commodity heading 2006: - other vegetables and vegetable mixes [apart from potatoes] - - other, including mixes [apart from sweetcorn |Zea mays vat. saccharata); sour cabbage, capers and olives; peas (Pisum salivum) and young bean pods Phaseolus spp.] - - - onion, thermally treated, not prepared in any other way.
2002 90 910 0	Tomatoes, prepared and conserved without addition of vinegar or acetic acid: - other [apart from whole tomatoes or tomato chunks] - - with a dry matter content of over 30% by mass - - - in original packaging with a net weight of over 1 Kg.
0710 80 950 0	Vegetables (raw or boiled in water or steamed), frozen: - other vegetables [apart from potatoes; pulses, shelled or otherwise; spinach, New Zealand spinach and giant (garden) spinach; sweetcorn] - - Capsicum or Pimenta fruits - - - other (apart from olives; Capsicum or Pimenta fruits; mushrooms; tomatoes; artichokes; asparagus)
2004 90 980 0	Vegetables, other, prepared and preserved without addition of vinegar or acetic acid, frozen, apart from products under commodity heading 20062006: - other vegetables and vegetable mixes [apart from potatoes] - - other, including mixes [apart from sweetcorn |Zea mays vat. saccharata); sour cabbage, capers and olives; peas (Pisum salivum) and young bean pods Phaseolus spp.] - - - other [apart from onion, thermally treated, not prepared in any other way].

0710 80 510 0	Vegetables (raw or boiled in water or steamed), frozen: - other vegetables [apart from potatoes; pulses, shelled or otherwise; spinach, New Zealand spinach and giant (garden) spinach; sweetcorn) - - Capsicum or Pimenta fruits - - - sweet paprika

Issue 5. Simplification of zero VAT rate confirmation during export, including to EEU countries.

One of the most important steps to encourage production in the Russian Federation and attract investments is simplification of customs procedures during export of goods.

The FCS of Russia is already implementing a plan designated to simplify customs procedures and optimise customs clearance of goods in electronic format, with minimum involvement of human resources. According to Order No. 1761 of the Federal Customs Service dated 17 September 2013, a decision was taken to cancel the requirement for customs authorities to put marks on hard copy declarations on departure and confirmation of actual goods export.

This might simplify export customs clearance significantly and optimise work of both exporters and customs authorities, the result being that vehicles will be able to leave the loading point and set out for the destination point immediately after a soft copy of the goods declaration is issued by the customs authorities.

Unfortunately, however, this order does not suffice for cancelling hard copy documents with customs authorities' marks, since their use is required by the current legislation and official regulations of other government agencies.

The most complicated procedure is connected with submission of export confirmation to tax authorities to confirm the zero VAT rate. During export beyond the Customs Union (CU), for instance, the requirement to submit hard copy documents containing customs authority marks remains in force. It usually takes one month to obtain these stamps and involves considerable human resources. Irrespective of the amendments introduced by Federal Law No. 452 dated 29 December 2014 into Article 165 of the Russian Tax Code, permitting shipping documents, customs declarations and other documents to be submitted in the form of registers, including electronically, a requirement stipulated by Clause 15 of Article 165 on the possibility of demanding hard copies of the given documents bearing the customs authorities' marks remains in force.

We ask you, therefore, to prepare additional amendments to the Russian Tax Code excluding the requirement for documents with marks to be submitted during an audit.

There are difficulties with goods export to CU countries. In this situation, pursuant to Sub-clause 3, Clause 3, Part II of Appendix No. 18 to the Treaty on the EEU, the exporter should provide the original of the Application for importing the goods and payment of indirect taxes with the customs authority marks of the country of importation. It is obvious that this requirement is almost impossible to fulfil, given the lack of a permanent and reliable contracting party in the CU countries that is ready to go through all the above formalities in favour of its Russian partner. As a result, many Russian companies simply refuse to conclude transactions with companies from Belarus, Kazakhstan and Armenia, this reducing the goods turnover within the CU.

Proposal

In order to resolve the described issues and simplify export customs clearance, the working group for improving customs law proposes the following:

1. To prepare additional amendments to the Russian Tax Code excluding the requirement for documents with marks to be submitted during an audit.
2. To draft amendments to Appendix No. 18 to the Treaty on the EEU and (or) develop a list of applications cancelling the requirement for VAT payment applications to be submitted in the CU countries with marks made by the tax authorities of the country of importation and copies of shipping documents bearing the seals of contracting parties from the CU countries.
3. To implement full-time electronic collaboration between the FCS, customs authorities of Belarus and Kazakhstan and the Federal Tax Service without involvement of the exporter and use of hard copy documents for export confirmation, according to the principle applied for freight exported via Kazakhstan.

4. To organise electronic collaboration between tax authorities of the CU countries. To cancel the requirement for a VAT payment certificate to be submitted in the CU countries and copies of shipping documents bearing the seals of contracting parties in the CU countries.

Issue 6. Cancellation of customs marks on hard copy documents.

The extended period required for execution of Rosselkhoznadzor's hard copy permits (veterinary and phytosanitary certificates), including the requirement for veterinary certificates to bear the seal of a veterinary body of the Russian constituent entity and that for transportation documents to bear a customs marks constitutes a serious problem.

For instance, once an export declaration has been filed and release confirmation has been received, in most cases, a foreign trade participant should come to the customs authorities executing documents or to the customs authorities specified on Field 7 (for remote declaration) to have the hard copies of accompanying and transportation documents marked. Frequently, the time required for affixing these marks, including waiting time, greatly exceeds the time spent on declaration check and issue (according to the statistics, the average release term is 40 minutes). This has an adverse effect on foreign trade and foreign trade participants are forced to incur additional expenses (inefficient use of employee working time, travel expenses, payments for idle time, bonded warehouse expenditures, etc.). In addition, remote declaration does not envisage a statutory deadline for customs authorities placing marks on accompanying documents to issue the documents to the declarer. As a result, after an electronic notice of a declaration issue has been received in 40 minutes the declarer may wait for several hours before the mark is affixed to the accompanying documents.

Proposals

1. To use soft copies of phytosanitary and veterinary certificates. To organise electronic information exchange between Rosselkhoznadzor and the FTC with respect to these certificates.
2. To cancel the requirement for veterinary certificates to bear the seal of a veterinary body of the Russian constituent entity.
3. To cancel the requirement for vehicles to arrive at the customs control zone when exporting freight not subject to control for sealing during transportation by motor vehicles under TIR Carnets.
4. To abolish the requirement for customs marks to be affixed on transportation documents.

Issue 7. Import of samples.

When importing products subject to control and those subject to valuation and compliance confirmation, foreign trade participants face difficulties related to the requirement to obtain permits and list shippers among those permitted to supply into Russia.

The procedure for obtaining permits for samples often takes as long as that for obtaining permits for finished products. Consequently, foreign trade participants wishing to import samples, including for production purposes (appraisal of possible use of materials for production) are forced to incur additional time and administrative costs.

Import of controlled product samples subject to veterinary and phytosanitary control and products subject to valuation (compliance confirmation) is the most difficult.

Proposals

1. To supplement Appendix * (*In order to use this list, both the TN VED code and the name of the goods need to be taken into account) to the Unified List of Goods (Appendix No. 1 to CUC Resolution No. 317) with the following phrase:

This List does not include product samples subject to control that are imported on to (exported from) the Common Customs Territory of the Customs Union in single (maximum 5 items of the same name classed under the same classification code, according to the Unified Commodity Classification for Foreign Trade of the Customs Union) or limited quantities (maximum 20 kg of goods the weight of which (net weight) is measured in kilogrammes, according to the generally accepted rules of retail trade) in accordance with one of the below intended purposes, provided that the purpose of import is specified in the accompanying documents and the goods recipient provides a written obligation to comply with their intended purpose and a no-sale guarantee for the CU.

2. To supplement Chapter XI of CUC Resolution No. 317 with the following clause:

11.4. Veterinary documents issued by competent body officials of the Parties and competent bodies of exporting countries and support by such veterinary documents, as well as registration by competent bodies of the Parties and listing of exporting companies on the Register of organisations and persons involved in manufacture, processing and (or) storage of controlled goods imported on to the customs territory of the Customs Union are not required for the following controlled goods during their import, transit and transportation within the Customs Union from the territory of one Party to that of another Party throughout the period of transportation, given a favourable epizootic situation in the country of the exporting company (manufacturer of the given controlled goods) and the country of export:

Product samples for:

- R&D;
- Laboratory and analytical research;
- Tests and comparative (reconciliation) trials;
- Establishing internal controls (according to GOST ISO 17025);
- State registration, certification or declaration of compliance;
- Calibration and adjustment of devices;
- Validation and refining of methods;
- Market research and not designated for sale on the customs territory of the Customs Union.

Parameters of the simplified procedure for importing phytosanitary samples:

To apply Chapter VII of CUC Resolution No. 318 to the entire list of products subject to quarantine and imported as samples, namely:

– Samples should not be accompanied by phytosanitary accompanying documents (a phytosanitary certificate, import quarantine permit). The Phytosanitary Quarantine Control Statement may be executed after visual examination of samples by a quarantine inspector, which must not result in violation of packaging integrity or loss of value and quantity of samples;

– Non-industrial and unsealed packaging is allowed;

– Samples may not exceed 20 kg/20 litres/50 pieces;

– Samples are not subject to sale/distribution/commercial use in the CU;

– Samples do not need a manufacturer's name to be specified thereon (only the name of the shipper and the country of dispatch);

– The name of a sample may be encoded on the label, including in figures (the shipper, the consignee, content and purposes may be specified in accompanying documents);

– if it is necessary to conduct additional laboratory studies/tests to determine the phytosanitary condition of imported samples, at the consignee's/importer's request, the goods may be released but not used/sold, to be kept at the place specified by the consignee until the information about the phytosanitary condition of the imported goods is received.

The following may be considered as a proposal for resolving the issue of import/export of product samples subject to quarantine:

To supplement Appendix * (*In order to use this list, both the TN VED code and the name of goods need to be taken into account) to the List of Products Subject to Quarantine (Appendix No. 1 to CUC Resolution No. 318) with the following phrase:

This List does not include product samples subject to control that are imported on to (exported from) the Unified Customs Territory of the Customs Union in single (maximum 5 items of the same name classed under the same classification code, according to the Unified Commodity Classification for Foreign Trade of the Customs Union) or limited quantities (maximum 20 kg of goods the weight of which (net weight) is measured in kilogrammes, according to the generally accepted rules of retail trade) in accordance with one of the below intended purposes, provided that the purpose of import is specified in the accompanying documents and the goods recipient provides a written obligation to comply with their intended purpose and to guarantee their retention in the CU.

To supplement Chapter IX with Clause 9.5 or Chapter VII with Clause 7.3 of CUC Resolution No. 318 with the following clause:

9.5. (or 7.3.) Exercise of phytosanitary quarantine control (supervision) does not require import quarantine permissions or phytosanitary certificates to be provided with respect to the following products with a high phytosanitary risk subject to quarantine during import, transit and transportation within the Customs Union from the territory of one Party on to the territory of another Party throughout the period of transportation, given a favourable phytosanitary situation in the country of the exporting company and the country of export:

Product samples for:

- R&D;
- Laboratory and analytical research;
- Tests and comparative (reconciliation) trials;
- Establishing internal controls (according to GOST R ISO 17025);
- State registration, certification or declaration of compliance;
- Calibration and adjustment of devices;
- Validation and refining of methods;
- Market research and not designated for sale on the customs territory of the Customs Union.

1. Amend Clause 2, Article 7 of Federal Law No. 183-FZ dated 05 December 1998 to read as follows:

"Article 7. Inspection of the quality of grain and its processed products.

1. The quality of grain and its processed products during their production and transportation by individuals and legal entities in cases stipulated by federal laws and other regulatory acts is inspected by determining the quality of the grain and its processed products and is confirmed by quality certificates.

2. Grain and its processed products are imported into and exported from the Russian Federation in the manner and in cases stipulated by federal laws and other regulatory acts of the Russian Federation.

Issue 8. Export/import of equipment for repair works.

During equipment export, manufacturing companies purchasing the equipment abroad currently face additional challenges related to equipment identification if, in the course of repair works, the integrity of identification numbers, labelling and face plates is violated or special identification signs or labels cannot be placed owing to technological and safety factors.

Proposals

To propose that the FCS issue clarifications on acceptance of identification on the basis of attributes other than identification numbers, labelling and face plates, such as photos, process charts and drawings.

Issue 9. Cancellation of customs charges on goods export.

FIAC member-companies are major exporters of goods produced in Russia.

Pursuant to Clause 7(3) and Clause 7(4) of Government Resolution No. 863 dated 28 December 2004 "On Customs Tariffs for Customs Formalities", during export from the Russian Federation of goods that are not subject to any export customs duties, the customs charges paid for customs formalities, irrespective of the customs procedure the exported goods should undergo, are paid for at a rate of RUB 1k (RUB 750 in the event of an electronic customs declaration), provided that only goods not subject to export customs duties are declared in any single customs declaration.

Payment of customs charges by major exporters during goods export is connected with an additional administrative burden related to the requirement to gather and provide payment documents to the customs authorities, administration of customs cards and extra costs for their maintenance.

Moreover, it takes some time to transfer funds, this adversely affecting export deadlines.

Recommendations

We ask that the possibility be considered of cancelling customs charges during export of goods that are not subject to export customs duties if the amount specified in the customs declaration exceeds EUR 10 000.

Issue 10. Submission of statistical reporting on goods export.

Since primary statistical information about Russia's trade with the EEU member-states is held by the Russian tax authorities because Russian organisations and individual entrepreneurs involved in trade within the EEU file applications for import of goods and payment of indirect taxes with the tax authorities in the format approved by the Minutes (International Interdepartmental Agreement) dated 11 December 2009 "On Electronic Information Exchange Between Tax Authorities of the EEU Member-States About Indirect Tax Payment":

– during export from Russia – to confirm reasonable use of the zero VAT rate and (or) excise tax exemption,

– during import into Russia – to obtain the Russian tax authorities' mark on the application for subsequently sending to a foreign supplier, we believe it necessary to transfer the entire function of keeping the statistical reporting on mutual trade within the EEU to the Federal Tax Service of the Russian Federation.

Cancellation of statistical reporting gathering will make it possible to reduce the administrative burden on foreign trade participants.

Proposal

To consider the possibility of gathering statistical information without involving importers / exporters and, if required, to amend Russian Government Resolution No. 40 dated 29 January 2011 "On Keeping Statistical Information on Mutual Trade of the Russian Federation with the CU Member-States Within the Eurasian Economic Community."

Issue 11. Simplification of procedures at sea ports.

Foreign trade participants currently using sea ports for delivery and dispatch of freight face certain challenges, including:

1. Unsynchronised work of Federal State-budget Financed Institution Leningrad Interregional Veterinary Laboratory (does not operate on holidays), this limiting execution of phytosanitary freight at a port.
2. No forms of electronic documents have been approved for collaboration between the government authorities on arrival of import containers,
3. No electronic document exchange has been implemented within the scope of border, customs, veterinary and other control.

Recommendations

1. To consider the possibility of laboratories working on holidays at a higher tariff to avoid freight downtime.
2. To provide for use of electronic forms of veterinary and phytosanitary documents.

Issue 12. Expenditure reports.

Foreign trade participants face difficulties related to management of funds on Customs' accounts since only a hard copy expenditure report is now provided to a foreign trade participant.

The procedure for obtaining the reports may be streamlined by developing and implementing electronic expenditure reports, as well as creating electronic personal accounts of foreign trade participants allowing them to request and obtain a report independently.

Recommendations

1. To introduce amendments to 311-FZ allowing a report to be transferred to a foreign trade participant electronically for information purposes.
2. To develop a foreign trade participant personal account software on the FCS website.

Issue 13. Simplification of money refund.

Pursuant to Clause 4 of Article 122 and Clause 2 of Article 147, a legal entity should attach a range of documents, including entitling ones, to an application for refund of money, namely:

- a payment document confirming payment or collection of the customs duties and taxes to be refunded;
- documents confirming accrual of the customs duties and taxes to be refunded;
- documents, confirming overpayment or overcollection of the customs duties and taxes;
- documents specified in Parts 4 - 7 of Article 122 of the Federal Law, depending on the applicant's status and subject to the status of the refunded money;
- a document confirming consent by the person that paid the customs duties and taxes to their refund to the person required to pay customs duties and taxes when the latter files an application for refund of customs duties and taxes;
- other documents that may be provided by a person to confirm refund tenability.

This list of documents is superfluous since some of them are already available in databases or held by customs and other authorities.

The "Other documents" clause often means an unlimited list of additional information may be requested (for instance, a sample imprint of an organisation's seal, etc.), this complicating refund of overpaid money and its administration.

Moreover, successful development of electronic cooperation between the customs authorities and foreign trade participants, including by using the latter’s personal accounts and subsequent planned expansion of their functions, creates a background for further improvement of the customs legislation on administration of refunds of overpaid money.

At the same time, pursuant to the tax legislation, overpaid taxes are refunded (offset) on the basis of a taxpayer's application without additional documents being submitted.

Recommendations

To amend Clauses 3 and 4 of Article 122 of Federal Law No. 311-FZ "On Customs Regulation" dated 27 November 2010 and Clauses 2 and 3 of Article 147 by reducing the list of documents provided by legal entities established pursuant to the Russian legislation to 1) an application for refund of money, filed in writing or electronically, including by using personal accounts of foreign trade participants and 2) other documents confirming refund validity that might be provided by the person applying for the money refund.

Issue 14. Extension of the list of border-crossing points using TIR Carnets.

The working group for improving customs law (hereinafter the "Working Group") of the Foreign Investment Advisory Council (FIAC) respectfully asks you to amend the draft Order "On Transportation of Goods Pursuant to the Customs Convention on International Transport of Goods under Cover of TIR Carnets" (hereinafter the "Order") posted for public discussion on the federal website of draft regulatory acts (http://regulation.gov.ru/projects#npa=29548).

Transportation of freight under TIR Carnets is very popular with foreign trade participants. We thank the Federal Customs Service for the opportunity to resume fully-fledged application of TIR Carnets in the Russian Federation.

A stable logistics supply chain and a unified approach to transporting goods through different border-crossing points are important factors providing for effectiveness of manufacturing operations for the members of the FIAC working groups and major foreign trade participants.

Recommendations

1. We ask that the following be included on the list of border-crossing points:

Brusnichnoye (Russian-Finnish border);
Bachevsk (Russian-Ukrainian border);
Burachki (Russian-Latvian border);

The working group members make extensive use of these border-crossing points for foreign trade transactions, so their inclusion would make it possible to avoid redistribution and significant increase in freight traffic at other state border-crossing points.

2.2. Technical Regulations and Elimination of Administrative Barriers

Issue 1. Resolving the issue of extending manufacturer responsibility by creating a legal framework for an effective system of recycling packaging waste in Russia (jointly with the FIAC Working Group for Trade and the Consumer Sector).

Federal Law No. 458-FZ "On Amendments to the Federal Law 'On Production and Consumption Waste' and Certain Legislative Acts of the Russian Federation as well as the Annulment of Certain Legislative Acts (Provisions of Legislative Acts) of the Russian Federation" (hereinafter, the "Law") entered into force on 1 January 2015. Beginning in 2015, the Law requires manufacturers and importers to recycle products and product packaging, and pay an environmental fee to the federal budget if they fail to do so.

While we support the Law's idea to regulate waste disposal and create an effective recycling system, we must point out that, by introducing such requirements without any transition periods, the Law, instead of expectedly stimulating the waste recycling industry, will seriously encumber all Russian manufacturers, forcing them to raise selling prices in order to compensate.

The key quantitative parameters of the financial and administrative burden (recycling standards, the list of goods to be recycled, environmental fee rates) are to be established by government decree not earlier than Q4 2015. Manufacturers are thus unable to plan their expenses for waste recycling systems and determine the necessary investment resources in the current tax period.

The published drafts of government decrees prepared and revised several times by the Russian Ministry of Natural Resources set standards for independent recycling that are technically unachievable (up to 70% for certain categories of goods in 2015).

According to the Draft Decree prepared by the Russian Ministry of Natural Resources and submitted for approval to the Russian Government on 30 June 2015, most of the suggested recycling standards for product positions (85 out of 130 groups in 2015, 124 groups in 2016 and 130 groups in 2017) are much higher than the "zero" level, which negates the moratorium stipulated in point 2 of Minutes No. DM-P13-48pr of the Russian Government's session chaired by the Prime Minister D. Medvedev on 1 June 2015. The list of goods to be excluded from the environmental fee moratorium is supplemented by the product groups that are already subject to recycling; however there are no criteria for determining recycling methods or the volume of recycled products. The fact that the list of excluded products was updated without any good reason makes the moratorium impracticable.

In view of the existing uncertainty and growing regulatory risks, manufacturers/importers are unable to adjust their internal systems and processes or identify the existing contractors with whom they could discuss measures to implement the expanded manufacturer responsibility, including the collection and transportation of non-commercial/non-industrial waste.

The situation undermines the Law's key objective of providing economic incentives for manufacturers to recycle waste and reintroduce it into economic circulation. The lack of transition periods for developing a system for independent compliance with the Law will make such compliance technically and economically impossible.

As a result, compliance would be reduced to the payment of the environmental fee. The double burden of investing in their own recycling systems and making payments for not achieving independent recycling targets would be economically unsound and, in a crisis, prohibitive. In addition to the environmental fee, the state will also assume the respective recycling obligations. The fee will be integrated into the cost and passed on to the consumer through increased prices for consumer goods. Based on the suggested fees and standards, inflation will rise additionally by a minimum of 3%-5%.

Recommendations

- In 2015, the recycling standard should be set at zero for all product groups with no exceptions.
- In 2016-17 (and up to 1 January 2019), the recycling standard should be set at zero for all products except for accumulator batteries, tires, mercury-containing lamps and the product groups that are already subject to recycling according to point 2 of Instruction No. DM-P13-48pr of the Russian Government of 1 June 2015.
- Paper should be included into the moratorium before 1 January 2019 since it is biodegradable and environmentally safe. The fact that paper is excluded from the moratorium contradicts the provisions and logic of the new version of Federal Law "On Production and Consumption Waste," since Article 24.3 of the Law stipulates economic incentives for the manufacturers and importers of biodegradable goods.

- The list of goods subject to recycling should be reduced to accumulator batteries, tires, mercury-containing lamps and the product groups that are already subject to recycling.
- In 2016-17, initial minimum standards ranging from 0% to 5% (depending on the group and category of products) should be established for batteries, tires, mercury-containing lamps and the product groups that are already subject to recycling. Additional research should be conducted in order to calculate the standard for each group, since in most cases the existence of such a standard would signal the need to significantly increase the current volumes of collected, separated and recycled solid municipal waste in the residential sector.
- A new draft regulation establishing environmental fee rates should be resubmitted for the Regulatory Impact Assessment in view of some conceptual changes (the calculation was changed as follows: the percentage was changed to an indicator denominated in RUB per ton/unit).
- The acts establishing the list of products, recycling standards, and environmental fee rates should be passed as Government Decrees.
- The dates the related regulatory legal acts prepared by the Russian Government come into effect should be the same.
- Draft decrees should be discussed by the Open Government with the assistance of the representatives of the business community and of the Expert Council.

These measures will help test the system and launch (within 3-5 years) a modern industry for waste recycling and the production of secondary material resources with an expected turnover of more than RUB 300 billion in 2018-20, which, according to experts, will result as follows:

- Additional budget inflows will amount to RUB 110-RUB 120 billion annually.
- From 400,000 to 600,000 jobs will be created in waste sorting and recycling.
- The servicing industries will be strongly stimulated (the production of recycling and trash-sorting equipment).

Issue 2. Developing the Customs Union's technical regulation system and removing the administrative barriers to the release and circulation of products in the market.

2.1. Converting product permission documents into electronic form.

Work is currently underway to make both state services and control and oversight procedures electronic. The targets are designed to improve the government's work, reduce business costs, eliminate administrative barriers, and make control and oversight more effective.

Under the pretext of implementing these aims, however, attempts are being made to retain the existing administrative barriers and redundant procedures by converting them into electronic form: instead of eliminating a redundant procedure, it is proposed that the procedure be made electronic.

Recommendations

When control and oversight functions as well as documents and procedures relating to the release and circulation of goods on the market are converted into electronic form, the need to maintain such a function, procedure or document should be assessed in relation to the relevant commodity classification (e.g., the need for an expert sanitary and veterinary examination of processed animal products when the raw materials have already undergone the relevant expert examination).

2.2. Obtaining official clarifications on the Customs Union's technical regulations.

Within the scope of its powers, the Eurasian Economic Commission (EEC) clarifies the Customs Union's technical regulations, posting answers on its website to questions concerning their implementation. This is done in order to unify the interpretation of technical regulations and promptly notify the relevant parties of such a unified interpretation of the Customs Union's legislation.

However, the EEC website section "Answers to questions on implementing the Customs Union's technical regulations" is incomplete and provides disparate information that frequently differs from the answers that the EEC gives to individual market players. The legal status of this section remains unclear for both the relevant market players who use the information and the controlling (oversight) bodies of the Customs Union's member states.

Moreover, once the Customs Union's technical regulations were adopted, the controlling bodies, ministries, and departments of member states of the Customs Union and Common Economic Space (CES) issued their own clarifications of these regulations, generally without any mutual agreement or agreement with the CES. This creates substantial problems in implementing the Customs Union's technical regulations.

Recommendations

- The contract law of the Customs Union and Common Economic Space (EEC Council Decision No. 48) should include a provision on the EEC's competence in interpreting the Customs Union's technical regulations, as well as a procedure for their official interpretation, including the time limits and stages.
- As one of the mandatory stages, ongoing consultations should be held with the EEC's Entrepreneurial Development Department so that the industry's position is taken into account when clarifications are initiated and when the EEC forms its position on a specific clarification.
- Based on these consultations (in which the parties' authorized bodies also take part), the EEC will prepare a clarification and send it to the parties and the entity concerned, and also post it on the website. This clarification should be regarded as final.

2.3. Resolving the issue of threats to the technical regulation system, including compliance with the "one product–one document" principle, in connection with the adoption of the Treaty on the Eurasian Economic Union as regards technical regulation principles and the application of sanitary, veterinary and phytosanitary requirements and measures.

Russia, Belarus and Kazakhstan signed the Treaty on the Eurasian Economic Union on 29 May 2014. The top leadership of all three Customs Union countries has frequently declared that the Treaty is designed to improve business conditions within the integrated space, eliminate administrative and technical barriers, and protect honest and fair competition.
Despite the numerous appeals by the business community during the document's preparation and approval, however, the Treaty still has provisions that differ conceptually from those in the current Customs Union agreements and are inconsistent with international regulations, and make business conditions in Russia and the Customs Union substantially worse.

This will first of all concern the possibility of setting statutory requirements for products and processes related to such requirements in the Customs Union's technical regulations and the Unified Sanitary and Epidemiological Requirements for Goods Subject to Sanitary and Epidemiological Oversight (hereinafter, "Unified Sanitary Requirements") as well as in the Unified Veterinary (Veterinary and Sanitary) Requirements for Goods Subject to Veterinary Control (Oversight) (hereinafter, "Unified Veterinary Requirements"). This will inevitably double and, for some products, triple the regulatory control over business operations and engender additional ways of assessing compliance, thus adversely affecting the business climate in Russia and the Customs Union.

Recommendations

The current principles of technical regulation in the Customs Union and Common Economic Space should be maintained as follows:

- The Unified Sanitary Requirements should only be in effect until the entry into force of the Customs Union's technical regulations for the respective type of controlled goods, as stipulated in the Customs Union Agreement on Sanitary Measures (signed in St. Petersburg on 11 December 2009 and amended on 21 May 2010). The Unified Sanitary Requirements should be canceled after the entry into force of all technical regulations for the products involving those requirements.
- The Unified Veterinary Requirements concerning products and processes related to product requirements as well as the conformity assessment procedures should remain in effect only until the entry into force of the Customs Union's technical regulations for the respective type of controlled goods. The Unified Veterinary Requirements may list only animal diseases that present the greatest hazard to international trade, based on lists in the Terrestrial Animal Health Code of the Office International des Epizooties ("OIE") and the OIE's Aquatic Animal Health Code (fish, mollusks and crustaceans), since animals classified as products as well as other animals, including domestic animals, are susceptible to such diseases.
- With regard to products and processes related to product requirements, as well as the forms and procedures for assessing conformity, the requirements of the Customs Union's technical regulations should be exhaustive and such requirements should not be included in other EEC or national regulatory legal acts.
- Issues with respect to sanitary, veterinary and phytosanitary measures concerning products and processes related to product requirements should be considered not with a view to duplicating the requirements, but based on international practice and only as prompt responses to protect against the risks associated with the spread of pests, diseases, disease vectors, etc. Such measures should be scientifically substantiated.
- The regulatory requirements should be applied only on a voluntary basis.

Issue 3. Optimizing control and permission functions when implementing industrial investment and construction projects in order to facilitate their design, construction and commissioning, and ensure the safety of industrial facilities.

Inefficient and nontransparent state control procedures are used both at the early stages of pre-project planning and acquiring the title to land for purposes unrelated to residential construction, and at the stages of obtaining construction permits and of building and commissioning industrial facilities. Excessive state regulation in this area is a major administrative barrier to the creation of new production facilities in Russia. Current construction and industrial safety law must be thoroughly improved so that production and technology can develop rapidly in the Russian economy. Since the administrative barriers to the construction and commissioning of industrial facilities have a strongly negative impact on the Russian investment climate and are the main obstacles preventing Russia from improving its position in the World Bank's international "Doing Business" rating, FIAC makes the following recommendations:

Sanitation and epidemiological expert examinations and sanitary protection zones

The number of procedures involved in assessing compliance with sanitation and epidemiological law during the construction/reconstruction of industrial facilities should be reduced. For instance, the procedure for agreeing on the sanitary protection zones should be optimized when building and operating industrial enterprises, and its time limit should be reduced to 30 days.

For reference: There are numerous redundant sanitation and epidemiological supervision procedures at virtually every stage of construction – during the expert examination of project documentation, the approval of a sanitary protection zone, and the operation of an industrial facility. In each case, a separate permit, i.e., a sanitation and epidemiological examination report, is required. Under the Urban Development Code of the Russian Federation, initial permits include a large number of preliminary permits issued by the Federal Consumer Rights and Human Welfare Service and the Federal Hygiene and Epidemiology Center. Each certificate or document must be prepared within 30 days.

Recommendations

- Optimize the procedure for approving sanitary protection zones depending on the hazard class of a facility. The time limits for approving the borders of sanitary protection zones should be reduced by drafting and implementing administrative regulations of the Federal Service for Consumer Rights and Human Welfare on the approval of borders of sanitary protection zones of industrial enterprises. The need for on-site measurements should be excluded;
- Exclude the requirement to prepare a sanitary protection zone project for low-hazard facilities (hazard classes 3-5) where hygiene is up to standard and the environmental impact and emissions are within the accepted limits already at the boundaries of an industrial site;
- It is recommended to continue monitoring in view of the need for further cooperation with Rospotrebnadzor and the Ministry for Economic Development while drafting the new revision of the sanitary protection zoning rules.

Issue 4. Enhancing the competitiveness of products and services as well as labor productivity in the Russian market by efficiently regulating human resources.

4.1. Regulating relations between employers, employment agencies and job seekers within the framework of staff leasing arrangements.

In accordance with Federal Law No. 116 of 5 May 2014 "On Amendments to Certain Legislative Acts of the Russian Federation," staff leasing in the form of secondment (intra-company transfers) will no longer be regulated by the adopted federal law, but by a separate federal law.

Since Federal Law No. 116-FZ comes into force on 1 January 2016, the main threat to business is the risk that the Federal Law on Secondment will not be enacted by that time and that secondment, a flexible working arrangement previously legal in the Russian Federation and recognized by the international business community, will no longer be covered by the law.

On 18 July 2014, the Russian Ministry for Economic Development initiated the notification procedure for the draft Federal Law "On the Labor of Employees Temporarily Transferred by an Employer That Is Not a Private Employment Agency to Other Legal Entities under Staff Leasing Agreements" (hereinafter, "On Secondment").

FIAC is currently working with the Ministry for Economic Development to provide feedback on the draft law "On Secondment," which the Ministry is working out.

Attention should be especially focused on the provisions of Federal Law No. 116-FZ of the Russian Federation of 5 May 2014 concerning restrictions on applying "staff leasing" arrangements only within a strictly limited range of cases, whereby enterprises cannot react to changes in the economic outlook.

Since the labor market should be kept very flexible and investments in modernizing and developing production should be stimulated in an economic crisis, it is suggested that additions be made to the list of cases given in the second part of Article 341.2 of the Labor Code of the Russian Federation.

Recommendations

- Elaborate the draft law "On the Labor of Employees Temporarily Transferred by an Employer That Is Not a Private Employment Agency to Other Legal Entities under Staff Leasing Agreements," taking into account FIAC's position on the need to eliminate the risk of excessive regulation of staff leasing and secondment so that investors can react promptly and flexibly to changing economic conditions, human resources can be used effectively, and highly qualified personnel can be hired promptly in full compliance with labor legislation.
- Consider the possibility of initiating amendments to Federal Law No. 116-FZ of the Russian Federation of 5 May 2014 concerning an addition to the list of cases for engaging personnel through private employment agencies when implementing new investment projects or other projects in line with FIAC proposals.

4.2. Enhancing the regulatory framework for compensation and payments to employees working in harmful and hazardous conditions.

On 28 December 2013, the State Duma adopted Federal Laws No. 426-FZ "On the Special Assessment of Working Conditions" (hereinafter, the "Law") and No. 421-FZ "On Amendments to Certain Legislative Acts of the Russian Federation Following the Adoption of the Federal Law 'On the Special Assessment of Working Conditions'" (hereinafter, the "Accompanying Law").

The working group analyzed the practical application of the Law and the Accompanying Law as well as the related subordinate acts regulating working conditions.

The analysis revealed several problematic issues requiring the attention of the relevant department, as well as additional developments:

- Contradictions between the Technical Regulations of the Customs Union "On the Safety of the Means of Individual Protection" and the Law. There is no ability to apply advanced regulations in creating economic incentives for employers to invest in the acquisition of means of individual protection (MIP) concerning one of the most common harmful factors (noise).
- Retrospective compensation claims. Since the Law was adopted, there have been more employee requests to the labor inspectorates, prosecutor's office, and the courts, where a retrospective examination is made of the claims concerning the employers' failure to grant all three types of compensation to employees irrespective of the established sub-class of harm at certain workplaces and the need to compensate the employees for the harm done throughout the period from 2008.
- Ambiguity of interpretations of the transitional provisions. The parties to the social partnership ambiguously interpret the provisions of the Law according to which, in the employers' view, Articles 92, 117 and 147 of the Russian Labor Code should apply when making a special assessment of the working conditions after 1 January 2014, i.e., provide differentiated compensation for work in harmful and hazardous conditions, depending on the class of working conditions.

As a result, many fundamental positive innovations and principles remain unrealized, and the Law has been unable to fully meet its stated goal of ensuring an optimum balance between the interests of employers and employees and enhancing labor productivity by efficiently managing human resources.

Recommendations

- Promote the rapid adoption of amendments to Federal Law No. 426-FZ, prepared by the Russian Ministry of Labor, concerning the introduction of the institution of "voluntary certification" of MIP for the purpose of reducing the hazard sub-class, taking into account the proposals made by FIAC.
- Consider the possibility of notifying FIAC on the official viewpoint of the Russian Ministry of Labor concerning the retrospective compensation claims for harmful and hazardous working conditions and the transitional provisions of the Law.

4.3. Enhancing the regulatory framework for hiring physically handicapped (disabled) employees and providing them with equipped workstations (including by means of budget allocations).

Currently, employment relations between employers and disabled persons are regulated by Federal Law No. 181-FZ of 24 November 1995 "On the Social Protection of Disabled Persons in the Russian Federation."

Although many amendments have been made to this law (the latest on 2 July 2013), a number of key issues that directly impact foreign investors' operations in Russia remain unresolved. For example, although job quotas for disabled persons and funds allocated to employers to equip workstations for disabled persons differ from one federal constituent entity to another, they do not (and cannot) differentiate between the disability categories. This makes it impossible to comply with the legislative requirement that "universal" workstations be provided; in addition, the technological and other operational and industry specifics of employers are not considered, which may include the remote employment of disabled persons, climatic conditions of federal constituent entities, and other important factors.

On the whole, the requirement that international companies determine the number of workstations set aside for disabled persons and equip them accordingly before making a fair selection of candidates on the labor market based on the principles of equal rights and nondiscrimination seriously affects compliance with the business principles in the internal corporate codes of many FIAC member companies and, in our view, severely limits disabled persons' access to the full range of jobs and professions on the labor market. This in itself is contrary to the idea of the law.

Recommendations

- A working group should be formed jointly with the Ministry of Labor and representatives of FIAC member companies to develop proposals for revising current approaches (or introducing alternative approaches) to job quotas for physically handicapped (disabled) persons and to allocations for specially equipped workstations, taking into account disability groups, industry specifics (the mining industry, etc.) and regional climatic conditions (in the Far North, etc.). Target quotas should be tied to the number of workstations potentially suitable for physically handicapped (disabled) persons rather than to a company's total headcount.
- To avoid artificial requirements with respect to the employment of physically handicapped people, Federal Law 181 should be amended as follows:

  a) Introduce an appropriate amount of material compensation to be paid if the regional quota level cannot be met for objective reasons (amount X for each job).

  b) In cases where it is impossible to create or allot workstations for disabled persons, provide the option of leasing such workstations on contractual terms to satisfy the quota.

Issue 5. Applying new drainage requirements for industrial enterprises under Federal Law No. 416-FZ "On Water Supply and Drainage" and Government Decree No. 644 of 29 July 2013.

5.1. Federal Law No. 416-FZ "On Water Supply and Drainage" changed the legal status of companies that use central drainage systems by categorizing them as natural resource users (hereinafter, "water-user enterprises"). Companies discharging over 200 m^3 of water daily into central drainage systems were placed under the direct control of the Federal Service for the Supervision of Natural Resources, and are required to pay pollution charges and maintain the following documents: discharge standards, discharge reduction plans and discharge limits.

The criterion of 200 m^3 of discharged wastewater for applying standards to a user is not objective. All large and most medium-sized enterprises meet that criterion, and so do shopping malls and office buildings.

As of 1 January 2014, thousands of enterprises using central water-supply systems effectively come under the current system of standards for wastewater discharged into bodies of water. This system is based on water quality standards for fishery purposes, which are much stricter than those for drinking water.

The federal law requires such users to build and operate their own local treatment facilities without considering the option of additional wastewater treatment by Vodokanal enterprises and third-party organizations, or the use of such technologies as closed-cycle production and other conservation measures. The requirement to build local treatment facilities is financially unfeasible for many companies, even taking into account the construction time limits provided for by law. The construction of local water treatment facilities designed to meet fishery-quality standards is unfeasible both financially and technically.

A number of food production facilities have closed due to problems concerning the regulation of drainage into the central drainage systems in the current economic crisis.

Status as of September 2015:

Pursuant to the decisions regarding the moratorium on the introduction of non-tax payments on businesses before 2019 (Minutes No. DM-P13-48pr of the Government Meeting "Concerning the Limits on Non-Tax Payments by Businesses" of 1 June 2015), the transition deadline to fulfill the provisions of Chapter 5 of Federal Law No. 416-FZ was postponed from 1 July 2015 to 1 January 2019 (Federal Law FZ-221 dated 13 July 2015 "Concerning the Specifics of Regulating Certain Legal Relationships Related to the Construction and Reconstruction of Federal and Regional Transport Infrastructure to Ensure Transportation Between the Taman and the Kerch Peninsulas and Federal and Regional Utility Infrastructure at the Taman and the Kerch Peninsulas and Concerning the Amendments to Certain Legislative Acts of the Russian Federation").

The Law still requires a change for a clear division of responsibility for industrial wastewater treatment between central drainage systems and their users, as well as realistic standards for the discharge of pollutants into bodies of water and the central drainage systems with regard to international practice (point 4 of Dmitry Medvedev's instructions of 27 October 2013).

The Government is working on the relevant amendments to Law No. FZ-416 in the process of preparing amendments for the second reading of Draft Law No. 386179. In July 2015, the Ministry for Economic Development formed an inter-agency working group made up of industry representatives to eliminate conceptual disagreements between the ministries. As a result, the group submitted to the Government (represented by D. A. Kozak) agreed conceptual proposals concerning the suggested amendments to Federal Law FZ-416. In instruction No. DK-P9-5742 of 21 August 2015, Mr. Kozak instructed the Ministry of Construction Industry, Housing and Utilities Sector to collaborate with the concerned agencies to revise the amendments prepared by the Government in accordance with the arrangements reached.

As of the beginning of September, no new versions were submitted.

Recommendations

- Correct the imbalance in the regulation of relations between users and the central drainage systems;
- Ensure the implementation of point 4 of Dmitry Medvedev's instructions based on the results of the FIAC session by amending Federal Law No. 416 "On Water Supply and Drainage" and related regulatory documents based on the arrangements reached by the inter-agency working group under the Ministry for Economic Development;
- Representatives of industrial companies whose enterprises use the central drainage systems should be directly engaged as experts in work on the amendments.

5.2. Specific industry-related risks are associated with the requirements of Section VII of the Rules of Cold and Hot Water Supply (approved by Government Decree No. 644 of 29 July 2013), which entered into force on 1 January 2014.

This document sets excessive and unreasonably strict wastewater standards for 32 substances to prevent their negative impact on the central drainage system.

The rules allow Vodokanal enterprises to charge users for the "negative impact" without verifying the extent of damage or the expenses incurred in connection with the wastewater discharged in excess of the newly established pollutant levels.

The rules not only lack any transitional provisions enabling users to meet the new requirements, but also fail to take into account the specifics of industrial wastewater treatment, whereby wastewater may be treated not at a company's own facilities, but by expanding the capacity of external treatment facilities, including those of Vodokanal enterprises. Users may comply with the requirements for wastewater quality only through using local water treatment facilities, whose construction is technically and economically impossible for most manufacturing enterprises, which then leads to shutdowns.

In late 2014, Vodokanal enterprises started to actively apply the "Damage" Reimbursement Rules, which caused a sharp increase in the fees charged to industrial enterprises (in certain cases, charges by Vodokanal enterprises have grown ten times or more).

- The fee per small business: up to RUB 14 million a year
- The fee per medium food production enterprise: up to RUB 50 million-RUB 70 million a year

- The fee per major food production enterprise: from RUB 100 million to more than 500 million a year

Moreover, there is reasonable doubt as to whether the new standards further the stated goals of regulation. A number of these standards (e.g., for sulphates, copper, zinc, arsenic and strontium) are far stricter than the requirements set by Sanitary Rules and Regulations (SanPiN) 2.1.4.1074-01 for the quality of potable water in the central water supply systems.

In violation of Law No. 416-FZ, the rules unreasonably extend the list of cases in which a corporate user is required to have and operate its own treatment facilities (Appendix 4). An analysis of this list shows that the requirement applies to the vast majority of manufacturing enterprises of any size and profile.

Status as of September 2015:

According to the results of the FIAC Executive Committee meeting held in April 2015, the Ministry of Construction Industry, Housing and Utilities Sector and the FIAC Working Group on Technical Regulation and Elimination of Administrative Barriers were instructed (point 2 of Instruction No. ISh-P13-3888 of the First Deputy Prime Minister of the Russian Federation of 15 June 2015) to develop and agree on proposals to amend Decree No. 644 of the Russian Government of 29 July 2013 "On the Approval of the Rules of Cold Water Supply and Drainage and on Amendments to Certain Acts of the Government of the Russian Federation" in order to:

- Align the indicators of pollutants with scientifically valid indicators

- Ensure the required level of wastewater treatment under the service agreement with central drainage systems

Pursuant to the instruction, on 30 June 2015, the Ministry of Construction Industry, Housing and Utilities Sector submitted draft amendments to Government Decree No. 644 for approval. The amendments were neither provided to nor approved by the FIAC Technical Regulation and Elimination of Administrative Barriers Working Group. According to the analysis, the amendments require substantial revision to comply with the set goals. The draft document was not approved by the Ministry for Economic Development. As requested by the business community (FIAC, Russian Union of Industrialists and Entrepreneurs), the Ministry for Economic Development formed a working group to review amendments to Government Decree No. 644. The first meeting of the group was held on 4 September 2015.

Recommendations

- Revise Section VII and the standards (Appendix 3) to reflect the real risks of damage to Vodokanal systems.
- Exclude Appendix 4 to the Rules: eliminate contradictions concerning Federal Law No. 416-FZ.
- Eliminate the requirement to build local treatment facilities and make it possible to sign contracts with Vodokanal enterprises for additional treatment, and comply with the treatment requirements by increasing the capacity of external treatment facilities.
- Provide corporate users with a transition period of at least one year to comply with the Rules.
- Finalize the draft amendments together with industry experts.

Issue 6. Legalizing parallel imports and protecting intellectual property rights.

The amendment of the Russian intellectual property law to switch from the national principle of exhaustion of rights to a trademark to the international principle will have negative consequences. For instance, a more thorough expert study should be conducted in relation to the diminution of Russia's appeal for investment and innovation projects and the sharp increase in risks that consumers will acquire low-quality and most likely hazardous goods.

As of today, there is no objective evidence that the legalization of parallel imports has had a favorable effect on consumer prices anywhere in the world. On the contrary, a number of surveys conducted by such respectful scientific and expert organizations as the London School of Economics, the Higher School of Economics, and the NERA research center clearly show that the absence of restrictions on parallel imports has no impact on price competition and does not ultimately lead to lower prices in the importing country.

Leading countries like the US and Japan use various mechanisms to protect their domestic markets from parallel imports. The European Union (EU), for instance, applies the regional principle of exhaustion of trademark rights, whereby officially imported goods can circulate freely in the EU. Products cannot be imported into the EU without the rights holder's consent. A principle of exhaustion of rights similar to that applied in the EU has been introduced in the Customs Union.

The decision to commence amending the Treaty of the Eurasian Economic Union was made at the meeting of the Eurasian Economic Commission on 21 August 2015 to enable the legalization of parallel imports of particular goods. The Member-States agreed to maintain the basic regional principle with particular exceptions. The EEC working group should draft criteria for exceptions from the basic principle and the wordings of the amendments by December 2015. The suggested amendments should be approved at the meeting of the Council and disseminated to the Member-States for further agreement.

Recommendations

- The EEC working group should engage FIAC experts for the purposes of drafting conditions/criteria for removing product categories from the scope of the regional principle of exhaustion.
- Resident investors who have localized their production facilities should be exempt from this legal regime to remove commodities manufactured within the territory of the Russian Federation.

Issue 7. Application of Federal Law No. 242-FZ of 21 July 2014 "On Amending Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks" and Federal Law No. 526-FZ of 31 December 2014 "On Amending Article 4 of the Federal Law 'On Amending Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in Information and Telecommunication Networks.'"

This federal law substantially changes the regulation of personal data storage. For example, Article 16, part 4, of Federal Law No. 149-FZ of 27 July 2006 "On Information, Information Technologies and the Protection of Information" is supplemented with clause 7, making operators responsible for ensuring that the databases used in collecting, recording, systematizing, aggregating, storing, modifying (updating, revising) and retrieving the personal data of Russian citizens are located in the Russian Federation, and Article 18 of Federal Law No. 152-FZ of 27 July 2006 "On Personal Data" is supplemented with clause 5, requiring that operators collecting personal data, including via the Internet, ensure that the personal data of Russian citizens is recorded, systematized, aggregated, stored, modified (updated, revised) and retrieved using databases located in the Russian Federation. Article 4 of Federal Law No. 242-FZ of 21 July 2014 "On Amending Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Processing Personal Data in the Information and Telecommunication Networks" (Collected Legislation of the Russian Federation, 2014, No. 30, Article 4243) reads as follows: "This Federal Law shall come into force on 1 September 2015."

On 11 February 2015, a meeting was held at the Ministry of Communication and Mass Media by representatives of the FIAC member-companies with the participation of A.V. Sokolov, Deputy Minister of Communications and Mass Media, and A.A. Pankov, Deputy Head of the Federal Service for Monitoring Communications, Information Technologies and Mass Media, where exhaustive clarifications were made for the issues raised by the FIAC member companies for the meeting concerning the application of Federal Laws No. 149-FZ and 152-FZ in the wording of Federal Law No. 242-FZ (e.g., determination of personal data, cross-border transfer, storage and processing of personal data outside Russia, employment relations, local networks, the Internet, and websites).

On 12 August 2015, the Ministry of Communication published clarifications to the regulation on localizing storage and other processes related to personal data processing, effective from 1 September 2015. However, certain terms and wordings used in this regulation lack legislative definitions and are subject to varying interpretations. Moreover, due to the fact that the personal data localization concept has been introduced only recently, businesses still have a number of questions concerning its correlation with other regulations of the Federal Law on Personal Data.

Recommendations

Since the meetings held by Roskomnadzor in February and March 2015 were closed, a working group should be formed jointly with the Ministry of Communication, Roskomnadzor and representatives of FIAC member companies with the aim of developing proposals on compiling and extending the list of provided clarifications to ensure compliance and to relieve the tension caused by the adoption of Federal Law No. FZ-242.

Issue 8. Introducing a temporary "moratorium" on the development and implementation of legal acts that have a direct regulatory impact on business conditions and company operations.

The Russian economy is currently facing one of the most serious challenges since the 1998 crisis. The current economic situation can be described as the "perfect storm": a conjunction of every possible negative factor during a period of unfavorable foreign economic and political conditions (political sanctions, the devaluation of the national currency and associated inflation, falling energy prices, and declining consumer demand).

The year 2015 will see the implementation of a number of major legislative acts of fundamental importance for the operations of most Russian industrial and agricultural enterprises, e.g.;

- Federal Law No. 458-FZ of 29 December 2014 (as amended on 29 December 2014) "On Amendments to the Federal Law 'On Production and Consumption Waste' and Certain Legislative Acts of the Russian Federation as Well as the Annulment of Certain Legislative Acts (Provisions of Legislative Acts) of the Russian Federation"
- Federal Law No. 242-FZ of 21 July 2014 (as amended on 31 December 2014) “On Amendments to Certain Legislative Acts of the Russian Federation to Clarify the Procedure for Personal Data Processing in Information and Telecommunication Networks”
- Chapter 5 of Federal Law No. 416-FZ of 7 December 2011 (as amended on 29 December 2014) "On Water Supply and Drainage"
- Federal Law No. 212-FZ of 24 July 2009 (as amended on 29 December 2014) "On Insurance Payments to the Pension Fund of the Russian Federation, the Social Insurance Fund of the Russian Federation and the Compulsory Medical Insurance Fund"
- Federal Law No. 206-FZ of 21 July 2014 "On Plant Quarantine"

The implementation of these acts will mean unprecedented costs for Russian enterprises, amounting to as much as 1% of their annual gross turnover. If any further regulations having a direct regulatory impact on the operations of the same enterprises enter into force in 2015, additional costs will be incurred, and an as yet unknown quantity of financial resources will be taken out of circulation, adversely affecting the profitability of whole industries as well as the competitiveness and ultimate cost of consumer goods produced in Russia. In 2014 alone, according to experts in the business community (FIAC), the consumer goods sector is expected to sustain EUR 1.5 billion in losses from unplanned economic regulation measures.

In the current economic conditions, it is important to help businesses maintain their rates of sustainable development and current operating models in order to avoid a situation in which the declining profitability of whole industries is determined, as in 1998, by dramatic price hikes and massive layoffs.

With regard to this, a definite proposal was made for inclusion in the Plan for Primary Measures in Ensuring Sustainable Development of the Economy and Social Stability in 2015 (approved by Order No. 98-r of the Government of the Russian Federation of 27 January 2015); in their letter of 4 February 2015, addressed to Economic Minister A.V. Ulyukaev under outgoing No. KS-0402-15-yeo, FIAC experts suggested that a "moratorium" be introduced for the next 12-24 months concerning the development and implementation of any new legislative initiatives which substantially change business conditions in Russia, as well as their introduction by Russia at the level of the Customs Union.

It was proposed that such initiatives include:

- Changes in the current Customs Union Technical Regulations affecting whole categories of goods as regards terminology, composition, manufacturing conditions, storage, transport, sale, and use, as well as requirements with respect to their marking and packaging (such as the draft Agreement on the Creation and Functioning of a System of Marking Goods with Control (Identification) Marks in the Eurasian Economic Union)
- Any regulatory or legal acts introducing tougher safety parameters for goods and services (except for measures taken in compliance with Chapter V, Article 31, of Federal Law No. 52-FZ of 30 March 1999 (as amended on 29 December 2014) "On Public Sanitary and Epidemiological Welfare")
- Regulations implemented without preliminary substantiation, without an estimate of the resources that businesses will require, and without a regulatory impact assessment, but involving substantial financial and administrative costs for business (e.g. the environmental fee charged to producers (importers) of a wide range of goods, beginning in 2015; the implementation of the Unified State

Automated Information System at breweries; the licensing of beer production; the prohibition on PET packaging for beer with alcohol content over 6%)

- Federal laws implemented before the subordinate acts necessary for their implementation are in place

We are convinced that, in addition to resolving the given problem, such a moratorium would reduce Russia's budget outlays for control and oversight measures, as well as enhance the quality of such measures. This, in turn, would deal a blow to unscrupulous manufacturers, creating more favorable conditions for the production of competitive Russian goods and import substitution.

In conformity with the standpoint set forth in response to that statement by the Regulatory Impact Assessment Department of the Ministry for Economic Development in the letter with outgoing No. 4219-OF/D26i, FIAC experts make the following recommendations:

Recommendations

- The Ministry for Economic Development should strictly control that each definite case of new regulation concerning entrepreneurs within the limits of regulatory impact assessment be supported by calculations of the associated costs and the financial and economic substantiation (FES) of the need for their origin. A regulatory legal act in its proposed form can be turned down when there are no calculations of future costs or the FES results show that the introduction of a new regulation produces a low positive or a completely negative financial and economic effect.
- The Ministry for Economic Development should strictly control the existence of bylaws which were worked out for the realization of federal laws by the time the laws were implemented. The introduction of new regulation should be postponed if no bylaws were worked out.
- For all new legislative initiatives which substantially change business conditions, a transition period should be established until at least 1 January 2017.

Issue 9. Enhancing the competitiveness of Russian agricultural produce by providing the Russian agricultural producer with the innovatory means of protecting plants, and introducing amendments to the draft Federal Law "On the Introduction of Amendments to Federal Law No. 109-FZ 'On the Safe Use of Pesticides and Agricultural Chemical Agents' and Other Legal Regulatory Acts."

9.1. Overcoming the current legislative barriers of the agricultural and industrial complex that adversely affect the competitiveness of Russian agricultural producers.

The existing legislation on the use of pesticides (chemical agents used to protect plants) has a negative impact on the competitiveness of Russian agriculture, since the Russian agricultural producer has a smaller range for pesticides (this is especially evident for crops with small cultivation areas) and can start using modern compounds only some years after agricultural producers do in other countries.

Moreover, the existing legislation adversely affects the development of the phytosanitary environment in the country, making it impossible to start registering the means of protection to control new harmful units before their number becomes too high.

Legislation which regulates pesticide circulation in Russia (Federal Law No. 109-FZ of 19 July 2011 [amended on 19 July 2011]) contains contradictory requirements, on the one hand defining a "developer" as an "entity engaged in the production of pesticides... and a survey of their activity..." and other features (p. 1), and on the other banning the circulation (p. 1) and production (p. 18) of unregistered pesticides.

Current legislation (Federal Law No. 109-FZ) is applied in its prohibitive part to international manufacturers of plant protection agents:

- Conducting tests prior to registration is prohibited; otherwise, it becomes difficult to choose the means of protection which best suit Russia's climatic conditions for subsequent registration.
- Due to the specific features of registration in Russia, the manufacturer of the means of protection has limited information on the effect of the recently registered agents in Russia's climatic conditions, and this also additionally delays the application of the new means of protection or reduces the effectiveness of their application by agricultural producers.
- An agricultural producer can become acquainted with new agents only after registration, thereby additionally delaying the wide use of the means of protection.

9.2. Helping give rise to additional factors which prompt international investors into making the decision to establish their own production facilities in Russia.

The EC countries and several member-countries of the Eurasian Economic Union (e.g., Belarus and Kazakhstan) have a legislatively established procedure for field tests on small plots to complete the regulations for applying an agent before the state registration of a pesticide. The procedure is intended to maximally adapt the agent to the soil and climatic conditions of a certain country and make its application most effective.

Currently, Russia has no such regulations. Therefore, the transnational companies working in the Russian market are obliged to test new agents outside the country, choosing regions whose conditions closely resemble those of Russia's.

Recommendations

- Introduce the relevant amendments to the draft Federal Law "On the Introduction of Amendments to Federal Law No. 109-FZ 'On the Safe Use of Pesticides and Agricultural Chemicals,'" the Procedure of State Registration of Pesticides and Agricultural Chemicals, the Administrative Regulation of the Ministry of Agriculture of Russia for providing a state service in organizing registration tests, organizing an expert examination of the regulations for applying pesticides and agricultural chemicals, organizing an expert examination of the results of the registration tests of pesticides and agricultural chemicals, the state registration of pesticides and agricultural chemicals, and the maintenance of a state catalog of pesticides and agricultural chemicals that regulate:
- The development of a procedure for field tests on small plots involving samples of unregistered pesticides for research purposes.
- The procedure for importing pesticides for research purposes.
- The possibility of conducting demonstration experiments for agricultural producers at the final stage of the state registration of pesticides, whereby they provide the necessary information on the new agent so that it can be used most effectively.
- The inclusion of experimental stations of pesticide manufacturers in the number of organizations which are allowed to conduct field tests on small plots involving unregistered pesticide samples during tests before registration and tests of the biological effectiveness of agents during the state registration of pesticides, and the experimental stations of seed manufacturers for field tests on small plots involving unregistered seed samples after they pass the state accreditation procedure.

Status as of September 2015:

At the working meeting on 26 May 2015 held between A. Tkachev, the Minister of Agriculture of the Russian Federation, and the representatives of international businesses, recommendations were given to the Minister concerning the respective changes to be made to draft Federal Law "On the Introduction of Changes to FZ 109 'On the Safe Use of Pesticides and Agricultural Chemical Agents' and Other Legal Regulatory Acts."

Having considered the request of industry representatives to amend the laws on the safe use of pesticides and agrochemicals, the Russian Ministry of Agriculture announced its decision to submit draft Law "On the Safe Use of Pesticides and Agricultural Chemical Agents" to the Russian Government for consideration. In accordance with the draft law, the registration tests of pesticides and agricultural chemical agents permit scientific research.

The draft law was to amend Article 21 of Federal Law FZ 109 "On the Safe Use of Pesticides and Agricultural Chemical Agents" by bringing it into compliance with Decision No. 134 "On Regulatory Legal Acts in the Area of Non-Tariff Regulation" of the Board of the Eurasian Economic Commission.

In accordance with Article 12 of the Russian Constitution, in the event that provisions of an international treaty concluded by the Russian Federation differ from the provisions of the law, the provisions of such international treaty shall prevail. Therefore, the changes proposed to Federal Law No. 109 were considered but they will become feasible only once changes to Decision No. 134 are made.

Given the above, the efforts to amend the laws on the safe use of pesticides and agricultural chemical agents will be continued jointly with the specialized committee responsible from the Eurasian Economic Commission.

Issue 10. Lowering of administrative barriers related to reforms of state and municipal control (draft law "On the Fundamental Principles of State and Municipal Control" and other legislative acts).

On 5 August 2015, the draft Law "On the Fundamental Principles of State and Municipal Control in the Russian Federation" was submitted to the Government. This law is to supersede existing Federal Law No. FZ-294 "On the Protection of the Rights of Legal Entities and Individual Entrepreneurs," introducing fundamentally new approaches to control/supervision and permit functions, and streamlining the requirements established by the applicable legislation. The draft law is an important element of the Russian state supervision system and covers 156 types of federal control (supervision), 44 types of regional control and 14 types of municipal control.

The draft law will regulate the control/supervision function of the state, in particular with respect to creating a transparent, reliable and effective system of relationships between the authorities, citizens and business, and reducing the excess burden placed on businesses. This new approach to state and municipal control is based on the risk-oriented model.

At the same time, the unclear terminology describing the risk-oriented model of control, supervision and performance metrics, the lack of and abundance of references in certain regulations, provided state executive bodies develop additional regulations to determine key mechanisms, criteria and requirements, give rise to business concerns related to the emerging risks, in particular:

- Additional reasons to perform unscheduled audits
- More frequent scheduled audits by control bodies
- Improper use of publicly available information concerning control/supervision at enterprises
- Increased administrative and financial burden on businesses

Recommendations

- It is recommended to include representatives of the real sector in the working groups of the Ministry for Economic Development and Open Government to discuss the draft law.
- When developing the criteria for classifying activities and businesses into risk categories, the possible burden on businesses should be assessed in terms of administrative barriers and financial costs.
- A transition period of a minimum of three years should be established before the law takes effect.

2.3. Financial institutions and Capital Markets

Development of Moscow as an international financial center

Positioning of Moscow as a center of regional financial integration of CIS countries

Issue 1. Forming the infrastructure of the Russian financial market and carrying on legislative activity in regulating it.

Recommendations: improvement of legislation (adoption of laws/amendments to laws):

- "On Stock Exchanges and Organized Trading"

- "On the Bankruptcy of Individuals"

- "On Economic Insolvency"

- Development of legislation to legitimize money transfers

- Preparation of a regulatory framework for the issue of foreign bonds in Russia / Russian depositary receipts

- Introduction of the "foreign nominal holder" concept into legislation

1.1. Collateral legislation.

The Russian Ministry for Economic Development, in close collaboration with the European Bank for Reconstruction and Development, is working to reform collateral legislation in accordance with clause 66 of the Anti-Crisis Plan. The reform is intended to address the most serious problems encountered by market participants in using collateral. An increase in the market participants' confidence in the reliability and effectiveness of collateral as a form of security should result in greater financing on more favorable terms and so make it possible to satisfy the economy's demand for capital in a more timely and adequate manner.

In the context of an extensive reform of civil legislation, the Presidential Council for Codification and Improvement of Civil Legislation drafted a revised Civil Code, which addresses, among other things, provisions on collateral (Chapter 23, paragraph 3).

It should be noted that the collateral provisions of the draft Civil Code, if adopted in their current form, would not allow Russia to fully meet its goals in reforming collateral legislation. It is therefore very important to ensure that the key areas of this reform are reflected in the Civil Code.

Advantages: The draft Civil Code (prepared for its second reading in the State Duma) is more advanced than current legislation with respect to the following:

- confirms the legitimacy and possibility of levying charges in relation to syndicated loans;
- recognizes the legitimacy of pledging bank accounts;
- envisages the registration of collateral and recognizes the validity of collateral in relation to third parties from the date of its registration. These provisions are supplemented by a recently adopted law under which the Federal Chamber of Notaries is to develop a unified register of notifications of pledges of immovable property and ensure its functioning; this is a revolutionary development in Russia.

Disadvantages: a more flexible and effective approach to pledge transactions is not introduced in the draft, e.g.,

- there are still many restrictions affecting extra-judicial claims;
- pledges of bank accounts will not be as flexible as in many other markets;
- transaction costs may remain high due to excessive requirements.

Critically important: the draft contains problematic provisions relating to:

- **Description of assets that may be pledged**: the parties must be allowed to describe pledged items as they deem appropriate for their transaction, provided that such a description allows them to identify a pledged item at the time of enforcement. That will expand the range of assets pledged by borrowers and will ensure lenders' confidence in the reliability of pledges offered to them (e.g., lessen the risk that a transaction will be declared "non-existent" on formal grounds that a pledge is

described inadequately; currently, such a risk is quite high for lenders) and will also reduce transaction costs involved in secured financing (e.g., when a pledged item is changed, amendments to the pledge agreement need not be made if such a change is covered by the initial general description).

- **Obligation to notarize an extra-judicial claim agreement in relation to pledged immovable property, regardless of who the pledger is.** Such a requirement may be needed to protect individual pledgers, since individuals are usually in a more vulnerable position and would be better protected if they consulted a notary. But there would seem to be no reason for similarly protecting legal entities that pledge their immovable property; besides, such an obligation would substantially increase the transaction costs. There are also provisions in the draft which actually oblige the parties to notarize all pledge agreements so as to have the option of making an extra-judicial claim, but this also increases transaction costs and negatively affects Russia's economic development in the long term.
- **Obligation to notify a debtor about a pledge of the right of claim against him within five days after entering into a collateral agreement.** In the contemporary financial world, it is quite common to pledge rights of claim. The debtor should be notified of such a pledge voluntarily, since there may be various reasons for the parties to consider it inexpedient to notify the debtor immediately. Such notifications also result in additional transaction costs. It is also important to allow the pledge holder to send notification himself without relying on the pledger, because relations with the pledger may worsen by the time such a notification is required by the pledge holder, and the pledger will not then cooperate with the pledge holder.

Recommendations

According to FIAC, the above-mentioned shortcomings should be rectified in the pledge provisions to be considered in the second reading by the State Duma. The European Bank for Reconstruction and Development (EBRD) is ready to provide the text of the corrections which should be made.

In cooperating with FIAC, the EBRD is willing to provide full technical assistance to the Ministry of Justice and the Federal Chamber of Notaries in developing a unified register of notifications of pledges of immovable property so that the system will meet today's market requirements.

Status: the issue is resolved. The application of amendments should be monitored and additional recommendations should be introduced.

On 6 December 2013, amendments to the Civil Code concerning collateral were published and submitted to the Duma for the second reading. The working group proposed many of those amendments. The amendments concerned the free description of collateral, explicit registration rules, the priority of collateral, and the absence of the need to notify the debtor of the collateral rights. However, there are proposals which were made but not taken into account. The changes are scheduled to come into force on 1 July 2014.

- The requirements for a collateral agreement were sufficiently eased, and the parties could (were flexible enough) to determine the key parameters of the agreement (description of the collateral and the securing commitments) at their discretion; in this respect, account was taken of the interests of debtors, who may be less versed in financial issues. A favorable effect of these new provisions will largely depend on their interpretation by the courts;

- The introduction of the concept of collateral manager, who represents a group of lenders, and the recognition of agreements between lenders on the priority of their collaterals can be regarded as important achievements in Russian law. However, certain issues are not regulated quite clearly; therefore, the market may be wary of the new concepts until there is clarity.

- The new collateral register will be the most noticeable aspect of reform for the market players. It will provide clarity and certainty, which are so needed. Hopefully, the register (e.g. the registration process) will prove to be effective and economical.

- The recognition in the Civil Code of the general principle of determining the priority of lenders relating to the time of registration of collaterals is a very important change which, together with the transparent registration system, should make the lenders far more confident. However, there could be certain problems when the same asset serves as collateral several times.

- The reform has substantially consolidated the approaches to pledging claim rights and filing a charge against them. It also became legal to use bank accounts as security; they were used as such earlier, but it was not clear whether that had legal force, and the instruments were weak.

- As regards the claim to collateral, the reform seems to be more modest, although certain positive clarifications were made. Additional work may be required, especially after the new provisions are tested in practice.

Status: 2015

The reform of the Russian pledge legislation, which has been discussed and called for, for so long, was aimed to reflect both the most serious problems encountered by market participants in using pledge to secure obligations - in terms of existing legislation and its application by Russian commercial courts, as well as best international practices. In December 2013, new provisions amending the Russian Civil Code and some other laws were adopted to enhance secured lending framework. Most of the changes became effective on 1 July 2014. The provisions bring significant benefits to the legal framework and expectation is that the benefits will be felt by market players. However, close examination has also revealed a number of issues, which would be very beneficial to address in subsequent amendments.

Recommendations

(1) The concept of a pledge manager introduced in the Civil Code has a special significance for syndicated lending. The Civil Code provides that the pledge manager acts in the name of creditors who appointed him and not in his own name. Therefore, it is possible that the parties will interpret this provision as requiring the lenders and not the pledge manager to appear in the registers as pledgeholders (the register of notices of pledges, shareholders' registers, immovable register, etc.). It means, in turn, that upon assignment of the debt of one of the lenders in the syndicate the new lender will need to appear in the registers – hence the need to amend the registration record. In other words, loan transfers, which are quite common in syndicated lending, would entail the need for updating records about the pledgeholder in all the registers where the pledge securing the loan is registered. This would be quite cumbersome and against the spirit of providing the concept of pledge manager in the first place.

This concern could be eliminated by changing a number of Russian laws (Law on Notariate, Mortgage Law, Securities Market Law, etc.) and sub-laws. It is necessary to expressly provide that it is the pledge manager who will appear in a register where the relevant pledge is recorded (register of notices of movable property, register of rights to immovable property, shareholders' registers, etc.) and not the lenders in whose interests he acts.

(2) It is also necessary to expressly confirm that the pledge manager will be able to fulfil his functions even in case of the pledgor's bankruptcy. Therefore, it is necessary to amend the Bankruptcy Law to specify, that it is the pledge manager who is to exercise rights and duties of secured creditors in the interests of which he acts in the course of the pledgor's bankruptcy proceedings.

(3) In addition, the progressive changes introducing a pledge manager concept may be impaired by certain provisions, as described further. The current Civil Code wording may be interpreted as allowing the termination of a pledge management at the initiative of one of lenders who appointed the pledge manager. In other words, one lender could defeat the will of all the others within the syndicate. If this interpretation prevails in practice, syndicated lenders may feel that appointing a pledge manager is too fraught with uncertainty to be worthwhile.

Further, it is not clear whether the powers of the pledge manager remain after assignment of claims by one of the lenders or whether these powers need to be further confirmed by entering into some additional agreement. If the practice settles so that some additional actions are required to ensure that the new lender can enjoy the "service" of the pledge manager, it would add unreliability to the instrument.

These concerns could be eliminated by amendments to the Civil Code. However, even without changing the Civil Code, the risk of the above interpretations could be mitigated if a Supreme Court clarifying opinion is issued to confirm that (1) the pledge management agreement cannot be terminated at the initiative of one of the creditors, it can be terminated only upon the decision of all the creditors (with such decision being adopted as per the procedures described in a pledge management agreement), and that (2) the loan transfer results in the automatic change of the relevant party in the agreement on management of pledge (i.e. the new lender becomes a party to the agreement without the need for undertaking some additional actions). These clarifications would greatly enhance the market participants' trust to the concept of the pledge manager.

(4) The concept of agreements on changing priorities of pledges introduced in the Civil Code is also very important for multi-lender lending deals. To strengthen this concept, it would be highly desirable to expressly recognize its effectiveness in case of bankruptcy of the pledgor. Therefore, it is necessary to amend the Bankruptcy Law and expressly provide that the priority for the satisfaction of pledgeholders' claims is to be determined with due regard to the agreements on changing priorities of pledges, if any. It

would be also very useful to confirm that this concept is applicable to mortgages as well (the issue could be addressed by a Supreme Court clarifying opinion).

Overall, further legislative changes and court clarifications as described above would contribute to the correct application of the relevant Civil Code novelties on pledges and, respectively, to the achievement of the goals for which they were conceived.

1.2. Financial sector's recommendations for amendments to be made to the Russian Civil Code.

The amendments to the Civil Code were drafted and introduced to the State Duma, which is considering them and adopting the amendments in parts.

According to the business community, the amendments should be adopted so that the Civil Code would clearly and unambiguously regulate and resolve the following aspects:

- fee for a loan (this is standard market practice, but currently it is rarely adhered to because of some of the latest court rulings in Russia);
- syndicated lending;
- agreements between lenders;
- agreements on subordinated loans;
- securitization and sale of loan portfolios;
- easing the regulation of bank guarantees;
- escrow accounts;
- possibility of executing contracts and passing payment documents through electronic means of communication (e.g., SWIFT);
- greater flexibility in relation to loan agreements and bank accounts: the parties to an agreement should be entitled to include various terms and obligations, which differ from the standard minimum set in the Civil Code, in it.

The current draft amendments do not distinctly regulate the aforesaid lines and a few others. Hopefully, the draft amendments will be discussed with the business community and then sent to the State Duma.

Status:

Presently stagewise amendments to the Civil Code are being implemented. Significant modifications and amendments has been already implemented to several Civil Code chapters such as general regulations of the Civil legislation, grounds for invalidity of legal transactions, powers of attorney and representation, regulatory activities for legal entities. A draft law with modifications to the Civil Code regulations on selected contract types will be prepared for the second reading. The most important for the banking sector will be amendments to the chapters on loan agreement, factoring agreement, bank deposit agreement and bank account agreement.

Status 2014-2015

Currently, there are phased amendments being introduced to the Civil Code of the Russian Federation (the Civil Code). Sections of the Civil Code covering general civil law provisions, transaction invalidity, power of attorney and representation, legal entity regulation, etc. have already been significantly amended and supplemented.

At the moment, the second reading of the draft law to modify the Civil Code provisions on certain types of contracts is being prepared. We believe amendments to chapters on loan agreement, factoring agreement, bank deposit agreement and bank account agreement to be the most essential. Some key changes worth mentioning are:

1) Regarding credit relations:

- the creditor is stipulated to be entitled to refuse granting a loan because the borrower fails to perform conditions precedent, which is a very important provision setting forth the status of such conditions precedent;

- an option is established to envisage in the contract that the customer must pay the bank a certain fee (including a one-time commission) in addition to interest under the loan agreement; it is a very important provision designed to improve the negative situation with the banking fees that emerged several years ago

when the Supreme Arbitration Court of the Russian Federation expressed their negative position on those fees;

- a special article on syndicated loans is added that:

Firstly, stipulates for the syndicated creditors obligation to grant the loan only to the extent of their share in the syndicate;

Secondly, specifies a rule that creditors' decisions are mandatory for all syndicated creditors;

Thirdly, it envisages an opportunity to charge the borrower with an obligation to pay a fee to the pledge manager and the facility agent.

Those are also important provisions that may bolster syndicated lending in Russia.

2) Regarding factoring agreement:

Expanded opportunities to use factoring:

- factoring agreement will be able to cover transfer of cash funds in the form of a loan or an advance payment;

- that agreement may provide for additional services to be provided by the factor (for instance, accounting and/or accounts receivable management and other services);

- it provides for an opportunity to partially assign receivables;

- an essential rule is introduced — modifications of the contract between the debtor and the original creditor do not apply to receivables that had been assigned before those changes were made.

3) Regarding bank deposit agreement:

- an opportunity is envisaged to enter into a retail bank deposit agreement without the customer's right to accelerate deposit withdrawal. In this case, the draft law provides for the bank's obligation to offer the customer a deposit agreement that has an option for early withdrawal together with that contract.

4) Regarding bank account agreement:

- one of the major amendments making the bank liable for writing the funds off the client's account even if the bank could not determine that the order to withdraw funds was given by an unauthorized person. It is necessary to find balance between interests of banks and their clients.

As mentioned, the draft law is now being prepared for the second reading, and it is very important that the legislators get to hear of the interests of the banking community take those into account. One of the platforms for such discussions is the Advisory Council on Banking and Audit Legislation at the State Duma Committee on Financial Markets. Public meetings of the Council will be an essential and indispensable element in the preparation of that draft law bill for further consideration and adoption by the Russian parliament.

Issue 2. Banking reform and the banking sector's development strategy.

2.1. Banking reform and the banking sector's development strategy.

In October 2013, Federal Law No. 146-FZ "On Amendment of Individual Legislative Acts of the Russian Federation" dated July 2, 2013 ("Federal Law No. 146-FZ") entered into force, which Law:

- includes transition from standard methods used for regulatory assessment of banking capital adequacy to an advanced approach (an approach based on internal ratings);

- clarifies the notion of a "banking group" in the context of its inclusion of all legal entities controlled or considerably influenced by a single lending institution, regardless of their line of business, and the notion of a "banking holding company" in the context of classification as such association of legal entities that involve a lending institution, provided that the share of banking activity within such association is at least 40 percent;

- extends the powers and authorities of the Bank of Russia in relation to banking holding companies by entitling the Bank of Russia to establish the forms, procedure and times for preparation and presentation to the Bank of Russia by the banking holding company's parent organization of statements and other information on the banking holding company's risks, and also to impose on lending institutions participating in a banking holding company a prohibition or restriction on transactions with the banking

holding company's parent organization or members in case that such parent organization fails to comply with banking laws;

- refines requirements for the content of individual statements by lending institutions and consolidated statements of banking groups and banking holding companies, including the procedure for their disclosure to general public;

- extends the powers and authorities of the Bank of Russia to specify requirements for risk, capital, internal audit and internal control management systems of a lending institution, to assess their quality, and to specify requirements for rectification of violations identified;

- extends the powers and authorities of the Bank of Russia to assess the labor remuneration systems at lending institutions by entitling it to specify requirements for rectification of violations in labor remuneration systems of lending institutions;

- authorizes the Bank of Russia to establish qualification requirements for the head of risk management, head of internal audit, head of internal control at lending institutions and at the parent organization of a banking group;

- introduces a new standard for maximum risk per person related to the lending institution (per group of persons related to the lending institution);

- authorizes the Bank of Russia to make a professional (well-reasoned) judgment whether a lending institution is related to legal entities and individuals;

- extends the competencies, powers and authorities of a lending institution's Board of Directors (Supervisory Board), as relating to the lending institution's risk and capital management, and labor remuneration and personnel policies;

- harmonizes the list of corrective measures to be applied to lending institutions and their shareholders with international approaches; entitles the Bank of Russia to establish the procedure for application of corrective measures to lending institutions and their shareholders in case of identified violations in their operations;

- eliminates restrictions on information exchange between members of banking groups and banking holding companies and parent organizations, and between the Bank of Russia and banking supervision authorities of foreign countries (including details that constitute a bank secret), provided that the parties comply with the information confidentiality policy.

Plan for 2014

In 2014, the Bank of Russia will continue implementing provisions of the Supervisory Review Process of Basel II (Pillar 2) into Russia's banking practices.

In 2014, the Bank of Russia will continue implementing the "leverage ratio" into the regulatory practices in accordance with Basel III: it is planned that the start date will be established for disclosure of the ratio and its components by lending institutions in standard form, concurrently with communication of the procedure for preparation and disclosure of such information.

In order to implement the new approaches to regulating the banking sector's liquidity in accordance with Basel III, in 2014 the Bank of Russia plans to issue a regulation on the procedure for calculating the short-term liquidity ratio to establish the method for calculating the short-term liquidity ratio (the "STLR"), and introduce a reporting form for STLR calculation, including the procedure for its completion and submission to the Bank of Russia.

In 2014, the Bank of Russia will continue to implement into Russia's banking practices the approach to assess credit risks based on intrabank rating scores.

As part of its efforts to implement Federal Law No. 146-FZ, the Bank of Russia plans to publish:

- Regulation of the Bank of Russia "On Consolidated Statements" to establish the procedure for preparation by lending institutions of statements required for supervision of such lending institutions on a consolidated basis, and other information pertaining to operations by a banking group, its submission to the Bank of Russia and application of consolidated statement data in banking supervision.

2.2. Issues relating to amendments to the Federal Law on Banks and Banking Activity that were adopted in July 2013.

In July 2013, amendments were made to the Federal Law on Banks and Banking Activity. New regulations (including those on disclosures and reporting) were introduced for banking groups and banking holdings.

As the amendments refer to "bank holdings located on the territory of foreign countries", there is uncertainty about the issues relating to the need to inform the CBR on the creation of a banking group if a bank holding is located outside the Russian Federation, and whether foreign bank holdings are subject to the new requirements on disclosures and reporting.

Issue 3. Taxation.

3.1. Russian taxation rules for cost and profit distribution in a multinational group of companies.

Currently, Russian law does not provide any guidance on distributing the costs incurred and/or profit made from separate activities of a group of companies. However, multinational groups of companies actively distribute profits/costs in proportion to the costs incurred and profits generated by each legal entity or its branch (hereinafter, “branch”). Cost/profit distribution arises where physical settlements, accounting and legal documentation of revenues and expenses are handled centrally by a single group entity and then distributed to all participants in the business.

The fact that there are no legal mechanisms and taxation rules in Russian law governing such distribution leads to a situation when such distribution is substituted by service contracts, etc. But this type of substitution (a) does not work as a universal solution, because insufficient account is taken of the costs and profits by Russian branches of multinational groups, and, as a result, there is an inadequate ratio between a tax burden and the economic effect, and (b) when there is no clarity about the calculation of the amounts due for Russian tax purposes, foreign group companies may find themselves at a risk of creating a taxable permanent establishment.

Today many Russian branches of multinational banks find the tax authorities extremely reluctant to allow the deduction of expenses that branches incur to cover costs distributed by the head office. The reasonableness and adequacy of such costs can only be proved in court. However, upon careful examination of the business structure and the documents and facts of the case, courts decide in favor of taxpayers.

Since 2012, distribution of profit has been one of the methods of tax control over prices in transactions between related parties. However, this method may be used only if it is proved that the other four control methods are not applicable, and lack of experience in providing such proof makes this a risky method to use. On the other hand, the availability of a method for controlling prices does not resolve the main issue of whether the distribution of profits and losses is appropriately documented and economically justified. The lack of statutory rules for the calculation and taxation of the share of profit distributed to a Russian branch is a permanent source of tax risks in Russia for the head office, even if such profit is actually distributed in amounts determined in accordance with the transfer pricing rules applicable throughout Europe, because Russian tax authorities may regard such amounts as insufficient.

Recommendations

The Ministry of Finance should engage in dialogue with the drafters of the amendments to the Russian Tax Code submitted in July 2011 on the taxation of distributed costs/profits in order to find acceptable approaches, finalize the draft and ensure its subsequent approval.

3.2. Problem of FATCA in Russia and its application models.

The Foreign Account Tax Compliance Act (FATCA) (http://www.cticompliance.com/assets/pdf/FinalFATCAText.pdf) was enacted by the United States Congress in 2010. The Act is designed to make significant changes in the current tax treatment of payments made by US residents through foreign financial institutions.

The mechanism for applying FATCA requires that Russian financial institutions enter into a special agreement with the U.S. Internal Revenue Service (IRS); keep track of any accounts opened by U.S. taxpayers with Russian financial institutions and report these to the IRS; withhold 30 percent of the revenues from sources in the United States, including revenues earned by entities that fail to disclose the information required under FATCA or by non-participating foreign financial institutions, and remit the amount to the IRS.

The Association of Russian Banks (ARB) and National Payment Council Non-Profit Partnership (NPC) have repeatedly asked the Russian Government, the Ministry of Finance, the Federal Tax Service, the Ministry of Foreign Affairs, the Federal Financial Markets Service, the Federal Financial Monitoring Service and the Bank of Russia to consider the conclusion of a special intergovernmental agreement between the Russian Federation and the United States on the procedure for implementing FATCA.

In addition, to expedite the decision-making process on a model for implementing FATCA in Russia, NPC assessed Russian banks' costs in the first year after the adoption of FATCA in Russia. The findings were presented to Presidential Aide Elvira S. Nabiullina, the Bank of Russia and the Russian Ministry of Finance.

Unfortunately, no official information detailing the status of the negotiation process between the concerned state agencies of the Russian Federation and the United States and the selected mechanism for implementing FATCA in Russia has been released so far.

Since no information is available on the Russian Federation's official position and the effective date of FATCA is approaching, a number of financial institutions controlled by a foreign parent have to consider entering into agreements directly with the IRS, since under FATCA an international banking group may be considered compliant only if all its members comply with FATCA.

It should be also noted that Russian credit institutions that have correspondent banking relationships with European and U.S. partners are already getting questions from their foreign partners on how the new regime works in Russia, since a foreign correspondent bank may withhold 30 percent of all payments made to a correspondent account of a non-participating Russian credit institution held with such bank or may suspend or close such correspondent account.

The position of the Russian Ministry of Finance is that any agreements between Russian banks and the U.S. IRS and any related disclosure of information constituting a bank secret will be regarded as a violation of Russian law (see the enclosed Letters No. 03-08-07 of 24 April 2012 and No. 03-08-05 of 20 August 2012).

At the same time, Russian financial institutions are seriously concerned about the possibility of partial withholding of payments made to them through the United States, should the Russian Federation decline to participate in FATCA.

Many countries are already actively negotiating with the United States to conclude bilateral agreements whereby any transfer of information under FATCA is made centrally through local government bodies, with the possible exchange of similar information in some cases by the United States (among countries planning to do this are Germany, France, the UK, Italy, Spain and the Netherlands). Switzerland and Japan intend to take a different approach to the information exchange with the United States under FATCA: local banks will provide information directly to the IRS along with an ad hoc exchange of information between the state agencies of these countries.

In view of what has been said and in order to avoid negative implications for Russian credit institutions, the Association of Russian Banks (ARB), the non-profit partnership National Payment Council (NPC) and the Association of European Businesses (AEB) strongly recommend that the Russian Ministry of Finance and the Bank of Russia inform credit institutions of the official position on the means of implementing FATCA.

On 10 February 2014, FIAC addressed official inquiry No. KS-1002-ib to the Bank of Russia, the Ministry of Finance and the Ministry for Economic Development, offering assistance in carrying out the following initiatives:

Providing information and recommendations in ensuring the inclusion of Russia in the list of countries which are regarded by the U.S. side as countries which entered into an information exchange agreement with the United States (taking account of the fact that less than three months remain until 25 April 2014);

Working out legislative acts and bylaws which would allow Russian financial institutions to apply the provisions of the Agreement in Russia.

In its reply No. 41-2-3-3/564 dated 11 March 2014, the Bank of Russia said:

If an agreement on the implementation of FATCA is entered into by Russia and the United States, the Russian financial institutions will not be obliged to register on the website of the US Tax Service within the same time limits as those set for the financial institutions of the countries which did not enter into such agreements.

Pursuant to §1.1471-3 (d)(4)(iv) of FATCA concerning payments made prior to 1 January 2015, US tax agents are not obliged to check the Global Intermediary Identification Number (GIIN) of the payees if the financial institution which is receiving payment reports to the US tax agent that it belongs to a country which signed an inter-governmental agreement on the implementation of FATCA.

Status 2014-2015

A) Requirements for Russian players on the financial market in connection with provisions of Law # 173-FZ dated June 28, 2014

At the present time, no intergovernmental agreement exists which could be instrumental in regulating the application of FATCA requirements. Russian banks, including Russian subsidiaries of foreign-based banks, have the opportunity to individually register with the IRS (USA tax authorities), and, under certain conditions, provide information to the IRS. In this case, the information provision format and obtaining consent of Russian competent authorities has not been developed so far.

FIAC recommendation: Persistence of the situation calls for a quickest possible additional comparative analysis of provisions of Federal Law # 173-FZ dated June 28, 2014, as well as FATCA requirements, so as to amend Law # 173-FZ accordingly, with a view to removing inconsistencies and providing opportunities for Russian banks to abide by law.

The FIAC working group sent recommendations to amend the Federal Law #173-FZ "On Specifics in Conducting Financial Transactions with Foreign Nationals and Legal Entities, on Amendments to the Russian Administrative Offences Code and Invalidation of Certain Provisions of Russian Legislative Acts" dated June 28, 2014 to the Bank of Russia to be considered on March 20, 2015.

List of proposals:

1. The Law #173-FZ prevents Russian financial organizations from fully complying with the FATCA requirements, as law of the Russian Federation do not provide for an opportunity of direct debit of the 30-percent fine from the payment amounts intended for the clients as prescribed by the FATCA. The Russian financial institutions will have to impose that obligation on their payment counterparties. Moreover, the law does not stipulate for any mechanism that a bank may use to provide information regarding payment to the withholding agent (and to identify that agent) in order to subsequently disclose the client information to the U. S. tax authorities.

Recommendations

- To make a provision in the Law #173-FZ for the banks to withhold client's money and funds of the non-participating financial organizations and to send information about them to the U. S. Internal Revenue Service;
- To instruct the Bank of Russia to draft a procedure for payment accounting and disclose to a foreign tax authority in respect of the 30-percent fine withheld by the banks.

2. Under Article 2, Part 3 of the Law #173-FZ, a financial market organization shall apply the criteria for identifying clients as a foreign taxpayer client (i.e. U. S. citizenship or residence permit) based on the Law #173-FZ to be changed by that financial market organization on the instructions of the Bank of Russia. However, the FATCA provides for several other criteria, such as place of birth, address, and U. S.-based phone number. Therefore, there might arise a situation when, in order to evaluate the criteria developed by banks, the Bank of Russia will take only those two criteria in the Law #173-FZ into account and instruct the banks to make appropriate amendments.

Recommendations

To draft clear criteria at the level of the Bank of Russia's regulations for identifying clients as foreign taxpayers or to amend Article 2, Part 3 of the Law #173-FZ in order to exclude the Bank of Russia's right to modify those criteria in case of their nonconformance.

3. The U. S. legislation counts certain entities (holding companies etc.) as financial organization, while the Russian legislation does not view them as such. The Law #173-FZ does not apply to them, there is no procedure for such companies to notify the competent authorities of registration at the IRS website, and a range of other issues related to the FATCA compliance remain uncovered.

Recommendations

To expand the scope of subjects of the Law #115-FZ by adding those organizations and to get them covered by the Law #173-FZ.

4. Currently, the Law #173-FZ imposes an obligation on the financial market organizations to take reasonable and available measures to identify foreign taxpayers among their clients. For those purposes, it is often necessary to request documents that confirm (form W-9) or disprove (form W-9) a foreign taxpayer status.

Recommendations

It is proposed to clarify Article 2, Part 1 of the Law #173 in order to include the following entities in the scope of the Law #173-FZ:

a) foreign taxpayers (individuals and legal entities);

b) financial organizations not registered with the IRS, i.e. non-compliant financial organizations under the FATCA (both Russian and foreign organizations);

c) organizations that failed to provide or provided incomplete set of documents to identify them but gave a waiver for disclosure of their information, i.e. “recalcitrant accounts”;

d) individual clients with foreign taxpayer indicators who failed to provide a complete set of documents to identify them but gave a waiver for disclosure of their information, i.e. “recalcitrant accounts”.

5. Pursuant to Articles 2 (Article 2, Part 7) and 4 (Article 4, Part 1) of the Law #173-FZ, in case of a reasonable assumption that the client falls into the foreign taxpayer category **confirmed by documents**, and if that client fails to provide the requested documents or a waiver (refusal to provide waiver) allowing disclosure of their information to a foreign tax authority, a financial market organization may decide to refuse signing a bank account (deposit) agreement with the client, refuse performance of operations for that client and/or, to the extent provided by the Law, to terminate a financial services agreement in their sole discretion by notifying the client about such a decision no later than on the day following that decision date.

It appears that a financial market organization will not have an opportunity to confirm their assumption with documents in cases when the client refuses to provide information regarding presence/absence of foreign taxpayer criteria.

Recommendations

To clarify the relevant articles order to enable financial market organizations to refuse service to foreign taxpayer and Russian Federation resident clients who refuse to provide information regarding presence/absence of foreign taxpayer criteria or criteria for any person regulated by a foreign law on foreign account taxation or a waiver allowing disclosure of information. In respect of organizations that are not registered with the IRS, assumption may only be verified by monitoring the IRS website.

6. Pursuant to the Law #173-FZ, a financial organization may terminate an agreement with a foreign taxpayer client only if they refuse to disclose their information, provide a waver allowing disclosure etc. If the client provides all the necessary information and waivers the financial organization may not refuse service to them.

Recommendations

To reinstate a provision in the Law #173-FZ that was previously part of Article 2 of the Federal Law #112-FZ dated May 5, 2014, namely, to provide for unconditional right of financial organizations to terminate/not enter into an agreement with any individual or legal entity that is a foreign taxpayer if the state of their tax residency demands the Russian financial organizations to enter into special agreement to control presence of accounts of taxpayers from that foreign state.

B) Obligatory disclosure by foreign-based players on the financial market of information on Russian corporate and individual accounts

The provisions of Article 6 of the Law are purely declarative and failing to provide for detailed understanding of requirements applying to foreign-based players on the financial market. Among the numerous unclear questions are:

- what entity is behind the definition of "foreign-based players on the financial market" for the purposes of the Law;
- what criteria underlie the list of individuals and entities whose accounts are earmarked for monitoring;
- what accounts categories are subject to the requirements;
- what kind of information on such accounts should be provided;
- what supervisory authority is to receive and in what format it is to receive information regarding clients’ accounts;

- what punitive measures are imposed under the Russian Federation law for non-compliance.

The tiresome experience of introduction of the USA FATCA provisions, in conjunction with elaborate designing and flexibility of introduction of the requirements in question, make European banking institutions concerned about the situation, caused by insufficient awareness in respect of provisions of Art. 6 of the Law, as well as the difficulties in the practical implementation thereof.

On 30 March 2015 CBR sent an official reply on FIAC's working group request from 18 February 2015.

There was also a draft of amendments to Law #173-FZ published that changed the criteria (it is not the final document). At the moment, this draft is discussed by the market participants. It was planned to finalize the discussions before the end of June. This draft may work out many issues, for example, regarding the identification.

A draft order of the Federal Tax Service on the reporting procedure for foreign financial institutions in respect of accounts of Russian citizens and organizations that was published on the website of the Government of Russia for publishing draft legislation (June 2015). This is what we call the Russian FATCA. It is the first additional information for the past 11 months. The point of the project is that the FNS provides a sufficiently detailed list of those foreign financial institutions that are required to submit information on accounts of Russian citizens and organizations; it must be done before September 30. This is a very wide range of institutions. Separately, the annex to the order mentions types of accounts, for which you need to do reporting, and it is also a wide-ranging list.

Recommendations

The situation calls for elaboration on the requirements and attitude of RF governmental authorities in respect of the application of Article 6 of Law # 173-FZ in so far as they relate to disclosure of information on Russian Federation citizens' accounts (deposits) with foreign-based players on the financial market.

Issue 4. Problems of amending Currency legislation.

4.1. Amending Currency legislation.

In February 2013, amendments entered into force to the Administrative Offenses Code concerning certain operations on the residents' accounts opened outside Russia. The banking community is drafting an amendment to clarify certain issues, i.e., a Russian resident's qualification concerning currency regulation, and the expansion of the list of operations which Russian residents can perform on the accounts opened outside Russia.

On 22 July 2013 and 5 May 2014, the Association of European Businesses sent letters to the Russian Ministry of Finance on amendments which should be made to Russian currency legislation. On 13 August 2013 and 9 June 2014, replies were received from the Ministry of Finance to the effect that the Association's proposals would be considered when drafting the amendments to Russian currency legislation.

On 4 July 2014, the RF President signed the federal law 218-FZ which introduced amendments to the currency control legislation and extended the list of cases when funds can be credited to resident individuals' accounts at banks outside Russia. The list does not include funds from securities, rent, grants and some other operations.

Recommendations

Draft Law # 607024-6 "On the Alteration of Article 12 of the Federal Law "On the Currency Regulation and Currency Control" that was sent to the Chairman of the State Duma of Russia on 22.09.2014 (responsible Financial Market Committee) contains the following provisions:

"Along with the cases as indicated in the first passage of this part, credited to resident individuals' accounts at banks based in OECD or FATF member countries may be the following nonresidents' funds:

"…funds obtained by a resident individual upon a carve-out of foreign securities, as well as funds in the form of an accrued (coupon) interest payable under the terms of issue of resident individual-owned foreign securities, as well as other revenues on foreign securities (including dividends, disbursement against bonds and promissory notes, and payments upon impairment of the share capital of an issuer of foreign securities)…"

Status 2015

On 18 February 2015 draft law # 607024-6 passed the first reading in the State Duma.

The Association of European Businesses sent a letter of support to this draft law with some comments to the State Duma's Committee on the Financial Market (on 27 October 2014).

Issue 5. Refinancing for SME. Forming the infrastructure of the Russian financial market and carrying on legislative activity in regulating it.

5.1. Developing the Refinancing instruments to facilitate access for Small and Medium-sized Enterprises to loans.

The cost of loans for enterprises is quite high, especially for small and medium-sized enterprises That is due to the high cost of loans for banks engaged in that segment. The cost of borrowings could be reduced for credit institutions and for the ultimate borrowers by developing the instruments of refinancing loans to small and medium-sized enterprises at the Bank of Russia and by introducing new programs, thereby promoting the development of the segment which is extremely important for economic stability.

Recommendations

Analyze the existing Instructions of the Bank of Russia which regulate that issue (work in progress) Work out and adopt the additions to them, thereby facilitating refinancing secured by instruments involving loans to small and medium-sized business enterprises.

Prepare a report and proposals at the Bank of Russia and the Ministry for Economic Development

Ministries and bodies concerned: Ministry for Economic Development, Bank of Russia.

In late December 2013, letters were sent to the Bank of Russia with proposals on that issue.

On 17 February 2014, a report was made on that issue at the Bank of Russia.

Starting from 01.07.2014 it has been possible to close securitization deals in this segment, SME Bank acting as the investor. Currently, the deals on hand are valued at RUR 10 bn, with a view to 20 bn by 2016. The Agency of Credit Guarantees is also active, although not a single deal has been registered so far. Standardization of a credit facility agreement with an enterprise operating in the SMB sector also remains in the limelight.

Status 2014- 2015

In the beginning of 2015 there is no progress in this issue, which is most likely related to the fact of small scale of business. In particular:

- ***MSP Bank (daughter company of VEB)*** *plans to invest up to RUB 20 bn in securitization of loans to SMEs annually after 2016. However, currently it is working on the two deals (RUB 5bn each), yet this job is in progress since early-2014.*
- ***Agency for credit guaranties to SME*** *got an injection of RUB 50 bn in its capital in June-2104, yet there is no information about deals completed. Moreover, the volume of loans to SMEs which have been guaranteed by the special state-owned funds has decreased by more than a quarter in 2014.*

The CBR's refinancing programs for SME are better than for other loans, but still not in active use due to high costs for banks.

Conclusions: The industry needs programs similar to "Funding for lending" and "Funding for growth": local monetary authorities provide local banks with purpose credit at symbolic 0.1% rate under two conditions:

1. This loans will be issued to finance needs of SMEs, with a possible highlight on investment needs; and
2. The margin that the bank is allowed to charge cannot exceed 500bps, so the ultimate rate cannot exceed ~5% annual rate with all the commissions on this loan.

The design of the scheme could be amended with details and changed to better reflect CBR needs and goals, the mentioned above could serve as a starting point.

5.2. Standard loan agreement for small and medium-sized enterprises.

By late May 2015, the Standard Loan Agreement for micro, small and medium businesses was ready. Two documents, including detailed explanations, were presented to the banking community as a result of joint efforts by the European Bank for Reconstruction and Development and the Association of Regional Banks:

1. Model general terms and conditions of a loan agreement for small and medium businesses.

2. Model specific terms and conditions of a loan agreement for small and medium businesses.

Importance:

During the two project years, statutory changes and the local banks' best practices have been taken into account; local banks' loan agreements have been summarized; typical problem situations that banks face when in court, have been analyzed. As a result, banks have been provided with a high-quality Standard Loan Agreement template that they will be able to use in their operations, thereby mitigating legal risks and building a foundation for improving the potential of portfolio securitization for small and medium businesses in the future. The document was also presented to the Russian Central Bank for informational purposes. The Central Bank welcomed those efforts.

Status 2015: the project is complete. Recommendations: monitor statutory changes; amend the agreement, as may be necessary.

Issue 6. Conversion.

6.1. Creating a legally effective mechanism for converting of subordinated loans into the authorized capital of banks.

Conversion issues are important for Russian market participants, since they may have an impact on attracting debt and equity financing.

In 2012 – 2013 the Central Bank of the Russian Federation (the "CBR") has revamped the rules applicable to subordinated debt provided to Russian credit organizations in an effort to make them Basel III compliant. Basel III specifies the criteria for debt instruments issued by a bank to qualify as Additional Tier 1 Capital (i.e., additional to the Common Equity Tier 1) which include, inter alia, the requirement for such instruments to contain loss absorption features through

(i) conversion to common shares at an objective pre-specified trigger point or

(ii) a write-down mechanism which allocates losses to the instrument at a pre-specified trigger point on a 'going concern' basis.

CBR Regulation No. 395-P[1] is currently the principal act regulating the issuance of subordinated debt instruments for the purposes of their inclusion into calculation of capital of Russian credit organisations.

Regulation 395-P provides that a subordinated loan would be "transformed" into common equity through a prepayment of the subordinated loan by the borrowing bank and channeling of the proceeds of such prepayment for payment of the bank's capital increase.

Accordingly, the conversion of a subordinated loan into equity would currently require:

(a) compliance with certain corporate procedures and regulatory approvals relating to the issuance of additional common stock into which the subordinated loan is be converted and increase of the charter capital of the bank; and

(b) the actual prepayment of the subordinated loan which is, in turn, subject to a consent of the territorial department of the CBR to be issued after the state registration of the share issuance relating to such capital increase or, in the case of limited liability companies, the adoption of the decision on charter capital increase and amendments to the bank's charter.

[1] "On the Method for Calculation of the Amount and Assessment of Adequacy of the Net Worth (Capital) of Credit Organisations (Basel III)" dated 28 December 2012, as amended by CBR Directive No. 3096-U dated 25 October 2013, ("Regulation 395-P").

The current conversion mechanics therefore lack automatism and may not be capable of being completed in full, with the result that the subordinated lender would be forced to accept a write-down of its loan in the absence of cooperation and required corporate action on behalf of the borrowing bank, its shareholders and governing bodies. Such obstacles may restrict fundraising by banks, and EBRD has been researching this issue and identified inconsistencies and potential ways to resolution, which it presented to MED and CBR in a detailed note.

Recommendations

Among the obstacles under the current regulations which will need to be resolved in order to allow conversion of subordinated loans to equity for loss absorption are the following:

- restriction on set-off debt (article 11 of the Banking law currently restricts setting off the liabilities of a Russian bank against the payment of its charter capital which precludes a direct debt to equity conversion);
- corporate law requirements (corporate approvals by shareholders needed that may not be enforceable, mandatory offers may be triggered, etc.);
- the need for regulatory consents/clearances by CBR, FAS, Government Commission on Strategic Investments etc.;
- the procedure for definition of conversion pricing needs to be clarified; etc.

Status 2015: the research was completed and shared with MED and CBR several months ago, EBRD is looking forward for their reaction and understands that they will get back to EBRD in due course.

Further to the introduction of Basel-III rules for banks' capital calculation, and in particular loss absorption requirements for subordinated loans in 2014, EBRD prepared an overview of the existing legislation, regulation and procedures for simplification of subordinated debt conversion into ordinary shares (participation interests in the charter capital) as one of the ways for covering losses by subordinated debt accounted as tier 1 or tier 2 capital of a bank. The overview and recommendations have been provided to the Ministry of Economic Development and the Bank of Russia for a discussion.

Several important concepts have been subsequently implemented and reflected in the Federal Law No. 432-FZ dated 22 December 2014 and regulatory acts adopted pursuant to it, specifically, the amendments made to the Regulation No. 395-P by Instruction of the Bank of Russia No. 3600-U dated 15 March 2015.

As a result, the following essential improvements have been achieved:

- The conversion of subordinated loans is no longer subject to the requirements of federal laws governing the procedure for obtaining approvals from the Bank of Russia and the FAS of Russia, for the acquisition of thirty or more percent of ordinary shares of a joint-stock company credit institution;
- No involvement of the state financial supervisory body to determine the price for the placement of shares is required;
- The conversion of subordinated loans is no longer subject to requirement to exercise preemptive rights by the persons having preemptive rights to acquire additional shares of the bank;
- In the event of a failure by the borrower bank to fulfil the relevant obligations in relation to the conversion, the CBR could exercise its authority and issue a conversion demand therefore forcing the bank to complete the conversion as potentially, if the trigger events are not remedied, the CBR may need to revoke the banking licence.
- There is more transparency envisaged in the conversion process; etc.

Further analysis revealed that the remaining issues, which need to be clarified for further stream lining of the practical application of the subordinated debt related regulation include:

- Conversion procedure – permissibility of offsetting claims under subordinated loans;
- Setting priority for the write-down / conversion among several subordinated debt instruments;
- Enforceability of the shareholders' obligation to perform necessary and timely actions for the conversion;
- Defining price setting mechanism for conversion shares;
- Permissibility of a write-up of written down amounts under certain circumstances;
- In addition, the need to obtain consent from the Government Commission for Control over Foreign Investment in certain cases as well as some other questions may need further clarification.

EBRD will be happy to discuss these and other related issues with the responsible authorities.

Issue 7. Banking secrecy regulation.

Presently, banking secrecy issues are regulated by the provisions of Article 857 of the Civil Code of the Russian Federation and Article 26 of the Federal Law "On Banks and Banking Activities." Article 857 of the Civil Code provides for the following rule, "Information protected by banking secrecy may only be provided to customers themselves or to their representatives, as well as presented to a credit bureau on the grounds and in the manner prescribed by the law. Government authorities and their officers may only have such information provided in cases and according to the procedure prescribed by the law." Therefore, the current version does not enable transfer of banking secrecy data to other persons with the customer's consent.

This legal gap limits development of banking services in the Russian Federation due to the following reasons:

First of all, many customers (both foreign- and Russian-based) chose to centralize treasury functions within a group of companies. On the one hand, it enables greater cash flow manageability from the group's parent company, and, on the other hand, helps to cut corporate administrative costs to maintain individual treasuries for each company.

Secondly, for many structured bank products (for example, syndicated lending), it is necessary to transfer information protected by banking secrecy among entities participating in providing such products to the customer (for instance, between the bank servicing the borrower's account and the lender banks).

And, thirdly, in the current environment, many banks (both foreign- and Russian-based) strive to reduce their administrative costs to cut the cost of bank products for their customers, and they consider outsourcing some technical functions (for example, IT or archiving) to professional service companies.

We would like to draw your attention to the fact that the customer has information classified as banking secrecy in the meaning of the Federal Law "On Information, Information Technologies, and Information Protection", and that they should be entitled to dispose of that information at they think fit.

Recommendations

With this in mind, we suggest that it should be made possible to transfer any information protected by banking secrecy to other persons with the customer's consent or at the customer's request in the laws of the Russian Federation the ability, namely, to revise Article 857, clause 2 of the Civil Code to read as follows:

"Information protected by banking secrecy may only be provided by customers themselves or by their representatives, as well as presented to a credit bureau on the grounds and in the manner prescribed by the law. **Information protected by banking secrecy may also be provided to other parties with the consent of the customer.** Government authorities and their officers may only have such information provided in cases and according to the procedure prescribed by the law."

Issue 8. Changes in the legislation on Personal Data (Law № 242-FZ dated 21.07.2014).

Federal law 242-FZ – challenges for business

Banking community expresses its concern with the adoption of the Federal Law "On Amendments to Selected Legislative Acts of the Russian Federation with Regard to Clarification of Data Processing of Personal Data across Information and Telecommunications Networks" # 242-FZ dated 21.07.2014 (hereinafter, the "**Law**"). The Federal Law # 152-FZ dated 27.07.2006 "On personal data" in its current versions covers all operators of personal data without any exceptions which effectively means that all Russian and foreign companies operating in the Russian Federation will have to company with the Law.

Moreover, Federal Law # 526-FZ dated 31.12.2014 "On amendments to clause 4 of the Federal law "On Amendments to Selected Legislative Acts of the Russian Federation with Regard to Clarification of Data Processing of Personal Data across Information and Telecommunications Networks" which entered into force on 31.12.2014 has sped up entering of the Law into force. According to the amended Law operators of personal data will have to comply with the new requirements to storage of personal data of Russian citizens from 1 September 2015 already.

We believe that these initiatives may result in deterioration of the investment climate in Russia due to a conflict with the requirements of common world market practices, infringement of the rights and interests of end-users (citizens of the Russian Federation), and significant logistical costs that are expected burden corporate investors. Following a number of meetings and discussions regarding the above-mentioned

Law, many companies have highlighted a number of legal, economic and technical issues that may arise in connection with entering of the law into force on 1 September 2015.

We deem it necessary to clarify the procedure for and the scope of application of the Law. In case the legislator aimed to introduce specific requirements regarding personal data processing in Internet, then the Law requires certain amendments to limit its application to the designated purview. Also following the changes to the personal data protection legislation it may make sense to revise the definition of personal data which is currently formulated too broadly.

Status 2015

In February 2015 FIAC working group sent a request on Bank of Russia regarding the implementation of the Law for banking sector. On 3 March 2015 a meeting took place with Artem Sychev, Deputy Head of the Bank of Russia's Chief Directorate of Information Security and Protection. It was decided that banking community will provide with list of practical questions that will be forwarded to Roskomnadzor for further execution.

Roskomnadzor organized a meeting for foreign associations operating in Russia. AEB provided list of 54 questions regarding implementation of 242-FZ.

Issue 9. Unilaterally Accounts Closure.

This issue was raised at the meeting of S.E. Naryshkin, Chairman of the State Duma of the Russian Federation, with the members of the Investment Council. On 29 April FIAC working group on Financial Institutions and Capital Markets sent an official request to the State Duma Chairman on regulations on accounts closure. On May 26, we received a reply from the Duma's Civil Law Committee. The Committee took note of our request and will take it into consideration while working on the changes to the second part of the Civil Code. We mentioned certain disadvantages, risks for the banking community due to the fact that the opportunities for unilateral closure of accounts were very limited. We can form a small banking sub-group regarding this issue for the purpose to prepare proposals.

Status: collecting proposals and recommendation from working group members.

Issue 10. Additional topics for discussion.

- **Development of National system of payment cards**

The topic of the national payment card system is now an issue of extensive consideration at the Government level. Chaired by Elvira Nabiullina, Chairman of the Bank of Russia, a workgroup has been established which is composed of major players of the banking sector and the Association of Russian Banks and relevant Federal bodies. The efforts of the group should be aimed to or resulted by the working-out of two important issues, namely, the inclusion into the legislation of such matters as regulating national payment card system operators, i.e. the establishment of a separate legal entity. The relevant indication in the legislation of its authorities, status and legal structure. This issue is currently under consideration.

And the second issue - based on the workgroup's expert opinion, the group has developed a proposal on the application of technological solutions which would be used in the national card system. Here, the work is also in progress regarding the evaluation of feasibility to use the all-in-one smart card technology - this is PRO100 Technology, on the one part. On the other part, the group considers proposals regarding the "Zolotaya Korona" payment system which offers technological solutions compatible with IMVU standard. And thirdly – the group considers the use of new technological solutions not related to the first two. The top-priority objective of the Bank of Russia is to create a kind of a reserve environment, inter-host connections, and consolidation of processing centers of major players at the first stage, and to connect through them smaller players, so that such credit institutions may perform computation bilateral settlements on their mutual obligations.

And the next stage – this is the issue that the national payment card system operator should be established as both an operation center and a payment and clearing center with its own rates; it is expected to be an actual banking product which would not be directly connected with the international payment system, but it would be compatible technologically. I.e., it is expected that neither terminals no ABMs would be modified or replaced, and the infrastructure should remain the same, and the product should enter the market in an appropriate manner.

And all governmental structures are expected to be legally obliged to switch their salary projects for their employees and military personnel from international to Russian payment systems.

No resolutions have been made yet. The workgroup also consider the creation of a local switch, so that all internal Russian transactions would be processed through the national payment system operator and information thereon would remain within the Russian Federation. The issue regarding what should be done in the first place: to lock international payment system card transactions in the territory of the Russian Federation or to create our national product first and shift the first step to the second place – is also under consideration

- **Final settlement**

On April 4, 2014, the Central Bank of Russia issued Letter 56-T - recommendations to credit organizations regarding the settlement finality concept.

The Letter of the Bank of Russia No. 56-T "On the Application of BIS CPSS Document "Principles for Financial Market Infrastructures" in the Part of Providing Final Settlement within Significant Payment Systems" dated April 4, 2014

Credit organizations and payment system operators receive methodological clarifications on implementation of principles stated in the document issued by the Committee on Payment and Settlement Systems of the Bank for International Settlements and the International Organization of Securities Commissions "Principles for Financial Market Infrastructures" in the part of determining the moment of the final settlement within significant payment systems.

In particular, the SPS operator is recommended to consider risks associated with the possibility to recognize cash transfer as invalid, enforcement against the transferred cash, including in the case of insolvency (bankruptcy) of the payment system participants, upon determining the cash transfer procedure within SPS, upon arranging the risk management system, and to inform the payment system participants including foreign banks on such risks. Also, in order to secure final settlement, it is recommended to use accounts of the guarantee fund of the payment system or trading bank and/or clearing bank, accounts.

Upon entering the agreement on interaction of payment systems as provided for by Part 37 Article 15 of the Federal Law No. 161-FZ "On the National Payment System" dated June 27, 2011, operators of interacted payment systems are recommended to determine in the payment system policies and the interaction agreement the moments when irrevocability, conclusiveness and finality of cash transfer and final settlement should come, when the payer is (serviced by) a member of one SPS, and the recipient is (serviced by) a member of another SPS.

If SPS functions in several countries, the responsible SPS operator is recommended to ensure final settlement in each country of operation. For this purpose, relevant SPS operator is recommended to receive a legal opinion of an appropriate organization (e.g., a competent regulator in the field of cash transfer and settlement, professional associations of the financial market participants, organizations providing consulting and legal services) on the possibility to secure final settlement in each country of operation.

2.4. Improvement of Tax Law

In 2014 and 2015, the working group for the improvement of tax law focused on three issues. Moreover, the Group has received another issue for consideration recently.

Issue 1. Centralized cost allocation for multinational corporations.

The working group proposed that a provision be entered in the Russian Tax Code allowing expenses transferred under a cost allocation agreement from a foreign company to a related Russian legal entity, classified as a major taxpayer, to be treated as costs for profits tax purposes. This will enhance Russia's investment appeal, improve its investment climate and contribute to higher tax revenues due to the emergence of a large number of subdivisions of major foreign companies in Russia.

Recommendations

The working group drafted amendments to Article 265 "Non-sale Expenses" of the Russian Tax Code.

Status

The issue is currently under review by the Ministry of Finance and the Ministry for Economic Development. A number of meetings with the representatives of the Ministry of Finance and the Ministry for Economic Development was held in 2015 and the opinion of FIAC members was outlined in detail. Proposals on phased implementing of such practice in respect of the transactions performed in Russia are currently being considered.

Issue 2. Assets tax.

Federal Law No. 366-FZ of 24 November 2014 introduced clause 25 to Article 381 "Tax Exemptions" whereby organizations are exempt from taxation of movable property registered as fixed assets from 1 January 2013, **except for** movable property registered as a result of asset transfer between entities deemed to be interrelated in accordance with the provisions of clause 2 of Article 105.1 of the Russian Tax Code.

Many corporations and/or group holdings have specialized companies whereby technological equipment is acquired for all the companies of a group.

Under the new legislative provisions, all equipment acquired from such related companies of a group beginning from 1 January 2013 should be deemed subject to assets tax as of 1 January 2015.

Hence, that provision worsens the taxpayers' position if manufacturing equipment is acquired from such a specialized company of a group.

Recommendations

Introduce amendments to Article 381 so as to exclude that provision from the Russian Tax Code.

Status

The issue is currently under review by the working group.

Issue 3. Introduction of an environmental charge – Introduction of Amendments to the Federal Law 'On Production and Consumption Waste'.

Recommendations

Assess the need for and the timely introduction of such a charge as well as the target, rate, and the procedure and time limits of its application.

Status

The issue is currently under review by the Ministry of Finance and the Ministry for Economic Development.

2.5. Health care and pharmaceuticals

Issue 1. Protection of intellectual property rights to brand-name pharmaceuticals.

1.1. Violation of intellectual property rights to brand-name pharmaceuticals as a result of the premature release of generics onto the market.

Actions taken by a manufacturer of generics to prepare for market entry (not on an industrial scale), including the submission of documents to the Russian Ministry of Health to register a generic before the patent expires, do not constitute infringements of exclusive rights. Russia's Supreme Arbitration Court has ruled that preparations for registration, including state registration, of a generic drug are not a patent violation (Ruling No. 2578/09 of the Presidium of the Supreme Arbitration Court of the Russian Federation of 16 June 2009).

Unscrupulous manufacturers of generic drugs may thus freely enter their drug in the state register, and then, if the drug is listed as a vital and essential drug (VED), register the maximum manufacturer's price (Article 61 of the Federal Law "On the Circulation of Drugs") and release the drug onto the market at their own risk before the patent expires, taking advantage of the judiciary system's imperfection in the area of patent litigation.

Such actions by unscrupulous manufacturers have to do, among other things, with the unavailability of information on the state registration of drugs, meaning that rights holders cannot obtain the relevant information in time to file suit at an early stage if the registration of new drugs violates their patent rights. At the same time, Article 37 of the Federal Law "On the Circulation of Pharmaceuticals" requires an authorized federal executive body to post information on the state registration of drugs, including expert examinations, on its official website. Strictly speaking, this means that information on the state registration of drugs should be publicly available in the Internet, as is the database on registered drugs. However, under clause 7 of Order No. 747n of the Ministry of Health and Social Development of 26 August 2010 "On Approval of the Procedure and Time Limits for Posting Information on the Official Website of the Ministry of Health and Social Development of the Russian Federation," the drug registration database can be accessed only by applicants, which we believe is contrary to the letter of the law.

Recommendations

1. Certain information must be made available during the stages of registration in order to protect intellectual property rights. For this purpose, amendments should be made to Order No. 747n of the Ministry of Health of 26 August 2010, which determines what information is to be made available during registration. Part 3 of the order should be amended as follows to give access to *all* concerned parties:

Current version:

3. The registration database for pharmaceuticals is used to provide automated information support at each stage in the state registration of pharmaceuticals and also to provide up-to-date information to pharmaceutical developers or legal entities authorized thereby that have applied for the state registration of pharmaceuticals (hereinafter, "applicants").

Proposed amendments:

3. The registration database for pharmaceuticals is used to provide automated information support at each stage of the state registration of pharmaceuticals and also to provide up-to-date, publicly available information to pharmaceutical developers or legal entities authorized thereby that have applied for the state registration of pharmaceuticals (hereinafter, "applicants") as well as to other concerned parties.

In addition, Part 4 (e) should be amended as follows to include draft instructions on the use of pharmaceuticals in the list of available information:

e) the international generic name or chemical name of a pharmaceutical as well as draft instructions on the use of a pharmaceutical being registered (for generics);

Since such instructions become public after registration, the availability of drafts should not raise any objections on grounds of confidentiality. Such instructions include an "ingredients" section and other sections that may be needed to determine whether a patent has been violated.

2. Additional measures

Note: The proposed mechanism should apply, first and foremost, to "primary" patents (i.e. patents for a molecule, substance or combination of substances).

Step 1. A registration database is created (giving all concerned parties access to information on registration applications and their current status).

Step 1a. Developers of brand-name drugs notify the Ministry of Health of existing patents (such notification may be sent when applying for registration or later).

Step 2. If an application is submitted for the registration of a generic, and the generic's release on the market could violate the developer's patent, the developer notifies the Ministry of Health of a potential patent violation.

Step 2a. The Ministry of Health asks a company registering a generic to verify that registration will not violate the drug's patent. The company submits its conclusion (attaching such evidence as the opinion of a patent attorney or the Federal Service for Intellectual Property, Patents and Trademarks). This verification is sent to the Ministry of Health and, where possible, to the developer (or only to the ministry, with the concerned parties being subsequently notified). This request may be made at the stage when the Ministry of Health instructs a federal state-funded institution to do an expert quality (risk-benefit) analysis.

Step 3. When the expert quality (risk-benefit) analysis has been completed, the Ministry of Health makes a decision on registration (within five days). A generic cannot be registered without the verification stipulated in clause 2a. If a developer initiates court proceedings, registration may be suspended for up to six months (or less if a court decision is handed down).

3. Establish that an applicant's state registration of the maximum manufacturer's price of VEDs is a violation of the patent holder's rights (e.g., by recognizing such actions as an offer to sell, which is an infringement of the exclusive right to an invention under Article 1358.2.1 of the Civil Code). In this case, the Ministry of Health should be authorized to suspend price registration until the brand-name drug's patent expires. In many countries, the registration of a drug is not a patent violation, while all subsequent actions, such as price registration, entry in a preference list, etc., are patent violations.

1.2. Improvement of the rules for protecting the findings of pre-clinical and clinical studies.

Unlawful commercial use of the findings of pre-clinical and clinical studies submitted by an applicant for drug registration.

In acceding to the WTO, Russia made a commitment not to allow a generic to be registered for six years after a brand-name drug is first registered, unless an applicant for the registration of a generic can provide either its own data meeting the requirements for the registration of a brand-name drug or the consent of the holder of the brand-name drug's registration certificate. This commitment is reflected in Article 18.6 of Federal Law No. 61-FZ "On the Circulation of Pharmaceuticals." However, the Ministry of Health's subordinate acts, which establish the procedure for the state registration of drugs, fail to take this article into account.

Recommendations

Include an analysis of data exclusivity in the procedure for registering pharmaceuticals

Amend regulatory documents of the Ministry of Health – in particular, the Administrative Regulation on the State Service of Pharmaceutical Registration – to ensure proper legal protection of the findings of pre-clinical and clinical studies for six years after a brand-name drug is registered for the first time.

a) Require that data exclusivity be analyzed when generics are registered and suspend or terminate the registration process if data exclusivity has been violated (the Ministry of Health should be vested with the appropriate powers)

b) Add a section in the pharmaceutical register for information on the data exclusivity of brand-name drugs

c) Information on drugs being registered should be made publicly available so that the mechanism for legal protection of data will be transparent (the database of drugs being registered should be made public)

1.3. The working group is also very concerned about the possibility of legislative amendments that would introduce mandatory licensing and parallel imports for pharmaceuticals and medical equipment/goods.

Those behind this initiative say that parallel imports can reduce pharmaceutical prices for end consumers by means of imports from countries where prices are substantially lower than on the Russian market. Research and EU experience show that parallel imports are advantageous only for intermediaries, while the price difference for patients is negligible. For example, parallel imports account for almost 20% of the

European market, and intermediaries have made profits up to twenty times higher than the savings for patients.

In the case of VEDs, the state limits the manufacturer's maximum price by comparing the relevant prices in twenty-one reference countries and choosing the minimum price. With the introduction of parallel imports, the procedure for approving maximum drug prices will become irrelevant. It will make economic sense to import pharmaceuticals not from Europe and North America, but from countries where prices are the lowest. These are largely countries where state control over production quality is not up to world standards and the state fails to give due attention to the development of the pharmaceutical industry. There is a high risk that poor-quality and counterfeit pharmaceuticals will be imported and circulate on the Russian market. The proposed differential approach involving parallel imports only from certain countries entails additional risks that international commitments under the Paris Convention for the Protection of Industrial Property and commitments that Russia assumed when it acceded to the WTO (violation of the most-favored-nation clause in GATT) will not be honored.

From early 2012 through the end of 2014, the rate of the ruble fell by more than half against the main currencies of drug-importing countries. According to the Russian Central Bank, in the period from 1 January to 15 December 2014 alone, the euro rose 61% against the ruble, reaching 76.51 rubles to the euro, and the US dollar rose 79% against the ruble, reaching 64.88 rubles to the dollar. Thus, if the registered maximum manufacturer's price in rubles is recalculated in foreign currency, we can say that in Russia today the cost of pharmaceuticals produced in accordance with the rules of good manufacturing practice and imported in accordance with the rules of good distribution practice are the lowest among all countries used in comparing pharmaceutical prices.

Even if parallel imports yield macroeconomic advantages, they will be limited and short-term. The medium-term effects will be negative for direct foreign investments, localization of production and the development of domestic production. In the short term, there will be additional risks for end consumers in connection with a surge in counterfeit products as well as deteriorating quality and safety.

The working group's members are working hard to stabilize the prices of pharmaceuticals sold in Russia in the face of a fluctuating ruble exchange rate, including by fixing prices in rubles. International pharmaceutical manufacturers recognize the social significance of pharmaceuticals and their responsibility to the public and plan to do what is necessary so that high-quality pharmaceuticals and medical goods will continue to be available to the Russian public. Localization of pharmaceuticals and medical goods and greater depth of pharmaceutical processing in Russia are among measures designed to reduce the effect of exchange rate fluctuations on Russian pharmaceutical prices. It is also important that the working group's members are good taxpayers in Russia.

We believe that if parallel imports of pharmaceuticals are legalized, investments in the Russian economy may decline. Worse yet, projects for localizing the production of pharmaceuticals in Russia could be frozen and existing facilities shut down. From an economic standpoint, long-term capital investments in Russia – for example, the construction and equipping of production facilities – are substantial at the initial stage and lack economic sense if sales of localized products and a return on investments cannot be guaranteed, since some market players in the country will be in a more advantageous position – investing nothing in the country's economy, paying no taxes or levies in Russia and assuming no responsibility for the quality of products supplied.

Global experience shows that proposals for mandatory licensing should be considered very carefully in view of the risks encountered by the governments of Thailand, Brazil, India, Indonesia, Malaysia and other countries:

(a) inability to reduce the prices of a generic produced under a mandatory license (e.g., due to the high costs of re-equipping enterprises, training, and additional expenses for pre-clinical studies)

(b) purchases of generic drugs at state auctions at prices that differ only insignificantly or are higher than those of brand-name drugs

(c) inability to rapidly market a drug produced under a mandatory license (since, for example, the production of a complex biotechnological molecule cannot be copied) and the consequent risk that the drug will become less available to patients

(d) high risks of declining quality, effectiveness and safety of a drug produced under a mandatory license when there is no effective system of controlling quality and maintaining GMP standards

(e) high risk that certain groups of patients will show resistance to or intolerance of a generic drug, requiring them to seek other, sometimes more costly, treatment

(f) retardation of the innovative development of the pharmaceutical industry due to a lack of incentives to develop and register innovative drugs in a country that has mandatory licensing, and also the risk that pharmaceutical manufacturers will decide not to register innovative pharmaceuticals in such a country and even withdraw registration applications that have already been submitted

Issue 2. Giving Russian patients greater access to innovative drugs.

The system of state pharmaceutical benefits for outpatients covers no more than 10% of the population, and the country's working population has to purchase pharmaceuticals at their own expense. The Russian health care system is designed for the treatment of advanced stages of illness and/or complications. Health care expenditures from consolidated budgets at all levels and non-budgetary sources make up 3.3% of GDP – an unacceptably low level in comparison with OECD countries and in view of the existing demographic problems and high mortality due to manageable causes.

One barrier to making innovative drugs more available to patients is the lack of a funded plan of action in the "Strategy of Pharmaceutical Support for the Russian Population until 2025" (the "Strategy"), adopted by Order No. 66 of the Russian Ministry of Health of 13 February 2013. Despite the principle of universal availability – one of the key priorities of state policy in the area of pharmaceutical benefits – the Strategy does not include plans for extending pharmaceutical benefits to the whole population. Until this is rectified, it won't be possible to achieve the targets set in Presidential Edict No. 598 of 7 May 2012 "On the Improvement of State Policy in the Area of Health Care." Regrettably, most of the comments and proposals made by industry and the expert community during the Strategy's public discussion were ignored in the final document.

The FIAC working group welcomes the positive changes that have been made in the process of forming a list of pharmaceuticals, as set down in Government Decree No. 871 of 28 August 2014 "On Approval of the Rules for Forming a List of Pharmaceuticals and the Minimum Assortment of Pharmaceuticals Required for Medical Assistance." There is now a clear and transparent procedure for preparing documents that have a determining influence on the quality of treatment, the utilization of budget funds and public health and welfare. One matter of concern, however, is the short timing between the list's adoption and the start of the next year, making the timely registration of prices problematic and complicating the use of pharmaceuticals by doctors and patients.

The Russian Ministry of Health has begun developing models of pharmaceutical benefits and criteria for selecting Russian constituent entities as well as legislative and regulatory changes needed in order to implement pilot projects in 2016 for new pharmaceutical benefit schemes covering the working population and providing for co-payments. The ministry has held several meetings with representatives of federal executive bodies and the expert community. It should be noted that the concept needs to be elaborated in greater detail, including an economic analysis of the potential of various regions.

At the request of Deputy Prime Minister Olga Golodets, on 30 June 2014 the working group's proposals for further development of the price regulation system were presented to the Ministry for Economic Development. The working group continues to work with the Federal Antimonopoly Service, which, following the dissolution of the Federal Tariff Service, was made responsible for registering maximum manufacturer's prices for pharmaceuticals in the VED list.

Recommendations

- Involve members of the working group in developing an economically sound model for a pharmaceutical benefit system based on co-payments and universal availability, taking account of international experience and the regulatory framework needed for pilot projects in the regions from 2016.
- Form an interdepartmental working group to develop new approaches to the state regulation of pharmaceutical prices and pricing based on the principle of compensation as part of the new system of universal pharmaceutical benefits in the medium term. Amend the rules for registering maximum manufacturer's prices of pharmaceuticals to improve the short-term availability of innovative drugs.
- In view of the short time between the government's adoption of the VED list and the start of the next year, we recommend that the list be approved by the Russian government no later than 31 October of this year.

Issue 3. Enhancement of the regulatory environment for medical goods.

3.1. Restricted access to the state procurement system for foreign-made medical goods.

In the last few years, the Russian Government has made increasing efforts to introduce incentives/restrictions to promote the localization of medical goods in Russia. The basic documents reflecting these government efforts are "The Development Strategy for the Russian Medical Industry until 2020"[2] (the "Strategy") and the Russian State Program "Development of the Pharmaceutical and Medical Industry in 2013-20."[3] These documents' key targets are:

1. an increase in domestic medical goods as a share of domestic consumption to 40%;
2. a 120% production index for medical goods in cash terms by 2020;
3. pharmaceutical exports should reach RUB 38 bln by 2020.

These targets are to be attained by **large-scale stimulation of demand for local products.** In recent years, the Russian government has given high priority to accessible, high-quality medical aid, new medical technologies and R&D. However, the percentage of local manufacturers of medical goods is steadily declining on the domestic market, the competitiveness of local products is low, and Russian companies are incapable of ensuring demand for health care innovations. The Strategy envisages, among other things, the following support for local manufacturers of medical goods:

1. preparation and implementation of measures to ensure that such goods are given priority when purchases are made with funds from budgets at all levels and compulsory medical insurance funds;
2. targeted support for Russian companies offering niche solutions;
3. the practice of *prohibiting/restricting goods originating in a foreign state or group of foreign states* and work or services performed by foreign individuals when orders are placed for goods, work and services for the country's defense and state security under Article 13, part 4, of Federal Law No. 94-FZ of 21 July 2005 "On Orders for Goods, Work and Services for State and Municipal Needs," including those unrelated to the subject of the contract, when major state contracts are concluded for equipment for federal needs as well as the needs of Russian constituent entities or municipal needs under long-term contracts that are conditional on switching to Russian components within a few years' time.

To promote those goals, the Ministry of Industry and Trade prepared several draft decrees (the Ministry for Economic Development issued a negative regulatory impact analysis summarizing detailed comments by business on the proposed documents), which ultimately found expression in Government Decree No. 102 of 5 February 2015 "On Restrictions on Certain Medical Goods Originating in Foreign States for Purposes of Purchases for State and Municipal Needs" (the "Government Decree") in accordance with Presidential Instruction No. Pr-3308 of 6 December 2012 and clause 8 of Protocol No. 36 of a Meeting of the Presidium of the Russian Presidential Council for Priority National Projects and Demographic Policy of 20 December 2013. The adoption of the Government Decree was expedited by the Plan of Priority Measures to Ensure Sustainable Economic Development and Social Stability in 2015 as a means of promoting import replacement and exports for a wide range of non-commodity (including high-tech) goods.

The Government Decree regulates state and municipal purchases of medical goods by means of a list of foreign products that are prohibited if there are two Russian equivalents, but permitted if there are less.

For these purposes, the Government Decree sets criteria for a local medical product:

a) the country of origin of goods is the Russian Federation, the Republic of Belarus, the Republic of Kazakhstan or the Republic of Armenia;

[2] Approved by Order No. 118 of the Ministry of Industry and Trade of 31 January 2013 "On Approval of the Development Strategy for the Russian Medical Industry until 2020"

[3] Approved by Decree No. 305 of the Government of the Russian Federation of 15 April 2014 "On Approval of the Russian State Program 'Development of the Pharmaceutical and Medical Industry' in 2013-20"

б) the country of origin of listed medical goods is verified by a certificate of origin from an authorized body (organization) of the Russian Federation, the Republic of Armenia, the Republic of Belarus or the Republic of Kazakhstan as prescribed by the Rules for Determining the Country of Origin of Goods, which form an integral part of the Agreement on the Rules for Determining the Country of Origin of Goods in the Commonwealth of Independent States of 20 November 2009, and in accordance with the criteria set forth in these rules for determining the country of origin of goods.

The list of categories of medical goods on which the list of restricted goods is based was discussed to the very last behind closed doors, and a number of manufacturers were thus unsure whether their goods were listed.

After the Government Decree was adopted, a Medical Goods Working Group was set up under the Information Analysis Center for Foreign Trade (IAC) of the Russian Ministry of Industry and Trade to draft a regulatory act that set criteria for "domestic" goods for state procurement purposes. After lengthy discussions, IAC's work culminated in the adoption of Government Decree No. 719 of 17 July 2015 "On Criteria for Classifying Industrial Products as Lacking Equivalents Produced in the Russian Federation," from which the section on medical goods was eliminated. Nevertheless, consideration is being given to restoring this part of the text and thus setting requirements for industrial products that can be regarded as manufactured in the Russian Federation. Such criteria may also include the location of certain stages of the production process in Russia, compliance with ad valorem rules, the possession by a Russian legal entity of intellectual rights to products, etc. Only medical goods that meet the listed criteria will be regarded as Russian.

While generally supporting incentives for the localization of medical goods and transfers of high technology to Russia, we must note the simplistic nature of this restrictive approach as well as the existing 15% price preference for state purchases of local medical products. At this stage, the needs of Russian health care cannot be fully met by the existing level of (Russian and, in some cases, foreign) technology on the Russian market, and a more finely tuned adjustment is required for the system of access, circulation and transfer of technologies and cutting-edge solutions. These may include tax incentives, price preferences, greater transparency of procedures involved in state purchases, creation of a clear and comprehensive classification of medical goods, expedited registration procedures for localized medical goods, tariff incentives, the development of domestic suppliers of raw materials and components, etc.

Based on the initial practice of implementing the Government Decree, the Ministry of Trade proposed to increase the number of medical goods prohibited for state and municipal needs to a hundred. This major extension of the list did not meet with the approval of the prime minister, the medical community or patients.

Recommendations

1. Introduce a system for the expedited issue (within one month) of registration certificates by the Federal Service for the Oversight of Health Care and Social Development as part of a system of incentives for medical companies entering into SICs in order to accelerate the localization of low-risk products.
2. Work on the issue of state financial support for modernizing and expanding the production capacities of small and medium-sized Russian suppliers of raw materials and components to meet the needs of international companies in exchange for long-term orders for products.

3.2. Simplified procedure for registering medical goods.

The new state registration procedure (Decree No. 1416 of the Russian Government of 27 December 2012), which entered into force on 1 January 2013, introduces additional measures for assessing the quality, safety and effectiveness of medical goods for which permits are to be issued. However, a number of acts regulating measures for assessing the safety and clinical effectiveness of medical goods have not yet been approved. The latest drafts of these documents, which are available to the public, allow us to conclude that:

- The primary instrument for assessing the effectiveness and safety of medical goods and their modifications on the Russian market is still the system of assessing the findings of tests (technical, toxicological, clinical) performed as part of the state registration procedure. Such tests, however, are often technically impossible in Russia due to a lack of the required equipment and specialists, and they are a mere formality without practical or clinical value. There is no practice of complete tests for access to the market in any developed country. In view of the short life cycle of medical goods and the rapid appearance

of improved products, clinical tests to assess clinical effectiveness are unnecessary for most goods, which do not involve fundamentally new technology.

- These assessments are the responsibility of federal expert institutions lacking the resources, knowledge and experience for such work (there are only two such institutions, each with a small staff and little experience with large-scale expert analysis).

- Bottlenecks form because:

experts and applicants are unable to communicate directly with one another. When experts are unable to talk to an applicant (in real time) about documents submitted, they lose time in obtaining clarifications and additional documents from the applicant.

Since the framework of subordinate acts that is needed for the development a government decree is not yet in place, many issues of key importance for that procedure remain unresolved. It has not been determined, for example, which regulatory and technical documents should be submitted for state registration to the Federal Service for the Oversight of Health Care and Social Development, allowing a variety of experts to make this determination arbitrarily. There are no methodological recommendations and/or clarifications on the procedure or requirements for applicants. Certain technical requirements made by the Federal Service for the Oversight of Health Care and Social Development and two subordinate expert organizations are clearly excessive (e.g., the requirement that a translation of technical, operational and regulatory documents be notarized; technical documentation for a single product can include up to 3,000 pages of technical text).

- It is also unclear why all registration certificates previously issued for medical goods (previously, "goods for medical purposes" and "medical equipment") need to be replaced due to the introduction of the new combined term "medical goods." This measure is unjustified, as it involves the replacement of 30,000 registration certificates by 1 January 2017. It seems unreasonable, simply because a new term has been introduced, to require that all market participants apply for new registration certificates for all medical goods previously registered with the Federal Service for the Oversight of Health Care and Social Development in compliance with all rules and requirements in force at the time of registration. Under the new requirements, composite medical goods previously registered as "sets" or "systems" would require multiple registration certificates (producers of complex high-tech products would have to apply for several certificates – sometimes dozens – instead of one registration certificate for a "system"). This greatly increases the burden on applicants and on the Federal Service for the Oversight of Health Care and Social Development and complicates the use of codes in the Russian Product Classifier and the Goods Classifier for Foreign Economic Activity as well as subsequent taxation at the stages of importation, sales in Russia and accounting by business entities (health care facilities). We're talking about medical goods and equipment that have been successfully used in Russian health care facilities for many years.

To replace their certificates, applicants will have to go through a procedure comparable, in terms of time and effort, to reregistration as well as collect and submit additional information (e.g., the results of clinical tests for goods of all risk classes). Their products will be unclassifiable in the proposed system, and they will risk being denied registration.

There have also been positive changes in the registration procedure, such as the long-awaited passage of amendments to Order No. 1353n of the Russian Ministry of Health of 21 December 2012 "On Approval of the Procedure for Organizing and Conducting Expert Examinations of the Quality, Effectiveness and Safety of Medical Goods," which streamlined the procedure for registering medical goods in Risk Class 1.

Recommendations

Simplify the system of registering medical goods and bring it into line with international practice by means of the following urgent measures:

1. developing a mechanism of pre-registration consultation on the preparation of documents to be submitted for state registration of medical goods
2. working on simplifying the registration procedure for certain types of medical goods in Risk Class 2a

3.3. Establishment of general rules and requirements for the circulation of medical goods in the Eurasian Economic Space.

Work is actively under way to develop the rules of circulation of medical goods at the levels of Russia and the Common Economic Space.

For instance, the Agreement on Unified Principles and Rules for the Circulation of Medical Goods (Goods for Medical Purposes and Medical Equipment) in the Eurasian Economic Union, approved by Decision No. 146 of the CES Collegiate Body of 25 August 2014, introduces a number of requirements with respect to medical goods' labeling and release into circulation. Under the approved documents, the agreement will enter into force on 1 January 2016. That will automatically require changes in the registration procedure as well as new registration certificates, thus conflicting with the reregistration of medical goods that is currently under way in Russia.

The working group held a meeting with representatives of the Ministry of Health and the Federal Service for the Oversight of Health Care and Social Development at which they implied that most barriers in permission procedures would be eliminated after the adoption of a fundamental document: the Federal Law "On the Circulation of Medical Goods." Work on this document has been resumed under the supervision of the Ministry of Health. The first version of the draft law was submitted to the Russian government and has long remained pending. It should be noted that the draft fails to take account of work done to simplify the registration procedure for low-risk medical goods and other FIAC proposals.

At the same time, the Republic of Kazakhstan proposed a discussion of EEC draft documents on registration rules that do not conform to the current Russian procedure and do not fully take account of the proposals to simplify it. On 12 December 2014, the working group received a reply to its inquiry about FIAC involvement in discussing acts that regulate the medical goods market. The letter invites FIAC member companies to participate in discussions on the health ministry's official website and portal (www.regulation.gov.ru), but this is clearly an inadequate channel for the expression of foreign investors' views.

Another issue of concern is the implementation date of documents for the creation of a common medical goods market in the Common Economic Space (1 January 2016), since the accession of Armenia and Kyrgyzstan will lengthen the process of approval and adoption.

Recommendations

1. Include FIAC representatives in the working groups responsible for drawing up these regulatory documents.
2. Synchronize the implementation dates for Russian and CES legislation; ensure sufficient transition time to mitigate adverse consequences for domestic and foreign manufacturers, and ensure patients' access to socially significant medical goods.

3.4. Exclusion of imported alcohol-containing medical goods from the Federal Law "On the State Regulation of the Production and Turnover of Ethanol and Alcoholic and Alcohol-Containing Products" (No. 171-FZ).

Federal Law No. 218-FZ of 18 July 2011 "On Amendments to the Federal Law on the State Regulation of the Production and Turnover of Ethanol and Alcoholic and Alcohol-Containing Products" introduced separate licensing for the production, purchase, storage and turnover of alcohol-containing medical goods on 1 January 2012. This was done to counter abuses involved in the production of medical goods and to prevent such goods from being used as alcohol substitutes.

At the same time, these amendments mean that the Federal Law "On the State Regulation of the Production and Turnover of Ethanol and Alcoholic and Alcohol-Containing Products" (Law No. 171) now applies to 3M dental adhesives and primers – solutions with an ethanol content of 10% to 80% that are dispensed in 5-ml and 6-ml consumer containers and used to cement fillings (TN VED TS code 3006 40 0000). These are specialized dental products sold through 3M's distributor network only to professional dentists at high prices (some 1,600 rubles per unit, or over 267,000 rubles per liter), which rules out the possibility that they will be used as alcohol substitutes.

In 2013, as instructed by Russian Deputy Prime Minister Arkady Dvorkovich, the Federal Service for Regulation of the Alcohol Market drafted amendments to Law No. 171 that would exclude alcohol-containing medical goods in consumer containers with an ethanol content of up to 30% and medical goods in consumer containers holding up to 10 ml (pursuant to clause 2 of Protocol No. AD-P11-221pr of a meeting with Deputy Prime Minister Arkady Dvorkovich of 20 November 2013). This draft was not,

however, approved by the Ministry of Health, the Ministry of Industry and Trade or the Federal Service for the Oversight of Health Care and Social Development and received no further consideration.

In September 2014, pursuant to Section II, clause 2, of Minutes No. DM-P9-68pr of a meeting with Russian Prime Minister Dmitry Medvedev of 15 September 2014, the federal draft law "On Amendments to Certain Legislative Acts of the Russian Federation for Purposes of Improving the State Regulation of the Turnover of Alcohol-Containing Pharmaceuticals and Medical Goods" was published for discussion by the Federal Service for Regulation of the Alcohol Market. Under this draft, Law No. 171 would not apply to the turnover of imported medical goods that contain ethanol or alcohol-containing medical goods made in Russia from alcohol in accordance with pharmacopoeia specifications.

In February 2015, 3M Russia was licensed to purchase, store and supply alcohol-containing non-food products (dental adhesives and primers) and was thus partially able to resume supplies to Russia in June 2015. However, the fact that the turnover of alcohol-containing medical goods is licensed means that such products cannot be sold wholesale to unlicensed legal entities. Today the only distributor with a license for the turnover of alcohol-containing dental adhesives and primers is Rocada Dent. These products can thus be sold only to Rocada Dent and then retailed by Rocada Med. Although 3M Russia is licensed to purchase, store and supply alcohol-containing non-food products, it has been unable to fully resume supplies of imported alcohol-containing dental goods that lack Russian equivalents (due, in part, to the fact that other sellers and manufacturers of such goods lack the necessary licenses).

This situation can be remedied only by adopting the draft law "On Amendments to Certain Legislative Acts of the Russian Federation for Purposes of Improving the State Regulation of the Turnover of Alcohol-Containing Pharmaceuticals and Medical Goods," which would exclude imported medical goods.

Nevertheless, according to a public source that publishes draft legislation for discussion and a regulatory impact analysis, the draft law received a negative evaluation and was taken off the agenda (http://regulation.gov.ru/projects#npa=17569). What happened to the draft after that is unknown, which is reason for serious concern on the part of those involved in the turnover of alcohol-containing medical goods and members of the medical community interested in a timely resolution of this issue. Current regulation also encourages the shadow market, multiplying the number of counterfeit products and products circulating in Russia in violation of other Russian legal requirements.

Recommendations

Expedite the adoption of the draft law as published for discussion, thus eliminating the need for licensing in the case of imported medical goods containing ethanol.

Issue 4. Localization and import substitution.

A new development this year was the introduction of special investment contracts (SICs) – trilateral agreements between an investor, a region and the Ministry of Industry and Trade on the terms, priorities and preferences for an investor carrying out a project important for the region. Under the new terms, both federal and regional parties guarantee that the terms of an SIC will not be changed for ten years, regardless of amendments to federal and regional laws.

An analysis of the rules for concluding SICs, approved by Decree No. 708 of the Russian Government of 16 July 2015, confirms that there is no comprehensive regulation in place: the Russian Tax Code has not been amended accordingly (the Ministry of Finance has only proposed amendments to provide an investor or other parties specified in an SIC with guarantees that tax rates will not go up).

There are a number of other important issues: sanctions are imposed on an investor that fails to meet or improperly meets obligations under an SIC (for example, an investor must reimburse taxes and levies not paid as a result of benefits as well as paying penalties), but for an authorized body that enters into an SIC on behalf of the Russian Federation and acts as a counterparty, sanctions are vague and unspecific; an SIC provides an investor with guarantees and incentives, but additional work must be done to clarify this mechanism.

According to the Plan of Priority Measures to Ensure Sustainable Development of the Economy and Social Stability in 2015 (the "Anti-Crisis Plan"), approved by Regulation No. 98-r of the Russian Government of 27 January 2015, one of the government's key efforts in the coming months will be to support import substitution for a broad range of non-commodity (high-tech) goods and to ensure social stability, including in the area of health care and pharmaceuticals, by placing restrictions on purchases for state and municipal needs of pharmaceuticals and medical goods originating in foreign countries.

The Anti-Crisis Plan's stabilization measures include proposals for amendments to federal law providing for long-term state contracts that are conditional on the establishment and development of production in

Russia. At a meeting on 22 December 2014, Russian Deputy Prime Minister Olga Golodets mentioned the possibility of switching to long-term state contracts for purchases of pharmaceuticals. Such contracts provide drug manufacturers with guarantees of business stability for an extended period, and the large purchase volume makes for lower prices and optimizes state expenditures for pharmaceuticals. The working group believes that, by entering into long-term state contracts for pharmaceuticals and medical goods, manufacturers will be able to plan their production processes for the term of such contracts and adopt pricing models that are mutually beneficial for the state customer and the manufacturer. The mechanism of long-term state contracts will also motivate foreign manufacturers to localize their production in Russia.

Another stabilization measure in the Anti-Crisis Plan is limited state purchases of foreign-made pharmaceuticals and medical goods if offers are made by two or more producers in EEU countries. A government decree to implement this measure has been drafted by the Russian Ministry of Industry and Trade.

The working group is concerned that the draft fails to take into account the investment efforts already made by foreign investors to develop the pharmaceutical industry in Russia as well as failing to set criteria for local products. The draft allows pharmaceuticals that are only packaged in Russia to be purchased until the end of 2015, and additional criteria for the period after 2015 are lacking. As a result, foreign drug manufacturers that have begun localizing their production in Russia will have only limited access to state purchases, and localization will thus lose its appeal for potential investors.

To keep foreign investors interested in the Russian pharmaceutical industry and ensure that innovative drugs are made available, the working group's members recommend the use of SICs and long-term state contacts guaranteeing that the production of an agreed quantity of pharmaceuticals will be localized within a specified period, while the government guarantees demand for such localized drugs. We believe that both SICs and long-term contracts for pharmaceuticals and medical goods will contribute to the development of the domestic pharmaceutical industry by stimulating the production of innovative drugs.

In our opinion, several additional measures to promote localization should be considered. For example, innovative pharmaceuticals and medical technology to be localized under SICs should qualify for expedited state registration.

An important factor in stimulating localization would be an improved procedure for applying the **15% discount factor** to "contract prices" for state and municipal purchases (Order No. 155 of the Ministry for Economic Development of 25 March 2014 "On the Terms of Access of Goods Originating in Foreign States When Goods, Work and Services Are Purchased for State and Municipal Needs").

Recommendations

- Develop a procedure for the expedited state registration of innovative drugs to be localized under SICs.
- Provide incentives for localizing the production of innovative pharmaceuticals and medical goods in Russia by developing and clarifying the provisions of SICs and long-term state contracts to be concluded with manufacturers.
- Enhance the system of preferences for Russian manufacturers.

2.6. Trade and Consumer Sector

Issue 1. Extending the manufacturer's responsibility by creating a legal framework for an effective system of recycling consumption waste (packaging waste) in Russia (*jointly with the working group for the elimination of administrative barriers and technical regulation*).

Federal Law No. 458-FZ, "On Amendments to the Federal Law 'On Production and Consumption Waste' and Certain Legislative Acts of the Russian Federation as Well as the Annulment of Certain Legislative Acts (Provisions of Legislative Acts) of the Russian Federation" (hereinafter, the "Law"), entered into force on 1 January 2015. As of 2015, the Law requires manufacturers and importers to recycle products and product packaging or, should they fail to do that, to pay an environmental fee to the federal budget.

While supporting the Law's concept of regulating waste disposal and creating an effective recycling system, we must point out that, by introducing such requirements without transition periods, the Law, instead of expectedly stimulating the waste recycling industry, will seriously encumber all Russian manufacturers, forcing them to raise selling prices as compensation.

The key quantitative parameters of the financial and administrative burden (recycling standards, the list of goods to be recycled, environmental fee rates) are to be established by government decree not earlier than Q4 2015. Manufacturers are thus unable to plan their expenses for waste recycling systems and determine the necessary investment resources in the current tax period.

The published drafts of government decrees, which were prepared by the Russian Ministry of Natural Resources and underwent several iterations, set standards for independent recycling that are technically unachievable (up to 70% for certain categories of goods in 2015).

According to the Draft Decree prepared by the Russian Ministry of Natural Resources and submitted for approval to the Russian Government on 30 June 2015, the suggested recycling standards for most goods items (85 groups out of 130 in 2015, 124 groups in 2016 and 130 groups in 2017) are well above zero, which nullifies the idea of the moratorium stipulated in clause 2 of Minutes No. DM-P13-48pr of the Russian Government's meeting chaired by Prime Minister Dmitry Medvedev on 1 June 2015. The list of goods to be excluded from the environmental fee moratorium is proposed to be extended by including the groups of goods "that are already being recycled;" however there are no criteria to determine what goods and what volumes of those goods can be regarded as being recycled. The fact that the list of goods excluded from the moratorium was extended without a reasonable basis makes the moratorium impracticable.

In view of the existing uncertainty and growing regulatory risks, manufacturers/ importers are unable to adjust their internal systems and processes and identify the existing contractors with whom they could discuss cooperation to implement the extended manufacturer responsibility, including collection and transportation of non-commercial/ non-industrial waste.

The situation undermines the Law's key objective of providing economic incentives for manufacturers to recycle waste and reintroduce it into economic circulation. The absence of the transition periods needed to develop a system for manufacturers' independent compliance with the Law will make such compliance technically and economically impossible.

As a result, the compliance would be reduced to the payment of an environmental fee. The double burden of investing in their own recycling systems and making payments for not achieving the independent recycling norms would be economically unsound and, in a crisis, prohibitive. Alongside with the environmental fee, the respective recycling obligations will also be transfered to the state. The fee will be integrated into the cost and passed on the consumer through increased prices for consumer goods. The environmental fee rates, which are currently under discussion, and the proposed standards may increase inflation by at least 3% to 5%.

The institute of regional operators that the Law introduces as of 2016 is unfortunately not a comprehensive solution to the waste problem, since its monopolistic nature means that regional operators intend to profit by charging households and receiving subsidies from the federal budget. They can obviously maximize their profit by collecting as much **non-recycled** waste as possible, and this is borne out by the fact that the law does not give households any incentive to sort out solid household waste.

The adoption of the moratorium, with FIAC's suggestions taken into account, would facilitate the launch the system in the 'pilot mode' that could generate essential statistical and analytical information about the production output supplied to the market and the resulting waste, broken down by product type and

packaging material, thus helping make informed decisions on the standards and rates for the next three-year period.

Recommendations

- The recycling standard for 2015 should be set at a zero level for all groups of goods without exceptions;
- The recycling standard for 2016-17 (and further on until 1 January 2019) should be set at a zero level for all goods, except for electric batteries, tires, mercury-containing lamps and the groups of goods that are already subject to recycling according to clause 2 of Instruction No. DM-P13-48pr of the Russian Government of 1 June 2015;
- Paper should be included in the moratorium until 1 January 2019 as it is biodegradable and environmentally safe. The fact that paper is excluded from the moratorium contradicts the provisions and logic of the new version of Federal Law "On Production and Consumption Waste", since Article 24.3 of the Law stipulates economic incentives for manufacturers and importers of goods whose waste is biodegradable;
- The List of Recycled Goods should be reduced substantially to electric batteries, tires, mercury-containing lamps, and complemented, subject to sufficient justification, with the groups of goods that are already subject to recycling;
- The minimum initial standards of more than 0% but not more than 5% (depending on the group and category of goods) should be established for 2016-17 for batteries, tires, mercury-containing lamps and the groups of goods that are already subject to recycling Additional research should be performed to calculate the standard for each group, as in most cases the existence of such standard would mean significant increase of current fees, separation and recycling of respective solid municipal waste in the residential sector;
- The new draft of the regulation that establishes environmental fee rates should be submitted for regulatory impact analysis again since it has undergone fundamental changes (fees are now calculated as a RUB amount per tonne/unit rather than as % of the cost of goods);
- The acts establishing the list of products, recycling standards, and environmental fee rates should be adopted as Government Decrees ;
- Regulatory legal acts prepared by the Russian Government should be adopted on a package basis with the same effective date;
- Draft decrees should be additionally discussed at the Open Government with the involvement of experts from the business community and of the Expert Council attached to the Government.

These measures will help to **run the system in the "test mode"** and launch (within 3 to 5 years) a modern industry of waste recycling and the production of secondary material resources with an expected turnover of more than RUB 300 billion in 2018-20, which according to experts will generate:

- Additional budget revenues of RUB 110 to RUB 120 billion annually;
- 400,000 to 600,000 new jobs in waste sorting and recycling;
- A strong impetus for the servicing industries (the production of recycling and waste-sorting equipment).

Issue 2. Basic principles of regulating retail trade in Russia.

2.1. Regulating relations between suppliers and retail chains.

FIAC is concerned about Draft Law No. 704631-6 "On Amendments to Certain Legislative Acts of the Russian Federation Concerning Antimonopoly Regulation and Food Safety," which was submitted to the Russian State Duma on 21 January 2015.

While recognizing that a number of the proposed amendments have some justification, we are afraid that, in combination, the amendments could bring about a total reconfiguration of the functional model of the food market – above all in terms of interaction between retail companies and suppliers.

At present, a certain equilibrium has been achieved in relations between producers/suppliers and the retail network following the adoption of Federal Law No. 381 "On Trade" and thanks to the efforts of federal and regional management and control bodies and the practice of cross-sector self-regulation, introduced by MES with the aid of the Code of Good Practice. The severe restrictions placed on retail chains by the

proposed amendments could disrupt this equilibrium as well as the smooth supply of a wide range of goods to the public – something that has been achieved in an atmosphere of sanctions and counter-sanctions. These restrictions will also unavoidably impact price formation, exacerbating the already difficult situation on the food market.

It is important to note that some of the lawmakers' proposals have already been included in the Code of Good Practice.

FIAC member companies stress that, in conditions of falling purchasing power on the part of households, the proposed amendments could have a negative economic impact not only on retail companies, but on the food market as a whole, including the affordability of food and other consumer goods for the Russian consumer. The draft law's restriction on bonuses and payments for marketing services, logistical expenses, etc., will complicate the position of suppliers and producers of food and other consumer goods, limit the ability of retail chains to promote their goods and balance the level of prices for goods in various cost categories in the interests of consumers and will thus be a disincentive for promoting goods in the low-price segment as well as new goods. In general, the restrictions will impair retail trade's attractiveness to investors.

FIAC thus believes it would be reasonable at present to refrain from any substantial changes in laws regulating relations on the consumer market, including retail trade. The alternative option should be a system of self-regulation which sets operating rules for companies participating in self-regulation and their responsibility for violating those rules, as well as provides an effective mechanism of pre-trial settlement of disputes.

Recommendations

We thus request the Russian Government not to support the current Draft Law No. 704631-6 "On Amendments to Certain Legislative Acts of the Russian Federation Concerning Antimonopoly Regulation and Food Safety" and develop, together with the business community, amendments that would provide for the achievement of the current draft law's objectives through self-regulation mechanisms.

2.2. Regulating trade markups on the prices of baby food sold in various constituent entities of the Russian Federation.

Russian Government Decree No. 239 "On Measures to Improve the State Regulation of Prices (Tariffs)," of 7 March 1995 ("RF Government Decree No. 239") sets the lists of producer and consumer goods, and the services of transport, procurement and distribution companies, and trade organizations, for which the executive bodies of constituent entities of the Russian Federation have the right to introduce the state regulation of tariffs and markups. Based on this regulatory legal act, trade markups for the prices of baby food are regulated in various constituent entities of the Russian Federation.

The arbitrary limited markups established in the regions constrain the development of the competitive environment. These limits, when complied with by the wholesale and retail segments, discourage the supply a large variety of baby food to the public. The regulation does not take into account the specific aspects of costing, i.e. that promotion expenses may be transferred directly from the producer to the distributor (sales representatives, merchandising, certain advertising costs) or to the so-called 'trade house' operating as part of a holding company or a group of companies. Prerequisites are created for pricing intervention by the executive bodies of the constituent entities of the Russian Federation; in some regions, therefore, FIAC member-companies face administrative penalties and litigation in relation to regional legislation enacted on the basis of Decree No. 239 as regards the sale prices of baby food.

Analysis of the effectiveness of regulation

The variety of products related to baby food is extensive and includes specialized food products for children up to the age of three, and also products for children of preschool (3-6 years old) and school (6 years old and older) age.

In general, the baby food market is highly attractive and competitive.

The basic factors of retail and wholesale price formation include not state regulation, but competition and the existence of a competitive environment in every particular region, remoteness of particular production and item from the selling outlet, production sites, regional specifics, etc.; in other words, there are stronger regulatory mechanisms on the market.

Retail prices (in comparable trade formats) do not seem to depend on any restrictions in the comparable regions governed by the regulatory legal acts adopted in accordance with Russian Government Decree No.239 concerning the trade markup when they are compared with the prices in the regions without such

regulation. In 2013, the Institute for Industrial and Market Studies of the national research university Higher School of Economics analyzed the effect of the regulated trade markups on the baby food prices in the Russian regions. As a result of research, certain constituent entities of Russia were identified as regulating trade markups on baby food prices; moreover, an analysis was made of the effect of such regulation and other factors on the prices of the following three products: milk powder mixture, baby curd and apple juice. In addition, an analysis was made of the effect of the same factors, except for the regulation of trade markups for the prices of milk and flour, i.e. goods which are not subject to the regulation of trade markups in the constituent entities of Russia.

The constituent entities of Russia demonstrate variety in regulation approaches. As a rule, regulation extends to wholesale as well as retail markup (or simply "trade" markup). However, there are limits to the total markup for producer or importer prices (as is clearly the case in Tambov Region; a maximum trade markup is differentiated in some other constituent entities of Russia, depending on whether the goods are purchased from the producer [importer] or wholesaler). There are precedents of the establishment of restrictions only for retail trade markups (e.g. in Vologda and Kostroma Regions).

Maximum trade markups are usually in the range of 10%-25% of the wholesale trade and 15%-25% of the retail trade. In this respect, the executive authorities of the constituent entities of Russia differentiate the maximum trade markups within their territories, depending on the local specific features. Restrictions may be differentiated in relation to other aspects, e.g., they may be eased for goods imported from outside a region (Vladimir and Sakhalin Regions). In Sverdlov and Omsk Regions, the maximum trade markups are higher for Russian than for imported products.

A retail price analysis showed that the regulation of trade markups by the constituent entities of Russia does not produce any statistically significant effect on baby food prices. The price of baby food is determined by other objective factors, first and foremost by the general price level and public income. Regulation does not have the suggested benefit of price reduction but entails explicit administrative expenses on the part of both authorities and business entities.

Analysis of public opinion

In July 2014, the Federal State-funded Scientific Institute of Sociology of the Russian Academy of Sciences conducted a social survey on *State Regulation of a Trade Markup on Baby Food: Public Opinion*. The survey showed the following:

1. Baby food is purchased primarily by people aged 18-44 years whose income is average or above average and have minor children. Largely they are parents purchasing food for their babies, educated young people and middle-aged people. Baby food products are also purchased by people of other age and by groups with different income and education. Therefore, baby food is bought by various people.

2. The residents of the respective regions are poorly aware of the existence of state regulation, i.e., 76% of baby food purchasers are not aware of it. In regions without regulation, 20% of the purchasers erroneously said that it existed. A comparison of the replies by respondents from regulated and non-regulated regions shows that about 2-4% of the residents know that the state regulation of trade markups on baby food prices either exists or does not exist. . The awareness of respondents does not depend on whether they have children or not and on their income level.

3. 43% of the purchasers believe that the deregulation of trade markups on baby food leads to price increases, but only 15% of the purchasers (10% with low income) believe that regulation restrains prices, while 35% believe the opposite.

The most well informed purchasers from the regulated regions who are aware of the existence of state regulation of the trade markup have a vague understanding of the regulation mechanisms, and so do the rest of the population. The opinion of individuals with low income concerning the effect of state regulation of trade markups either does not differ from that of the majority of the population or is more pessimistic. Therefore, regulation is perceived either neutrally or negatively by the public.

4. According to the respondents, the most efficient methods to support families with children in providing baby food include baby dairy shops and specialized stores selling baby food at fixed prices - 33%. Only 6% of the respondents mentioned the markup regulation. A group of well informed purchasers estimated the efficiency of this mechanism to be even lower - only 1%. Almost one third of well-informed purchasers would prefer targeted financial aid to other forms of support. The most widespread mechanism used by the public is the dairy shop, which offers free distribution under a medical prescription or a referral letter of state authorities. Among purchasers with minor children, 10% use financial support and 9%, specialized stores, while 38% use neither of that.

Legal analysis

The need to amend the aforesaid Decree is evident from several legal grounds:

1. Inconformity of the regulatory legal act of the Russian Federation with the international obligations of the Russian Federation

As regards the regulation of prices (tariffs) for a number of products and services entered in the respective lists of Decree No.239, e.g., baby food products, the Decree does not conform to Article 17 of the Treaty on Common Principles and Rules of Competition of 9 December 2010 between the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan (hereinafter, the "Treaty"), whereby state price regulation is permitted:

a. at commodity markets in a state of a natural monopoly (Article 17.1).

Under Federal Law No.147-FZ *On Natural Monopolies* of 17 August 1995 (amended as of 6 December 2011), the baby food market is not among the commodity markets in a state of a natural monopoly.

b. in emergencies or natural disasters and for the sake of national security, provided that the problems which arose cannot be resolved with a less negative effect for competition (Article 17.1 of the Treaty).

Decree No.239 has no instructions concerning the introduction of regulation in emergencies or natural disasters and for the threat to national security which arises because there is no state regulation of baby food prices.

c. in case of the state regulation of prices for products specified in the Addendum to the Treaty.

Baby food products are not included in the list of goods subject to the state regulation of prices in accordance with the Treaty.

The Treaty does not provide for the issue of internal state acts related to the introduction of price regulation established by Article 17 of the Treaty, which, in accordance with part 3 of Article 5 of Federal Law No.101-FZ *On International Treaties of the Russian Federation* of 15 July 1995 (amended as of 1 December 2007), entails the direct effect of Article 17 of the Treaty in the Russian Federation. If an international treaty of the Russian Federation establishes rules other than those provided for by the law, the rules of the international treaty shall apply.

2. Conflict of legal regulations

Decree No.239 does not conform to clause 8, part 2 of Article 8 of Federal Law No.381-FZ *On the Fundamentals of State Regulation of Trading Activities in the Russian Federation* (hereinafter, the "Trade Law"), which prohibits the state regulation of prices in instances not covered in the federal laws. Decree No.239 establishes trade markups for a number of products (including baby food products) when federal laws do not stipulate the state regulation of prices of such products by the authorities of the constituent entities of Russia. In accordance with part 4 of Article 8 of the Trade Law, trade markups on prices for particular products may be established only on the basis of federal laws and related regulatory legal acts.

3. Absence of the unified practice of applying regulatory legal acts

Currently, several precedents have already been created when the highest judicial body of the Russian Federation invalidated individual provisions of Decree No. 239 and the regulatory legal acts of the executive bodies of the constituent entities of the Russian Federation, since they contradict the Trade Law. For instance, Decision No. GKPI10-498 of the Supreme Court of the Russian Federation of 6 July 2010 invalidated paragraph 9 of the List of Services rendered by transport, procurement and distribution companies and trade organizations, in respect of which the executive bodies of the Russian constituent entities have the right to introduce state regulation of tariffs and markups (introduction of maximum wholesale and retail trade markups on the prices for pharmaceutical products excluded from the list of vital and essential medicines and medical drugs), approved by Decree No. 239.

Ruling No. 78-G10-13 of the Supreme Court of the Russian Federation of 21 July 2010 invalidated the respective provisions of Decree No, 367 of the Government of St. Petersburg of 5 April 2007 "On the Introduction of Trade Markups on the Prices of Medicines and Medical Drugs" as regards the application of the decree to medical drugs.

Moreover, Ruling No. VAS-11752/11 of the Supreme Arbitration Court of 27 October 2011 rejected the claim to invalidate paragraph 3 of the List of Services rendered by transport, procurement and distribution companies and trade organizations in respect of which the executive bodies of the Russian constituent

entities have the right to introduce the state regulation of tariffs and markups (introduction of maximum markups on the prices of baby food).

Conclusions

Updating Government Decree No. 239 as regards the introduction of amendments to the list of production and consumer goods, in relation to which the Russian local executive bodies have the right to introduce the state regulation of tariffs and markups and trade markups for baby food, will not give rise to any negative consequences for the socially unprotected population. The prices of children's products will continue to be determined on the basis of the conditions in each individual region. There will be no social reaction to the amendments, or it will be minimal. At the same time, the elimination of restrictions will stimulate expansion into the regional markets where expansion is problematic and will increase the variety of products, thereby improving competitiveness and bringing pressure to bear on prices. Decree No. 239 will be brought into compliance with the national legislation and international commitments of the Russian Federation. The administrative burden on business will be removed, possibilities to increase the efficiency of business processes will be extended, and non-production costs will be optimized.

Status

In compliance with clause 6 of Instruction List No. ISh-P13-4381 of 25 June 2013 issued by I.I. Shuvalov, the need to exclude baby food from *Decree No. 239 was considered by the Russian Government's Expert Council headed by M. A. Abyzov, the Minister of the Russian Federation, with the participation of the relevant bodies and the expert community*. *On 1 September 2014, the Expert Council concluded that the regional regulatory practices related to trade markups for baby food are unjustified and* that the continued application of the regulatory practices related to trade markups for baby food is excessive as compared to price control based on the Federal Law "On the Protection of Competition" and the development of targeted social support in accordance with the Concept of Development of Internal Food Assistance.

In an economic crisis and market volatility and pricing, trade markup regulation has an additional negative impact on relations between suppliers and retail chains. When the requirements for regulation in the regions cannot be formally met, the risk that the baby food variety will be reduced sharply increases.

The Government is examining the issue, and a decision is yet to be made.

Recommendations

Make a fundamental decision to exclude baby food from the scope of Decree No. 239. Instruct the relevant agencies to consider the alternative decisions proposed by the Expert Council related to the regulation of baby food as a socially significant category of food products.

Issue 3. Reforming veterinary law in the Russian Federation and the Customs Union.

3.1. Order No. 281 On Approval of the Rules of Organizing Work in Drawing Up Supporting Veterinary Documents and the Procedure for Drawing Up Electronic Supporting Veterinary Documents.

In July 2014, the Russian Ministry of Agriculture approved Order No. 281 o"On Approval of the Rules of Organizing Work of Drawing Up Supporting Veterinary Documents" and a Procedure for drawing up supporting veterinary documents in electronic form (the "Order"). The Order was to enter into force in March 2015.

During its public discussion with the business community and regulatory impact assessment, this document was heavily criticized by members of the business community, including FIAC member companies.

As a result of cooperative efforts between the business community and federal executive bodies, the dramatic repercussions of the new rules were understood – in terms of the processing of supporting veterinary certificates (SVC), the major expansion of the list of regulated goods transported in Russia and the market's inability to adapt to the changes on such short notice. As a result, the Ministry of Agriculture approved two orders – No. 70 of 20 February 2015 and No. 78 of 26 February 2015 – which together postponed the Order's implementation until 1 September 2015 (until 1 August 2017 for regulated products that do not require SVCs in Russia until the Order is implemented).

While noting the positive nature of these decisions adopted by the Ministry of Agriculture, FIAC member companies note that the final wording of the Order, even as amended, fails to include provisions that the business community coordinated with ministries and agencies regarding certain aspects involved in

processing SVCs. The amendments do not eliminate the risks of substantial additional financial costs and logistic problems food and trade sector companies are facing.

Among other things, it should be noted that:

1. Appendix 3 to the Order currently contains an incomplete list of food products, as identified by their TN VED codes, that do not require SVCs in the Russian Federation until 2017. For example, such TN VED codes as 0401, 1601, 1602 and others are lacking.

2. The transitional provisions postponing implementation until 1 August 2017 do not apply to the new certification procedure for production batches or to the transfer of title to regulated goods, which may seriously disrupt the operations of retail chains and production facilities throughout the country.

From 1 September 2015, unsynchronized transition to the electronic processing of SVCs may become a major problem in relations between suppliers and recipients, even for goods that previously required certification. The Mercury State Information System is currently being refined and is not ready for large-scale implementation. The system does not permit outside information systems to automatically transfer information required for the processing of electronic SVCs or to automatically receive information on the processing of electronic documents. Manual inputting of data into the Mercury System is unacceptable for market players, especially those that handle thousands of transactions per day.

Recommendations

To resolve these problems, FIAC member companies recommend the following:

1. Thoroughly revise Order No. 281 of the Russian Ministry of Agriculture of 17 July 2014 using as a basis Draft Order No. 127 of the Ministry of Agriculture, which was given a favorable regulatory impact assessment in March 2014.

2. The following should be taken into account when revising the Order:

- the Order should not simply refer to the List approved by Decision No. 317, whereby the entire List applies to transportation within Russia. In relation to the List approved by Decision No. 317, a separate list should be prepared for products requiring SVCs when transported within Russia;
- The list should not contradict the technical regulations adopted by the Customs Union for certain food products. In this respect, a large portion of finished (processed) food products should be excluded.

Note: The rules of interpretation used in assigning TN VED codes do not distinguish between goods under a single code that require SVCs from 1 September 2015 and those that do not.

- it should be possible to approve a procedure for electronically processing SVCs with a separate regulatory document focused exclusively on the electronic documentation procedure and the improvement of electronic systems of interaction.

3. Besides developing the Order, have rules worked out, approved and adopted for veterinary/sanitary expert examinations and laboratory tests. There must be a maximally inclusive list of cases in which veterinary/sanitary inspections are performed, excluding veterinary/sanitary inspections and expert examinations of prepared (processed) food products.

3.2. Draft Federal Law on Veterinary Medicine.

The Draft Federal Law "On Veterinary Medicine" (the "draft law") has been in the pipeline for several years. The most recent development notice was published at the website www.regulation.gov.ru in August 2015 to hold public hearings on the bill.

The FIAC's trade and consumer sector working group has to state that all drafts submitted for consideration inevitably contained provisions that could worsen business conditions and introduced excessive administrative barriers for business.

For example, the draft law established that "meat, meat products and other products of animal slaughter (hunting), milk, dairy products, eggs, and other products of animal origin" are subject to veterinary and sanitary expert examination in order to determine whether they can be used as food. The above products cannot be sold or used without expert veterinary and sanitary examination. However, a significant portion of finished (processed) food products are of animal origin and, in relation to control and oversight of their quality and safety, an overlap of veterinary supervision and sanitary and epidemiological oversight may be observed. By Decree No. 1009 of 14 December 2009, the Government of the Russian Federation redistributed the functions in food production safety and quality control and the organization of this control

between the Ministry of Health Care of the Russian Federation, the Federal Service for Oversight of the Protection of Consumer Rights and Human Welfare, the Ministry of Agriculture of the Russian Federation, and the Federal Service for Veterinary and Phytosanitary Oversight. The latter is assigned veterinary oversight authority only in relation to raw materials of animal origin which did not undergo processing or heat treatment (p. 1.b).

The draft laws did not resolve those issues.

The draft laws lacked the definition of "unprocessed food products of animal origin." At the same time, the Technical Regulations "On Food Safety"of the Customs Union adopted by Resolution No. 880 of the Customs Union Commission stipulates that the products subject to declaration of compliance include food products released into circulation within the customs territory of the Customs Union, excluding unprocessed food products of animal origin, while unprocessed food products of animal origin are subject to veterinary and sanitary expert examination prior to release into circulation on the customs territory of the Customs Union (unless otherwise stipulated by the technical regulations of the Customs Union on fish products and the supporting document which confirms safety), while processed food products of animal origin are not subject to veterinary and sanitary expert examination.

In this respect, we consider it appropriate to mention one of the draft laws which reasonably proposed that only raw materials of animal origin, food products of non-industrial processing and processed products not intended as food should be included in the products of animal origin, specifying that the raw materials of animal origin include unprocessed slaughter products, raw milk, raw skimmed milk, raw cream, bee-keeping products, eggs and egg products and other raw materials of animal origin in accordance with the list of raw materials of animal origin approved by the Government of the Russian Federation on the basis of the Russian Classifier of Products. It is reasonable to define processing as thermal processing, excluding freezing and cooling, smoking, canning, maturation, extraction, extrusion or a combination of these processes.

The effect of the draft law overlaps the legislation on technical regulation as regards establishing veterinary rules and requirements, and therefore they should be clearly delimited.

Pursuant to Federal Law No. 184-FZ *On Technical Regulation* of 27 December 2002, technical regulations may contain the minimally required sanitary and phytosanitary measures for products originating in certain countries and/or places, including import restrictions, use, storage, transport, sale and recycling, which ensure biological safety.

Veterinary and sanitary measures may establish requirements for products, their processing and production methods, product testing procedures, inspection, compliance confirmation, quarantine requirements, including transportation requirements necessary to ensure the life and health safety of animals and plants during transportation, requirements for raw materials, as well as sampling methods and procedures, methods of risk research and assessment, and other requirements contained in the technical regulations.

If the technical regulations establish product requirements, they should also establish the forms and schemes of conformity assessment. Certification is one such form of conformity assessment. Veterinary certification is a form of conformity assessment. However, the draft law specifies that the procedure of drawing up and issuing veterinary certificates and related requirements are approved by the federal executive body, which develops governmental policy and the regulatory framework in the area of veterinary medicine. The issue in question is to determine the correlation between a veterinary certificate issued in accordance with this draft law and a compliance certificate issued in accordance with technical regulations and the federal law *On Technical Regulation*.

The aforesaid ambiguities and discrepancies in the draft laws give rise to concerns that they will actually result in duplicated control and oversight procedures, a heavier administrative burden and higher costs for business entities, and will lead to the fact that veterinary issues will be resolved at the discretion of officials of different levels.

Status

The issue is still under consideration. However, multiple FIAC WG's proposals, mainly aimed at eliminating the duplication of veterinary oversight as well as sanitary and epidemiological oversight in the Russian Federation and creating correct and transparent conditions for veterinary and sanitary expert examination and veterinary certification, were rejected by the developers.

Recommendations

1. Establish in the draft law a clear distribution of functions concerning food product safety and quality control between the Ministry of Health Care and Social Development of the Russian Federation, the Federal Service for Oversight of the Protection of Consumer Rights and Human Welfare, the Ministry of Agriculture of the Russian Federation and the Federal Service for Veterinary and Phytosanitary Oversight.
2. Take into account the feasibility of establishing the list of products subject to veterinary and sanitary expert examination and veterinary certification in the draft law according to the Technical Regulations of the Customs Union *On Food Safety*.
3. In the draft law, define the term "traceability" (taking into account the definition provided in the Technical Regulations of the Customs Union *On Food Safety*), and reflect the specific features of veterinary certification for animals and unprocessed raw materials of animal origin in it.
4. In the draft law, define and establish the transparent conditions and criteria for veterinary and sanitary expert examination and specify its relationship with veterinary certification.

Issue 4. Reforming phyto-sanitary law in the Russian Federation and the Customs Union.

Position relating to the elaboration of bylaws in connection with the entry into force of Federal Law No. 206-FZ of 21 July 2014 "On Plant Quarantine".

Federal Law No. 206-FZ "On Plant Quarantine" of 21 July 2014 ("206-FZ"), whose main provisions entered into force on 1 January 2015, is an important regulatory document directly affecting virtually all companies involved in agro-processing and the food industry.

To implement the provisions of the law correctly, it is necessary to work out and adopt 27 bylaws, but so far 26 of them have not been adopted, thereby obviously giving rise to problems concerning the regulation and incorrect application of the plant quarantine provisions of the Law by the authorized bodies in the Russian regions. In turn, this does serious economic harm to agricultural producers as well as the food and processing enterprises.

Companies participating in the FIAC trade and consumer sector working group note positive developments in joint work with the Russian Ministry of Agriculture. The Ministry established and launched a special-purpose working group to develop and discuss Federal Law No. 206-FZ bylaws; clarifications were provided for the key challenges that businesses face due to the absence of such bylaws. FIAC WG members express satisfaction with two meetings held, which saw the exchange of opinions on a number of essential draft bylaws and the harmonization of positions on some of them.

However, we have to note that the list of unresolved issues remains long, while the approval process for draft bylaws is extremely slow and a range of the FIAC WG's proposals rejected deserve closer attention and detailed discussion from experts. Industry experts' analysis of the mentioned documents identified a series of issues that could have a strong negative impact through both formalizing or even increasing the excessive administrative burden on entrepreneurs and hampering the protection of plants and Russian territories from exposure to, and the spread of, infectious diseases and the prevention of damage caused by them.

The key problems are as follows:

1. The unsubstantiated inclusion of an excessively wide base of quarantine objects and quarantine products in the draft documents without first analyzing the phyto-sanitary risk. (Lists of quarantine objects and quarantine products.)

2. The legalization of old practices and the introduction of new ones which are non-transparent and thereby potentially corrupt.

3. The non-transparency of the procedures of working out and adopting laws and bylaws concerning plant quarantine without public access to the results of analysis of a phyto-sanitary risk. (Procedure for analyzing a phyto-sanitary risk.)

4. A substantial (not directly provided by Law) expansion of the control and oversight functions of the Federal Service for Veterinary and Phyto-sanitary Oversight, abuse of the monopoly position on the service market and the use of phyto-sanitary measures for purposes other than to ensure plant quarantine. (Procedures for delivery notification and reliable storage, and for maintenance of the register of entities that have a devitalization technology applicable to quarantine objects, etc.)

For example, the proposed draft List of Quarantine Products for which a quarantine certificate is to be issued contains no links to either TN VED codes or the All-Russia Product Classification. This makes it impossible to identify products reliably and may give rise to corrupt law enforcement practices; the draft List also does not meet the requirements established for it by 206-FZ, namely the fact that there are no links between each type of quarantine product and the respective quarantine object.

The proposed draft List of Quarantine Products is excessively broad, particularly where it relates to pelleted feeds, in comparison with the list of quarantine products (quarantine cargo, quarantine materials, quarantine goods) that are subject to quarantine phytosanitary control (oversight) at the customs border and in the customs territory of the Customs Union (approved by Resolution No. 318 of the Customs Union Commission of 18 June 2010).

The procedure proposed by the draft provides for an unequal treatment of Russian manufacturers of pelleted feeds and importers that import similar products from third countries, including members of the Customs Union. This inconsistency makes products manufactured in Russia less competitive than similar products manufactured in other countries, and thus creates excessive administrative barriers and additional costs for businesses.

In addition, many provisions of 206-FZ became effective without transitional provisions, which results in clear legal conflicts. For example, there is legal uncertainty that requires official clarifications on the quarantine phytosanitary areas imposed before 206-FZ entered into legal force.

For reference:

Article 19 of 206-FZ establishes the direct regulation of the decision-making procedure for imposing or lifting a quarantine phytosanitary regime. This article contains an exhaustive list of conditions for imposing or lifting a quarantine phytosanitary area ("QPA") and does not provide for the adoption of any bylaws. Therefore, any bylaws that had been adopted before 206-FZ came into force and provide for a different procedure and/or additional conditions for imposing/lifting a QPA not stipulated by 206-FZ must apply only to the extent that they do not contradict this law, or must be brought in line with this law.

At the same time, in order to implement Federal Law No. 99-FZ of 15 July 2000 "On Plant Quarantine" ("99-FZ"), the Russian Ministry of Agriculture adopted Order No. 43 of 13 February 2008 "On Introducing and Removing a Quarantine Phytosanitary Area, Establishing and Canceling a Quarantine Phytosanitary Regime, and Imposing and Lifting a Quarantine." 99-FZ ceased to be in force as of 1 January 2015, and businesses, therefore, believe that all bylaws adopted to implement that law must be repealed as well, or must apply only to the extent that they do not contradict the new law. Thus, FIAC WG members are of the opinion that Order No. 43 of the Russian Ministry of Agriculture of 13 February 2008 has come into conflict with the later regulation, which has greater legal force.

In view of the aforesaid reasons, the proposed phytosanitary regulation will require businesses to make huge but ineffective investments in arranging and performing additional administrative functions and building more warehouse facilities, thereby freezing significant funds for increased warehouse inventory and, as a result, adversely affecting final production cost and ultimately the competitiveness of the products. Consequently, as business processes slow down, economic activity in the industry will decrease, tax revenue will drop and Russia's investment appeal will diminish.

The implementation of the measures provided for by the Federal Law as well as bylaws will definitely lead to a significant increase in the number of controlled transactions, which will inevitably result in significant additional budget costs due to the number of inspections and the need to substantially increase the federal executive bodies' personnel.

Recommendations

1. Continue work in the focus working group under the Ministry of Agriculture until all bylaws and regulations that relate to the enforcement of Federal Law No. 206-FZ of 21 July 2014 "On Plant Quarantine" have been prepared and approved, taking into account FIAC WG members' proposals regarding the priority of documents under discussion.

2. When drafting the List of Quarantine Products for which a quarantine certificate is to be issued, provide for an option to exclude quarantine products manufactured by enterprises that have the technology to devitalize the quarantine objects and which were included in the register of these enterprises, and for the need to bring the List of Quarantine Products in line with quarantine objects typical for the contamination and/or infestation of these products.

3. Prepare clarifications on the procedure for lifting quarantine phytosanitary areas imposed before 206-FZ enters into legal force.

Issue 5. Categorizing enterprises by the extent of the negative impact on the environment.

The Trade and Consumer Sector Working Group of the Foreign Investment Advisory Council in Russia (hereinafter, the "FIAC working group") is concerned about the Draft Government Decree "On the Establishment of Criteria Whereby Units Negatively Affecting the Environment Are Classified as Units of Categories I, II, III and IV" (hereinafter, the "Decree"), which is on the unified portal of information concerning the elaboration by the federal executive bodies of draft regulatory legal acts and the results of their public discussion (http://regulation.gov.ru/project/19222.html).

The Decree was drafted by the developer in compliance with Federal Law No. 219-FZ of 21 July 2014 "On the Introduction of Amendments to the Federal Law 'On Environmental Protection' and Certain Legislative Acts of the Russian Federation" (hereinafter, the "Law"), which provides for new categorization of industrial enterprises by the extent of their negative impact on the environment and the use of different scopes and forms of state regulation (including oversight and control), depending on the category established.

Enterprises of Category I, which have a substantial impact on the environment, must meet a set of requirements established by Law, including

- receipt of a complex environmental permit,
- use of the best available techniques (hereinafter, "BAT"),
- fulfillment of technological regulations,
- elaboration and application of the ecological efficiency program.

According to the provisions of Article 1 of the Law, a substantial negative impact would considerably worsen the quality of the environment, i.e., its physical, chemical and biological aspects.

In this respect, the "criteria of classifying enterprises...", proposed for approval, are actually a list of certain production units, presuming that the real assessment of their "negative impact" has already been made and confirmed by another document. We believe that the imperative reference of industrial enterprises to the first class of hazard only on the basis of the list of units which should use the best available techniques and meet other requirements of the Law is absolutely incorrect and essentially replace cause and effect. In our view, it is necessary first and foremost to work out clear criteria for referring enterprises to one of the four categories of hazard to the environment and only afterwards apply the legislative requirements to them.

For instance, according to clause 1.19 of the criteria established by the Draft Decree, Category I includes entities that use equipment to produce milk, dairy products and other foodstuffs.

Taking account of the aforesaid arguments, we believe that such an imperative approach to referring food products to the units of category I is excessive, contradicts the essence of the Law and substantially increases the administrative burden on food enterprises, which under the conditions of an ongoing crisis can negatively affect the business climate as a whole and the implementation of the food import substitution program.

As an example of an international approach to that issue, we would like to point out that the criteria of categorizing units by the degree of a negative impact are established on the national level in the EU. For instance, under Swedish legislation (Ordinance (1998:899) concerning environmentally hazardous activities and the protection of public health), to which the developer refers, industrial enterprises are divided into four categories (A, B, C and U) according to the extent of impact on the environment.

It should be noted that:

- the restrictions proposed in the draft decree differ from those set forth in the aforesaid guidelines;

- according to the categorizing criteria established by Swedish legislation, food enterprises relate to categories B and C, i.e., they are not units which have a considerable negative impact on the environment.

Moreover, according to the head of the Federal Service for Oversight of the Use of Natural Resources, the Service already has a shortage of personnel (in 2012, it had 2,159 inspectors on its staff). Obviously, it would be necessary to sharply increase the Federal Service's staff if all the food enterprises of Russia are included in category I (according to the guidebook of the Federal Service for State Statistics *Russian Industry - 2012*, there are over 50,000 food enterprises in Russia).

Recommendations

1. Amend clause 1.19 of the Draft Decree and exclude the production of foodstuffs, beverages, milk and dairy products as the sole criterion which is enough to include enterprises in category I of the units which have a considerable negative impact on the environment.

2. When working out and establishing the criteria for including the units which have a negative impact on the environment in categories I - IV of units, we deem it expedient to include food enterprises in categories II - IV, depending on the extent of the negative impact on the environment.

Issue 6. Controlling products on the consumer market.

More stringent business conditions on the market concerning audit and liability.

The business community is interested in effective and transparent control on the consumer market irrespective of the federal executive body to which the relevant functions are assigned.

The business community believes that the following issues should be taken into account:

FIAC member companies are concerned about the fact that companies in the consumer sector and retail trade have recently come under much closer scrutiny by both control bodies and lawmakers. That relates above all to the permission to conduct unscheduled audits without approval by the prosecutor's office and without notifying the entity to be audited, the proposal to change the approach to the exhaustion of trademark rights, legislative initiatives to protect competition, numerous initiatives affecting product marking, etc.

Thus, in late 2014 the Russian Criminal Code (Article 171.1, section 3) was amended to impose criminal liability – potentially involving incarceration for up to three years – in cases where food packaging is not marked and/or gives inaccurate information.

What is more, criminal liability does not depend on the extent of harm to consumers, but is applied when the value of the incorrectly marketed goods reaches RUB 250,000, i.e., a level quite acceptable for a major company in the consumer sector with a large turnover. Packaging violations may be due to an unintentional error made by a production operator or an equipment disruption and do not necessarily constitute willful misconduct causing moderate or severe harm to health.

For reference:

«...3. Production, acquisition, storage, transportation for selling purposes or sale of foodstuffs without marking and/or the application of information envisaged by Russian legislation, if such marking and/or the application of such information is mandatory (except for products indicated in part five of this article), performed on a major scale shall be subject to a fine up to four hundred thousand rubles or a salary or other income of the convict up to two years or forced labor for a term up to three years, or imprisonment for a term up to three years with a fine of eighty thousand rubles or a salary or other income of the convict up to six months.

Note. 1. In parts three and four of this article, a large amount is deemed to be the value of unmarked foodstuffs which exceeds two hundred fifty thousand rubles, and an especially large amount, one million rubles."

On the other hand, such a violation presupposes punishment under the Administrative Offenses Code. Article 14.43 of the Administrative Offenses Code of the Russian Federation, for instance, stipulates liability for failing to comply with the requirements of the technical regulations of the Customs Union (hereinafter, "CU Technical Regulations"), including failure to meet the marking requirements set forth in the CU Technical Regulations. Under that article, minimum liability is a fine of 300,000 rubles for companies and 20,000 rubles for an executive offender. Liability is even greater, i.e., up to the suspension of a company's activity, in the event of violations entailing damage to the health of individuals or a threat of such damage or a repeated violation.

Such measures greatly complicate business, making its less attractive and less predictable in a difficult economic period.

While FIAC member companies appreciate the importance of control and oversight functions in such an important sector of the economy, they urge a well-considered approach to be made so as not to create additional barriers for business in times of crisis.

Recommendations

Since the Administrative Offenses Code already imposes very effective sanctions for product-marking violations, we believe that criminal liability in this case is excessive.

Issue 7. Excluding from the scope of the law on mass media corporate and professional advertising publications that specialize in (focus on) advertising and educational matters.

Federal Law No. 305-FZ of 14 October 2014, "On the Introduction of Amendments to the Law of the Russian Federation On Mass Media," established a restriction, effective as of 1 January 2016, on the foreign capital ownership of Russian mass media: a foreign state or international organization and any organization under their control, a foreign legal entity, a Russian legal entity with foreign participation, a foreign citizen, a stateless person, a citizen of the Russian Federation holding the citizenship of another country, collectively or individually, may not act as a founder (participant) of a mass medium, editorial board of a mass medium, or a broadcasting organization (legal entity).

This means that all Russian offices of international companies and Russian legal entities with foreign participation (including all FIAC members) will not be allowed to publish advertising booklets and corporate publications.

However, advertising and marketing materials designed to promote suppliers' goods to customers have particular importance in the current business model of trading companies. On the one hand, they serve to provide information to customers (including those in the SME segment), and on the other hand, they are an effective means of increasing the sales of advertised products.

These publications are registered as mass media because they have a print run of a million copies or more (Article 2 of the Law on Mass Media). Violating this requirement entails administrative liability under Article 13.21. of the Russian Code of Administrative Offenses. In addition, suppliers and manufacturers can recognize expenses for publishing information on goods in publications with the status of “mass media” as deductible advertising expenses.

The options under consideration for adapting to these requirements, such as outsourcing the publication of marketing materials to Russian publishing houses, will substantially increase the costs incurred by both trading companies and suppliers, and decrease the effectiveness of such materials because they will not be updated promptly. There will also be additional difficulties due to the use of retail chains' and manufacturers' commercial information and trademarks by third parties.

The law also affects corporate periodicals and information publications that target employees – this concerns both retail companies and many major manufacturers. Businesses will likely face higher costs and lower effectiveness in preparing these publications as a result of the above law.

Recommendations

Consider removing specialized mass media, such as advertising booklets and corporate publications designed for educational and other special purposes, from the scope of Article 19.1 of the Law "On Mass Media" (as amended by Federal Law No. 305-FZ of 14 October 2014).

Issue 8. Issues arising from adopting a regulation that imposes fees on vehicles with a gross vehicle weight rating (GVWR) of over 12 tonnes in order to compensate for the damage they cause to federal public roads.

Article 31.1 of Federal Law No. 237-FZ, "On Motor Roads," and certain bylaws that are coming into force on 15 November 2015, impose a fee on trucks with a gross vehicle weight rating (GVWR) of over 12 tonnes for the use of all federal public roads in order to compensate for the damage they cause to them.

This regulation will affect the entire trucking market, and particularly the transportation of food products and fast-moving consumer goods, as 75%-80% of their transportation is provided by heavy-duty trucks. Transferring these operations to other types of transport is impracticable (particularly for food products) due to the absence of logistics infrastructure and short delivery deadlines. The adoption of a fee-based approach to the use of federal roads by trucks is a revolutionary change, not only for the national transportation and logistics markets, but for all economic agents. Logistics businesses operating heavy-duty trucks already bear a high fiscal burden, as they have to pay the fuel excise tax and transport tax to compensate for the damage caused to roads by this type of transport.

The economic effect of the road-use fees was discussed at a government meeting devoted to limiting non-tax payments for businesses, which was held by the Prime Minister of Russia on 1 June 2015. Following the meeting, a decrease in the fees imposed on cargo vehicles is currently under consideration (clause 4 of Minutes No. DM-P13-48pr). The Ministry of Transport drafted amendments to Government Decree

No. 504 of 14 June 2013 that provide for decreasing the mileage fee charged on trucks for using federal roads to RUB 3.06 per km from the previous rate of RUB 3.73 per km. However, this minor decrease is a perfunctory measure that impairs the underlying purpose of the moratorium on non-tax payments by businesses during the economic crisis without making any fundamental changes.

Although this large-scale project is planned to be launched in November, market participants still do not have all of the essential information about how to use the new fee-collection system. According to industry experts, the **technical readiness** of the key system components – including a sufficient amount of onboard units for vehicle tracking, service centers, stationary and mobile vehicle tracking systems, and the operability of the electronic communication and information systems – is very low, and a serious cause for concern.

Currently, no arrangements have been made across the national territory or at the state border road crossings (including those with the member-countries of the Eurasian Economic Union) to provide drivers with **information** about the fee payment procedure and the procedure for receiving and returning onboard units.

The **test run of the system** without collecting fees from vehicles has not yet been performed either, although it is a mandatory step before launching any infrastructure project of a similar type both in Russia and abroad, the purpose of which is to collect statistics, validate the systems, evaluate the impact on road traffic capacity, etc.

Special concern is caused by the lack of information and public discussion on the **procedure for fee payments and refunds**, which all economic agents covered by the regulation will have to use to pay fees in compensation for damage to federal roads. Regulatory documents provide for a “depository mode,” which means that trucks will be able to travel only upon making a prepayment. The Fee Collection Rules established by Decree No. 504 of the Russian Government of 14 June 2013 do not contain all of the information required to operate this process; the payment mode and procedure in particular remain unclear. We believe that these regulatory matters should be set out in separate documents which must be discussed with the business community prior to their adoption.

Article 12.21.3 of the Russian Code of Administrative Offenses providing for a **liability to pay a fine of RUB 1 million for failure to pay the fee** comes into force at the same time as the new regulation, that is, 15 November 2015. If this article becomes effective when the infrastructure is not ready and there is no information about the procedure for launching the system, this may result in numerous transportation companies, including those serving industrial enterprises, being made liable without any grounds.

The problems described above have already given rise to unfair competition on the ground. There are instances where carriers are offered to install meters in their vehicles on a priority basis in exchange for compliance with additional financial obligations that have been foreseen by the regulation.

It is obvious that all explicit and implicit risks, including the lack of transparency in the fee prepayment and refund system, inability to purchase a meter in time, the resulting administrative fine, and even the fee itself, will all be factored into the price of transported goods and cause a surge in inflation. It is highly probable that some carriers may take vehicles not equipped with meters out of operation in order to comply with the new regulation, which will make the heavy-duty trucking market much narrower and push up the cost of transportation for other types of transport.

Recommendations

1. Establish a transition period during which a zero factor shall apply for calculating the road use fees.

This will allow the system to be run in test mode in order to collect statistics, analyze problems, sort out information issues, adjust infrastructure, and prepare market participants for the full-scale launch of the system.

For this purpose, clause 1 of Government Decree No. 504 of 14 April 2013 "On imposing fees on vehicles with a gross vehicle weight rating of over 12 tonnes to compensate for the damage caused to federal public roads," should be amended by adding a second paragraph as follows: "Establish that the fees for compensating for the damage caused to federal public roads by vehicles with a gross vehicle weight rating of over 12 tonnes shall be multiplied by a zero factor during the transition period of 15 November 2015 through 15 November 2016."

2. Stipulate an annual differentiation of the multiplying factor from November 2016 through 2018; this would be in line with the temporary policy of keeping non-tax payments low for businesses during the period of economic volatility.

3. Stipulate a phased plan for putting the system into operation on certain roads that are technically ready for it, and for carrying out other organizational measures as required.

4. Establish a working group at the government authority in charge of drafting the regulation (the Russian Ministry of Transport) that shall monitor the system implementation and promptly sort out any issues market participants may face when using the system. The group members could include representatives of the relevant executive bodies, the company operating the new system, and the business community.

2.7. Localization

Issue 1. Implement the principle of "localization in exchange for support," including special investment contracts (SICs). Determine the level of localization that can be achieved by various industries and products.

1.1. Pharmaceutical and medical industry.

The Anti-Crisis Plan's stabilization measures include proposals for amendments to federal law providing for **long-term state contracts** that are conditional on the localization and development of production in Russia. Long-term contracts provide guarantees of stable demand for pharmaceuticals and medical goods for an extended period, and the large purchase volume will help stabilize prices and so optimize budget expenditures for pharmaceuticals and medical goods. Such long-term contracts will provide an additional incentive for foreign investors to localize production in Russia.

Another stabilization measure in the government's Anti-Crisis Plan is **limited** state purchases of foreign-made pharmaceuticals and medical goods if offers are made by two or more producers in EEU countries. A government decree to implement this measure has been drafted by the Russian Ministry of Industry and Trade. The working group is concerned that the draft **fails to set criteria for local products** and takes no account of the investment efforts already made by foreign investors to develop the pharmaceutical industry in Russia. The draft allows pharmaceuticals that are only packaged in Russia to be purchased until the end of 2015, and additional criteria for the period after 2015 are lacking. As a result, foreign pharmaceutical manufacturers that have begun localizing their production in Russia risk losing the opportunity to be full trading participants, and localization thus loses its appeal for potential investors.

To keep foreign investors interested in the Russian pharmaceutical industry, we recommend the use of **state investment agreements** guaranteeing that the production of an agreed amount of medical items will be localized within an agreed period, while the government guarantees demand for the localized pharmaceuticals.

In our opinion, several additional measures to stimulate localization should also be considered. For example, medical goods covered by investment agreements and planned for localization should qualify for the **expedited issue (within one month) of a registration certificate** from the Federal Service for Oversight of Health Care and Social Development.

Another important factor in stimulating localization should be an improved procedure for applying the **15% discount factor** to "contract prices" for state and municipal purchases (Order No. 155 of the Ministry for Economic Development of 25 March 2014 "On the Terms of Access of Goods Originating in Foreign States When Goods, Work and Services Are Purchased for State and Municipal Needs"). This preference is currently applied in only a limited number of cases, because customers do not always divide goods into auction lots, and the price preference cannot be applied when a lot includes both localized and unlocalized goods.

1.2. Food sector.

Today there is no system of incentives for investing in localization or finding local suppliers of raw materials for the food industry.

Under current law, preferences apply only to some categories of goods, largely in the area of machine building, but food manufacturers are interested in localizing certain raw materials and ingredients (by switching from imports). Existing regulatory documents do not provide for such localization.

1.3. Machine building.

Companies in the machine-building sector today are having trouble finding suppliers that can provide the required quantity and quality of raw materials. In some cases, suppliers operating on the Russian market are not motivated to develop production due to the comparatively low volumes and strict standards involved. As a result, even companies that have engaged in technology transfers and created centers of excellence in Russia are forced to rely wholly or partially on imported raw materials and are thus unable to achieve the desired level of localization.

Recommendations

1.1. Pharmaceuticals.

- The Russian Ministry of Industry and Trade, jointly with the Ministry of Health, in developing incentives for medical companies involving SICs, is to provide for the expedited issue (within one

month) of registration certificates by the Federal Service for the Oversight of Health Care and Social Development.

- The Russian Ministry for Economic Development is to develop methodological instructions recommending that state and municipal customers make purchases in lots in order to take full advantage of the 15% discount off the "contract price" for localized products.
- The Russian Ministry of Industry and Trade is to give priority consideration to FIAC member companies' projects involving SICs.

1.2. Food industry.

- The Russian Ministry of Agriculture is to provide incentives for agro-processing to meet the consumer sector's current needs and provide support for the creation of integrated systems of modern storage and transportation of agricultural raw materials and semi-finished products (regional storage and processing clusters);
- The Russian government is to develop a mechanism for the payment of import duties (reimbursement of paid import duties) by (to) importers carrying out localization projects in Russia;
- The Russian Ministry of Agriculture is to develop and approve criteria for localization (import substitution) applicable to companies that switch from imports to long-term relations with Russian suppliers of raw materials and ingredients;
- The Russian Ministry of Agriculture, in quantifying achievable levels of localization, is to take into account limitations due to the fact that the food industry uses agricultural raw materials that cannot always be produced in Russia for climatic reasons;
- The Russian Ministry of Agriculture, jointly with the Ministry of Industry and Trade, is to consider using SICs to provide incentives for localizing the production of raw materials and ingredients in the food industry, including support for infrastructure projects for the primary processing, storage and transportation of agricultural raw materials

1.3. Machine building.

The Russian Ministry of Industry and Trade, in quantifying achievable levels of localization, is to take into account limitations due to the fact that raw materials needed for production cannot always be produced in Russia in the required quality and quantity.

1.4. Chemical industry.

- The Russian Ministry of Industry and Trade is to formulate a priority list of products whose localization qualifies for state support.
- The Russian Ministry of Industry and Trade is to consider establishing a public tender system for access to state support for potential investors.
- The Russian Ministry of Industry and Trade, in developing specific state incentives for innovative chemical plants, is to ensure compensation of costs incurred by an investor in creating the manufacturing infrastructure required in the investor's chosen location as well as in purchasing laboratory equipment and training employees.

Issue 2. State support for the development of agricultural consumer cooperatives in order to stabilize the domestic market of agricultural raw materials and develop new and effective forms of business.

Support and incentives for production cooperatives are an effective means of meeting the need for accelerated production of raw materials for the food industry, and it is important to create appropriate conditions for interaction between production cooperatives (or unions or associations of such cooperatives) and major consumers of agricultural products. Such conditions should involve, above all, certain guarantees: to ensure that contracts are long-term and that contractual obligations are met. Stable sales will create conditions for the growth of cooperatives and the expansion of their productive capacities.

One success story in this area is India, where a special program, "Operation Flood," was developed between 1971 and 1996, as a result of which some USD 440 million were invested in infrastructure for consumer cooperatives (with financial support from the World Bank, among other sources). India's milk production tripled in this period from 23 to 70 million tons.

Recommendations

The Russian government is to consider support for agricultural production cooperatives involving long-term contracts guaranteeing supplies of agricultural raw materials to enterprises in the food and processing industry that undertake localization projects.

Issue 3. State support for localization, including tax and administrative incentives for projects involving exports of finished goods (including food products) to EEU countries, among others.

In addition to the production of components in Russia for the domestic market (or conversion to Russian raw materials), localization may also involve production for the global market (expansion of exports from Russia). Incentives for localizing production may include lower administrative barriers for exports of finished goods.

Recommendations

The Russian Ministry of Finance is to draft amendments to Appendix 18 to the Agreement on the Formation of the Eurasian Economic Union and/or develop a formal list providing for:

- elimination of the requirement that a declaration of VAT paid to EEU countries, marked by the tax authority of the importing country, be provided along with copies of shipping documents bearing the seals of counterparties in EEU countries, or
- application-based refunds of VAT on goods exported to other EEU countries

To stimulate non-commodity exports, the Russian Ministry of Industry and Trade should work with foreign partners for the harmonization of technical standards and the mutual recognition of certification documents.

Issue 4. Regional measures to support localization: staff training and the engagement of qualified foreign specialists for purposes of transferring skills and best production practices.

Measures to ensure that companies have qualified personnel are important to the success of localization projects.

Recommendations

- Develop measures to support the formation of education centers to train specialists within regional clusters of localized production facilities.
- Support secondment mechanisms so that highly specialized foreign experts can be engaged for projects in Russia.
- The Russian Ministry of Education is to intensify efforts to create educational standards and programs based on professional standards and ensure that they are implemented in institutions of learning.

Issue 5. Mechanisms to involve Russian investment resources in developing domestic suppliers of raw materials for international companies in order to increase the level of localization when such companies are involved in state and municipal purchases as well as mechanisms for limiting exchange rate fluctuations.

Localization and import substitution are promoted in part by improved relations and more active engagement of domestic suppliers of raw materials and components for foreign companies. The involvement of Russian companies in the supply chain, their training and the inculcation of standards of quality are currently a focus of attention.

One example is EY's recent survey "The Russian Investment Climate: Foreign Investors' Perceptions,"which includes a section on working with Russian business partners. While foreign investors were generally satisfied with their interaction with Russian partners, they also noted certain difficulties, including the short-term focus of Russian partners, complex internal approval processes (lack of internal coordination), inconsistent and non-transparent decision making and lack of accountability for commitments to foreign partners.

Respondents nonetheless said that the Russian business environment has improved markedly over the last five to six years. In a number of industries this has been made possible by partners' willingness to adapt to the corporate standards of major foreign companies, requiring additional financial investments on the part of these partners. Investors contribute to such adaptation by introducing systems of training, certification, inspection and performance monitoring as well as external control functions.

Despite the overall positive trend in relations between Russian suppliers and foreign companies, there are still a number of problems to be dealt with:

- lack of a system (database) for finding and engaging small and medium-sized domestic suppliers in a situation where publicly available information is largely on major companies, which often have little motivation to adapt to the needs of foreign business;
- low motivation on the part of Russian suppliers to make additional investments in production in order to meet international companies' requirements in exchange for long-term orders for products;
- lack of cooperation between foreign companies and Russian business associations with regional representatives (the Russian Union of Industrialists and Entrepreneurs, the Chamber of Commerce and Industry, Opora Rossii and Delovaya Rossiya) in finding and engaging local suppliers of raw materials and components.

Recommendations

- The Russian Ministry of Industry and Trade is to develop a procedure for supporting the search for suppliers of raw materials for production in Russia.
- Work on the idea of forming a unified public database of suppliers of industrial and agricultural products to meet the needs of foreign and major Russian companies.
- The Russian Ministry for Economic Development is to ensure cooperation between FIAC and the Russian Union of Industrialists and Entrepreneurs, the Chamber of Commerce and Industry, Opora Rossii and Delovaya Rossiya in finding and engaging small and medium-sized domestic suppliers to meet the needs of international companies.
- Work on the issue of state financial support for modernizing and expanding the production capacities of small and medium-sized Russian enterprises to meet international companies' requirements in exchange for long-term orders for products.

2.8. Energy efficiency

Issue 1. Reduction of energy consumption in residential, public and industrial buildings.

Russia's energy efficiency per square meter remains among the worst in the world. Annual energy consumption in residential buildings, for example, averages 350 kWh per square meter. Energy consumption in Russia is substantially higher than in countries with a similar climate (up to 50% higher, depending on the type of building). Residential buildings account for 23% of all primary energy consumption in Russia.

The experience of recent years shows that the sector responds well to state policy designed to improve energy efficiency. For example, power consumption per square meter of living space was reduced 13% in comparable conditions – largely due to regional building regulations to ensure energy efficiency and prevent heat loss (1994-2003) and Construction Standards and Regulations 23-02-2003 "Prevention of Heat Loss in Buildings" (from 2003) as well as the increasing use of meters, more efficient lighting and electrical appliances and the intensification of capital repair programs in 2008-09. Power consumption for heating purposes was reduced 12% per square meter in state-owned buildings.

The last two years, however, have seen a reverse trend in key areas of energy efficiency policy. Construction Rules 50.13330.2012 "Prevention of Heat Loss in Buildings," an updated version of Construction Rules and Regulations 23-02-2003 that entered into force on 1 July 2015, ignores the legislative requirement that energy efficiency be further increased, and capital repairs that could increase the energy efficiency of residential buildings were scaled back substantially.

If this situation is projected forward, energy consumption, instead of continuing to stabilize, will start to rise in the period of 2015-50. By 2050 energy consumption in all buildings will grow 34% - from 245 million tons of reference fuel in 2013 to 330 million in 2050 - and consumption for heating and ventilation will grow 50%.

The working group and the Efficient Energy Consumption Center did a joint study showing that measures to promote energy efficiency in buildings could yield savings of 379 million tons of reference fuel in 2014-50 - 54% of final energy consumption in all sectors of the Russian economy in 2013 and half of the annual production of natural gas. Energy efficiency requirements to be introduced in 2025 will yield figures 60% below the base level of 2003 for energy efficiency and 68% for heating and ventilation - additional savings of 2 million tons of reference fuel by 2030 and a further 12 million by 2050. Total energy savings for 2014-50 will grow by a further 164 million tons of reference fuel.

Recommendations

1. Improve the regulatory framework for energy efficiency parameters in buildings, including approval of the draft Code of Rules "Energy efficiency of buildings. Calculation of energy consumption for heating and cooling, ventilation and hot water supply (EN ISO 13790:2008)," and eliminate inconsistencies in the draft, including with respect to the mandatory energy consumption parameters for single-family detached houses and townhouses. Review the regulatory requirements for energy efficiency in buildings at least once every five years.
2. Develop codes of rules for energy conservation and enhanced energy efficiency in industrial buildings and structures, and harmonize them with European standards.
3. Create a system for monitoring compliance with construction rules and regulations.
4. Provide economic incentives for constructing low-energy and passive buildings. Introduce a system of tax benefits and interest rate subsidies for bank loans obtained for the construction of energy-efficient buildings.
5. Create a system of bank guarantees for loans granted for capital repairs of residential buildings, including by forming energy conservation funds.
6. Take export gas prices into account in analyzing life cycle costs when determining the feasibility of measures to enhance energy efficiency in buildings.
7. Improve the rules for determining a building's energy efficiency class, ensure that energy efficiency is marked as required by Article 12 of Federal Law No. 261-FZ, and improve the means by which a developer indicates the energy efficiency class on the facade of a building being commissioned. Apply the requirements for energy efficiency certification to single-family detached houses and townhouses.

8. Develop a system of statistical monitoring of energy efficiency levels in buildings.
9. Formulate recommendations and technical solution albums for measures to enhance energy efficiency when standard residential and public buildings undergo capital repairs.
10. Bring the annual level of capital repairs of residential buildings up to 3% of their total area and that of service sector buildings up to 2% of their total area. Capital repair programs should be coordinated with ESCO's comprehensive energy conservation programs and projects.

In the process of developing these recommendations, specific calculations of costs and their economic effects were done. Ten scenarios were analyzed for implementing the policy for enhancing energy efficiency in buildings, including various packages of technical and economic incentives for increased energy efficiency.

Today talks are being held with the Ministry of Construction, Housing and Utilities on preparing a road map, based on the recommendations, to enhance the energy efficiency of residential, public and industrial buildings.

Issue 2. New tariff regulation policy. Uncertainty about the tariff containment policy.

In 2006, the Russian Government approved a plan to liberalize gas prices on the domestic market. This involved accelerating the growth of regulated gas prices so that by 2011 revenues would reach the same level as that of export prices: average prices for industrial consumers on the domestic market were ultimately to equal the prices of gas sold to European consumers. The government would then end the direct regulation of gas prices on the domestic market and allow prices to be formed by market mechanisms. Although the annual growth rate averaged 17% in 2006-13, regulated gas prices have not yet reached netback parity with export prices.

In September 2013, the Russian Ministry for Economic Development drew up a comprehensive socioeconomic plan providing for zero indexation (from 1 July 2014 through 1 July 2015) and limiting the growth of Gazprom tariffs and tariffs of other natural monopolies. The plan reflects the basic principles of Russia's socioeconomic forecast for 2014-16, which was approved by the government in September 2013 and envisages zero tariff indexation for natural monopolies, subsequently indexing tariffs to the level of inflation (CPI).

In September 2014 the Ministry for Economic Development published its Russian Socioeconomic Forecast for 2015 and the Planning Period of 2016-17, which envisages the following rates of indexation of natural monopoly tariffs:

- Wholesale gas prices for industrial enterprises in July (as compared with the preceding year): 7.5% and 5.5% in 2015 and 2016, respectively (CPI of the preceding year) and 3.6% (0.8% of the preceding year's CPI) in 2017.
- Heating tariffs: 8.5% (CPI + 1%) in 2015, 5.5% (CPI) in 2016 and 4.2% (0.93% of CPI) in 2017.

According to the Ministry for Economic Development, government policy after 2017 should aim to achieve an alternative level of netback parity (e.g., 0.7 of European netback parity) by 2025.

The Ministry for Economic Development has stated that its draft Russian Socioeconomic Forecast for 2016-18 would accelerate the rates of indexation for natural monopoly tariffs in 2016-17 by about 1.5% as compared with the previous forecast. In 2015 tariff indexation is to be kept at the same level (7.5% from 1 July 2015), which by no means reflects the actual level of inflation in 2014 (11.4%) or the level expected in 2015.

Thus, if the draft forecast is approved, tariff indexation will be as follows:

- 7.5% for wholesale gas prices in July (as compared with the previous year) and 8.5% for the public in 2016 (the previous forecast envisaged 5.5% indexation for all categories).
- In 2017 indexation should be 7% for industry and 8% for the public (the previous forecast was for indexation of 3.6% and 4.2%). In 2018 the tariff should grow 6.2% for industry and 7.2% for the public. The Ministry for Economic Development thus intends to continue the accelerated increase in tariffs for the public in order to eliminate cross-subsidies.
- Heating tariffs: 7.5% in 2016 and 7% in 2017 (instead of 5% and 4.2%).

The constant (in fact, annual) change in pricing principles on the gas market in recent years adversely affects the investment programs and capitalization of gas producers and electric companies. The volatility of tariff regulation in the gas sector affects the electric power sector, where spot prices are closely tied to regulated gas prices.

The new tariff policy thus involves a substantial risk of reduced profit for wholesale generating companies, making it hard for them to maintain the free cash flow needed to support current investment projects. When gas tariffs are artificially frozen or contained by indexing them at a level far below inflation, generating companies become less profitable, and there are fewer funds available for important investment projects. The tariff freeze and limitation of tariff growth may have an effect opposite to that intended: zero or negligible annual growth in tariffs will reduce natural incentives for enhancing energy efficiency among consumers and make it less attractive for generating companies to invest in the modernization of existing generating capacities. As a result, the generator pool may age more rapidly and power consumption in most industries may increase.

The new tariff policy may cause GDP to grow more slowly, mainly due to the gas and energy industries' large share in the country's GDP.

Recommendations

- The period of zero growth or limited growth of tariffs should be as short as possible. Regulators should return to the policy of indexing wholesale gas tariffs for industrial consumers to "actual CPI + minimum of 5%" so as to gradually achieve netback parity between export and domestic gas prices.
- Create natural incentives for energy efficiency and energy conservation in all categories of gas and electric power consumers.
- Maintain the gas sector at a sustainable level that is acceptable to private investors, and ensure (by indexing gas tariffs) the cash flows needed to develop new key capital-intensive gas fields.
- Restore the energy industry's investment appeal and long-term stability by stimulating generating companies to raise their efficiency and so profit from wholesale power sales.
- Take account of the difference between forecast and actual inflation since 2014 in determining the rates of indexation for 2015.

Now and in the foreseeable future, a steady increase in gas tariffs is one of the state's most important means of maintaining a long-term balance and investment appeal in the gas and electric power industries.

To compensate for generating companies' reduced marginal profit due to the freezing/containment of tariff growth, regulators should consider introducing mechanisms to restore generating companies' profitability in the period prior to the freeze and to restore the energy industry's investment appeal.

Issue 3. Formation of the gas market.

3.1. Gas exchange

Gas trading on the electronic trading platform of Gazprommezhregiongaz LLC in 2007-08, using a trading mechanism synchronized with the unified gas supply system, was a means of forming price signals and diversifying gas sources and was a potential basis for liberalization of the gas market.

Gas trading on the electronic platform was suspended after the onset of the economic crisis in 2008.

The lack of market signals formed on an independent exchange/trading platform limited price transparency and prevented the creation of additional incentives for price competition.

Government Decree No. 566 "On Amendments to Certain Acts of the Russian Government Concerning Gas Sales in the Russian Federation," designed to promote sales of natural gas on commodity exchanges and in electronic trading systems, was approved on 19 June 2014.

The St. Petersburg International Commodity Exchange has held monthly trading sessions since 24 October 2014, and futures contracts are concluded for the supply of specific amounts of gas a month in advance. 534.2 million cubic meters of gas were sold on this exchange in 2014 - only 0.12% of total gas supplies to the domestic market in 2014.

Recommendations

- Introduce procedures allowing prices formed on the gas exchange to be used as guidelines for purposes of entering into agreements.
- Expand the use of trade mechanisms with a wide range of delivery periods (a day or week in advance, etc.), and then introduce financial derivatives.
- Expand the list of supply bases in order to diversify the supply geography and create more localized price signals
- Allow amounts purchased on the exchange to be swapped and resold during a trading session.
- Create more attractive conditions for independent gas suppliers in order to raise the level of competition among suppliers and form more variable prices for gas.

Issue 4. Electric power industry. Effective operation of Russia's Unified Energy System.

Currently, there is substantial surplus capacity in the Russian energy system, resulting in lower efficiency indicators, such as installed capacity utilization factor and reference fuel consumption per unit of electricity or heat produced.

According to the System Operator, surplus capacity will almost reach 20 GW in 2016. Consumers will have to pay for this massive spare capacity and efficient electricity generators will not be able to receive adequate capacity payment required for development and upgrade.

One of the main reasons for this is the existence of 'forced mode' generators.

Currently, a substantial part of the existing generation plants cannot be decommissioned due to both objective factors and those that are not quite objective. These generation plants can be classified into two categories: really efficient and really inefficient. Generators from the first category perform very well in technical and economic terms and, being aware of their "indispensability," request the status of a 'forced mode' generator only to recover their investments. In this case, their commercial risks are covered by consumers although there was no preliminary agreement with the latter to this effect as opposed to the situation where capacity supply agreements ("CSAs") were signed. Generators from the second category incur constant losses but cannot be shut down because their owners have no funds to upgrade them or improve their efficiency or carry out substitution measures.

The situation has improved slightly this year after the capacity takeoff model was modified. Currently, ineffective generators do not squeeze effective generators out during the competitive capacity takeoff ("CCT") although they do push the price down substantially. Unfortunately, the government has abandoned the regulation it adopted last year which restricts, as of 1 July 2015, the Government Commission in making decisions to supply capacity in a 'forced mode' under certain heating conditions. Such departure from previous decisions send a negative signal to investors and a positive signal to participants of the wholesale electricity and capacity market ("WECM") that manipulate the 'forced mode.'

Recommendations

1. Formalize the procedure for obtaining the status of a 'forced mode' generator. The 'forced mode' should be granted only on the basis of a decision of the Russian Ministry of Energy at the request of the System Operator, taking into account the reliability of power supply to consumers, and only for a limited period.
2. Develop and implement a WEC market mechanism for decommissioning power generation plants that would provide for:
    - The assessment of a possibility to continue operating the specific power plant on arm's length terms
    - The purchase of the power plant
    - The development, evaluation and implementation of substitution measures
    - The sources of financing

We suggest the following approach: if an owner decides to decommission any power generation plant, it should notify the System Operator accordingly. If the System Operator cannot approve the decommissioning of the power plant due to power supply reliability considerations, the owner should put the power plant up for sale. The purpose of this approach is to make sure that the power plant is really unprofitable and it is really impossible to continue its operation in the current market context. This will help

exclude participants that manipulate the 'forced mode' in order to obtain excess profits. The absence of potential buyers for a power generation plant put up for sale will mean that nobody really needs this plant and it should be shut down. The next step will be a competitive bidding procedure to select substitution measures through comparison of alternative options. The lowest-cost substitution measures should be selected as the winner.

Only this market approach will allow the decommissioning mechanism to operate as expected, improve the efficiency of the electric power industry and send investment signals.

Issue 5. Heating industry.

Work on the heating reform done by FIAC's Energy Efficiency Working Group in the most recent period (2014-15) involved the development and approval of a road map: "Implementation of the Target Model of the Heating Market" (Regulation No. 1949-r of the Russian Government of 2 October 2014).

The road map sets the following key parameters of the target model of the heating market:

- The deadline for implementation of the model: 2020-23
- Free prices for steam from collectors beginning in 2015
- The target model: transition to open market pricing
- A concept of reference rates has been introduced for heat transmission in cases where the parties have not agreed on a price
- For centralized heating systems where the tariff is already higher than the 'alternative boiler' price, tariffs are fixed. The specifics of operating these centralized systems will be determined.
- The target model is mandatory throughout the Russian Federation

As one step in implementing the road map, Federal Law No. 190, "On Heating," has already been amended to allow unregulated agreements for the supply of steam from collectors.

Working group members, as part of the Government Commission for the development of an 'alternative boiler' tariff calculation model, are actively involved in drafting the Federal Law "On Amendments to the Federal Law 'On Heating' and Other Federal Laws to Improve the System of Relations in the Heating Industry."

In implementing the road map, an essential goal for 2016 is to agree the parameters of this model and approve the 'alternative boiler' tariff calculation methodology.

Working group members have also consistently called for transparent tariffs in the industry, and the Lahmeyer Group, at the request of Fortum, did research and prepared a methodology for determining reference rates for heat transmission. The results of this work have been considered by generation companies that use heating networks and have yet to be reviewed by the Russian Ministry of Energy.

Fortum also takes an active part in meetings of the working group attached to the Government Commission for the development of an 'alternative boiler' tariff calculation model.

Recommendations

1. Accelerate the adoption of the model parameters and approve the 'alternative boiler' tariff calculation methodology

2. Arrange, at the Russian Ministry of Energy, the discussion of the coordinated position developed by the noncommercial partnership "Council of Power Producers" on the methodology of calculating reference rates for heat transmission

3. Adopt amendments to the Federal Law "On Heating" in accordance with the road map for implementing the target model.

2.9. Efficient use of Natural Resources in Russia

Issue 1. Making amendments and additions in the existing legislation, aimed at improving the investment climate (Law of the Russian Federation No. 2395-I of 21 February 1992 "On Subsoil", Federal Law No. 57-FZ of 29 April 2008 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security").

1.1. Exploration and Production.

Foreign investors may only participate as minority partners of the companies controlled by the Russian Federation in development of subsoil areas of federal significance in the continental shelf. As for other subsoil areas of federal significance, foreign companies may only participate in their development with special permits issued in each particular case. It appears that in reality, these permits will only be granted to joint ventures of Russian and foreign companies set up in accordance with legislation of the Russian Federation. In principle, this practice is in place in many oil-producing countries and it is acceptable for large international oil and gas companies. Foreign investors generally welcome effective winning cooperation with Russian companies in development of subsoil of the Russian Federation, but this cooperation is impeded in practice by a number of legislative provisions.

Business practices of international oil and gas companies expect their participation in field development both as investors and as project operators. Most of large oil and gas projects for field development are implemented through special purpose vehicles specially set up by the project participants for implementation of this project. Such a company is normally a new legal entity.

In view of the above, a provision in the Subsoil Law for a subsoil user of a subsoil area of federal significance in the continental shelf to have mandatorily at least five year experience in development of subsoil areas of the continental shelf of the Russian Federation makes it impossible to implement such projects through a special purpose vehicle, since a newly registered joint venture set up by government-controlled Russian companies with foreign investors' participation will be a new legal entity that is set up specially for implementation of a project and that cannot by definition have relevant experience. One of possible solutions is to take account of the experience of the project joint venture's incorporators and/or their subsidiaries in developing subsoil areas of the continental shelf. Both experience in developing the Russian continental shelf and expertise obtained by companies in various parts of the world could be taken into account. It is also practical for the operator's legal status to be formalised legislatively, i.e. an operator being a subsoil user. A company set up by project participants through a special purpose company would then be able to have the operator's status.

Recommendations

1. To make amendments in the Subsoil Law whereby the five-year experience of development of subsoil areas of the Russian continental shelf that a legal entity being a subsoil user of the Russian continental shelf has, shall include the experience of operating in the Russian and foreign continental shelf obtained by the companies incorporating this legal entity or by other companies that are subsidiaries of the incorporators of the legal entity that is a subsoil user of the Russian continental shelf.
2. To make amendments in the Subsoil Law, clarifying what development of subsoil areas of the continental shelf means, and specifying what types of subsoil use or activities in the Russian continental shelf will be taken into account for counting the necessary experience.
3. To make amendments in the Subsoil Law, providing a definition and legal status of an operator as a subsoil user.

1.2. Subsoil Geological Survey.

A possibility for taking a decision to terminate the right of using a subsoil area where a field of federal significance was discovered, enjoyed by legal entities with foreign participation or by foreign investors, seriously discourages foreign investors from investing into geological exploration in Russia.

Reimbursement of expenses for prospecting and appraisal of discovered fields is not a workable mechanism, as the reimbursement amount would not cover expenses for other projects in the event of unsuccessful prospecting of new fields (for instance, dry wells). Oil and gas and mining companies invest into exploration of a number of subsoil areas that may be located in different regions and even in different countries, and it is not everywhere that commercial reserves of natural resources are discovered. Large

companies have extensive investment programmes involving many subsoil areas. These investments are by definition risky from the geological viewpoint; other risks related to possible termination of the right of using a subsoil area where a discovery was made, make these investments highly insecure. Moreover, international oil and gas companies' investments into exploration are always motivated by a prospect of participating in development of newly discovered fields.

While there is a definition of a foreign investor in Federal Law No. 57-FZ of 29 April 2009 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security" adopted at the same time as the above amendments in the Subsoil Law, the wording of the Subsoil Law does not make it clear what exactly is meant by a subsoil user being a legal entity with participation of foreign investors.

While Federal Law No. 57 uses the word "control", the Subsoil Law uses the term "participation". While a definition of control is provided and criteria for such control are set, a definition of participation and any criteria are lacking. Thus, this notion may be interpreted even as holding only one share, because neither the law nor subordinate legislative acts set a threshold of such participation (unlike Federal Law No. 57-FZ of 29 April 2009).

Recommendations:

1. To include a provision in the Subsoil Law, ruling out a possibility to deny the right of developing a discovered field of federal significance or to terminate this right due to a possible threat for national defence and state security, with regard to subsoil users, including those with foreign participation, that are controlled by the Government of the Russian Federation directly or through companies controlled by the Government of the Russian Federation. This provision would be similar to the provision regarding the government-controlled companies, that is laid down in Federal Law No. 57-FZ of 29 April 2009 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defence and State Security".
2. To include a provision in the Subsoil Law that prior to announcing a competitive tender or auction for the right to subsoil exploration, including exploration under a combined licence, the Government of the Russian Federation or its authorised body should conduct a survey and issue a statement reading that there will be no threat (there will be a threat) for national defence and state security if the subsoil user is a company with participation of foreign capital and if upon exploration this subsoil user discovers a natural resource field whose parameters meet criteria of Article 2.1 Part 3 of the Subsoil Law. A respective statement of the Government of the Russian Federation or its authorised body should be published as part of the official announcement of a tender or auction for the right to subsoil use. If at the time of holding a tender or auction, the Government of the Russian Federation or its authorised body comes to the conclusion that there is no threat for national defence or state security in the above instance, and the respective information is published as part of the announcement of the tender or auction, the Government of the Russian Federation may not take a decision denying the right of using a subsoil area for natural resource exploration and production in this subsoil area to a subsoil user with participation of foreign capital, or may not take a decision terminating the right of using the subsoil under a combined licence.

Other options can also be considered for providing a guarantee to a foreign investor participating in a joint venture set up for development of a newly discovered field.

1.3. Proposals for modifying the procedure for obtaining a geological exploration license.

The Government of the Russian Federation has set as a priority the efficient replacement of the mineral reserve base in Russia based on an inflow of private investments, including foreign investment. The creation of a favorable legal framework regulating the granting of mineral exploration licenses is a key component of this objective.

A number of steps have already been taken to improve subsoil exploration licensing system. In particular, early in 2014, certain amendments were introduced in the procedure for consideration of applications for obtaining a geological exploration license other than on subsoil plots of federal significance (refer to Order of the MNR of Russia No. 61 of March 15, 2005, as amended on January 27, 2014), hereinafter "the Procedure".

The essence of the amendments is to provide an opportunity to obtain, by way of exception from the general rule, a geological exploration license under the first favorably considered application, without going through the tender or auction procedure applicable under the general rule, when two or more

applications for participation in the auction are filed. This new opportunity is only available for plots for which there is no data regarding mineral reserves and probable resources of P1 and P2 types, and for those deposits that were not included in the programs or lists of deposits previously offered for auction. Under the new rules, claims staked and approved for geological exploration, including the search and assessment of deposits of solid minerals, must be undertaken at the expense of the subsoil users. Moreover, these claims are to be effected using the simplified procedure without including such subsoil plots in the existing auction lists (described in detail in Chapter 6 of the Procedure).

As is generally known, P3 probable resources under the Russian classification system generally refer to a low probability of yielding prospective reserves. P3 resources are "…estimated only as a potentiality of discovery of a mineral deposit relying on a favorable geological and paleogeographic environment identified in the estimated region in the course of medium- and small-scale geologic-geophysical surveys, satellite image interpretations, and also based on data from geophysical and geochemical surveys" (as described in item 20 of "Classification of reserves and probable resources of solid minerals" approved by Order of the MNR No. 278 of December 11, 2006). Such resources cannot be defined as resources containing mineral occurrences, and are even outside the scope of the restrictions established by other restrictive regulations such as the legislation on subsoil areas of federal significance.

The restriction of claim-staking for geological exploration licenses only for areas indicating P3 resources considerably narrows the scope of application of the new initiative and accordingly diminishes the positive effect for market players considering a possible investment in geological exploration. Moreover, the new claim staking procedures compare unfavorably to other leading mining jurisdictions that allow claims to be staked on a first-come, first-served basis, without any restrictions as to whatever reserves (if any) might have been previously registered in a particular area.

Recommendations

1. To consider lifting the restrictions established by the Procedure to allow areas that contain probable resources of P1 and P2 levels to be considered for possible claim staking.
2. It would be consistent with international practice that any first applicant meeting the eligibility criteria established by the Procedure be allowed to stake a claim for geological exploration without any additional encumbrances or restrictions such as the mere existence of a prospective area in any lists previously compiled.
3. If implemented in the new Procedure, the above mentioned proposals would also have a favorable effect on other aspects of the subsoil legislation.

1.4. Requirement to obtain permission for mining, specifically the completion of geological study over an entire license area prior to commencing mining operations.

Part Two of Law of the Russian Federation No. 2395-I of February 21, 1992 "On Subsoil" states that subsoil areas may be granted for use concurrently for geological exploration, detailed prospecting and production of minerals. Detailed prospecting and production of minerals, except for detailed prospecting and production of minerals on a subsoil plot of federal significance, can be carried out both in the course of geological exploration of the subsoil and after completion thereof. Detailed prospecting and production of minerals on a subsoil plot of federal significance can be carried out based on the decision of the Government of the Russian Federation determining the subsoil user's possibility to carry out detailed prospecting and production of minerals on such a subsoil plot subject only to completion of the geological exploration on such a subsoil plot.

A search and assessment of the entire plot does not guarantee the exhaustive completeness of information about the plot. In practice, a large mass of new reserves (considerably exceeding the reserves discovered at the search and assessment stage) is often identified in the process of detailed prospecting and production.

The scheme under Article 6 ignores the fundamental principles of rational and efficient use of subsoil. It is well known that comprehensive geological exploration, rational comprehensive use and conservation of subsoil (Article 23 of the law "On Subsoil") is attained through an optimized combination of various stages of the use of subsoil. If within a license area a commercial reserve is identified which is sufficient for approbation of reserves and preparation of a development project, then the most rational approach shall be going on to the stage of detailed prospecting and commercial development of the identified deposit, rather than continuing with geological study and complete prospecting of the entire plot before commencing detailed prospecting and production.

The subsoil use model described in Article 6 virtually contravenes the subsoil user's right to perform geological works at all stages of the project.

Recommendations

The Government's decision should be carried out for an entire plot of federal significance concurrently for geological exploration, detailed prospecting and production of minerals on such a plot.

1.5. Classification of Fields of Federal Significance.

The following tendencies are true for the current development of the mineral base of solid natural resources:

- the fund of easy-to-discover fields is being used up;
- fields of rich concentrated ores are being taken out of service and replaced with fields of poor difficult-to-dress ores;
- exploration works are carried out in remote areas with harsh geological and climatic conditions and less developed infrastructure.

This makes it necessary to encourage subsoil users for prospecting new large fields that will be developed because of their economic attractiveness, which would not only bring real investments into the Russian economy and create jobs in remote regions but would promote introduction of new, more advanced technology in the industry.

However, the existing legislation contains a number of provisions that prevent from increasing investments into exploration and from enhancing its efficiency. For instance, when the Federal Law "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defense and State Security" was passed, the Subsoil Law set criteria for regarding subsoil areas as subsoil areas of federal significance. Currently, subsoil areas of federal significance include subsoil areas containing more than fifty tons of vein gold reserves, more than 500,000 tons of copper reserves; there are certain solid natural resources whose mere showings make subsoil areas regarded as those of federal significance. In view of the above description of the mineral base and a tendency for reduction of valuable concentration of noble metals in ores, these subsoil areas are not so promising in terms of economic viability of their separate development. A legislative regime does not encourage companies for discovery or detailed exploration of medium-size and large fields, which has a poor effect on the state of the country's mineral base.

In view of the above, it makes sense to review limitations for sizes of subsoil areas of federal significance so that they are indicative of their real strategic importance and encourage investments into exploration.

Recommendations

Article 2.1 Clause 2 - to read as follows:

"2) that are located in a constituent of the Russian Federation or in constituents of the Russian Federation and that contain, based on the state balance sheet of natural resource reserves starting from 1 January 2006:

- recoverable oil reserves of 70 million tons or more;
- gas reserves of 50 billion cubic meters or more;
- vein gold reserves of 250 tons or more;
- copper reserves of 7 million tons or more".

1.6. Proposals for Federal Law No. 57-FZ of 29 April 2009 "On the Procedure for Making Foreign Investments into Business Entities of Strategic Significance for National Defense and State Security".

Article 2 Part 7 of Federal Law No. 57-FZ sets two criteria, and when at least one of them is in place the law provisions do not cover legal relations arising from foreign investments made into business entities controlled by the Russian Federation. In the working group experts' view, the first criterion is a particular case of the second one, it is not needed and may be deleted from the text. Simpler wording would help to interpret the above provision unambiguously.

Article 4 Clause 4 of this Law reads that a preliminary approval is not required for transactions with shares (stakes) of a business entity of strategic importance if prior to these transactions a foreign investor or a group of persons have already controlled more than fifty percent of this business entity. This provision is fair and justified. However, a reservation “except a business entity having strategic significance and using a subsoil area of federal significance” makes transactions with such business entities’ shares unreasonably complicated.

This provision may be interpreted in such a manner that a preliminary approval would be required for purchase and sales of shares (stakes) within one group of persons that controls more than fifty percent of a Russian company having strategic significance and using subsoil areas of federal significance. It seems unnecessary to obtain an approval for transferring shares from one participant of the group to another.

It makes it difficult to study the Russian continental shelf comprehensively if geological survey is regarded as one of strategic types of activities. This seems unreasonable, especially in the light of recent proposals to reinstate geological survey as a separate type of subsoil use in the continental shelf and to make it possible for all interested parties, including foreigners, to obtain a license for this type of subsoil use. Taking out geological survey from the list of strategic types of activities would promote geological (including multi-client) operations, particularly in the continental shelf, carried out jointly by Russian and foreign companies, and would make advanced geological techniques available to Russian companies.

Pursuant to Article 6 Clause 2 of Federal Law No. 57-FZ, types of activities of strategic significance for national defense and state security include “operations for active influence on geophysical processes and phenomena”. The working group experts believe that geological survey does not fall within this wording, but the paragraph needs clarification to avoid any misunderstanding. If, because of the size of the text, it is not possible to clarify the above wording, a reference to a subordinate legislative act should be included into the above Clause.

Recommendations

1. Article 2 Part 7 of the Law - to read as follows:

   7. Provisions of this Federal Law regulating relations arising from foreign investments made into business entities that are of strategic significance for national defense and state security and that use subsoil areas of federal significance, except provisions of Part 3 of this Article, shall not apply to relations arising from foreign investments made into business entities that are of strategic significance for national defense and state security and that use subsoil areas of federal significance, if the Russian Federation has the right to exercise directly or indirectly more than fifty percent of total voting shares (stakes) representing these business entities' authorized capitals.”

2. Article 4, clause 4: - to delete “(except a business entity that has strategic significance and uses a subsoil area of federal significance)”.

3. Article 6, clause 39 - to read as follows:

   “natural resource exploration and production in subsoil areas of federal significance”.

The above amendments would help foreign investors to assess their risks correctly, which should in turn increase attractiveness of investments into the natural resource sector and in particular into the energy sector of the Russian Federation.

Issue 2. Liberalisation of Geological Information Export.

A necessity for obtaining a licence even for export of unrestricted geological data has been a real issue.

The Eurasian Economic Commission’s Decision No. 134 of 16 August 2012 approved the Comprehensive List of Goods That Are Subject to Bans or Restrictions for Import or Export by the Customs Union Member States within the Eurasian Economic Community in the Trade with Third Countries (hereinafter referred to as “the Comprehensive List”) and the Regulation on Application of Restrictions. The title of the Comprehensive List reads that it is a list of goods. However, the Comprehensive List includes Clause 2.23 Subsoil Information Grouped by Regions and Fields of Energy and Mineral Resources, That Is Restricted for Export from the Customs Union’s Customs Territory. The internal logics seems upset here because, based on the analysis of the notion “information” in Article 2 of Federal Law No. 149-FZ of 27 July 2006 “On Information, Information Technology and on Protection of Information”, one can draw a clear conclusion that information is not a commodity. A review of Federal Law No. 164-FZ of 8 December 2003 “On Fundamental Principles of Government Regulation of Foreign Trade Activities” proves the above conclusion. Pursuant to Article 2 Clause 26 of this Law, goods mean “movable property, immovable

property including air-, sea crafts, inland waterways vessels, combined navigation (river - sea) vessels, space crafts, as well as electric energy and other types of energy, that are commodities of foreign trade activities". It is obvious that information does not fall within this definition, which is supported by the fact that no code for information is provided in the Integrated Commodity Classifier of Foreign Economic Activities.

Licensing of export of geological information that is not state secret makes it extremely difficult to implement joint projects dealing with geological survey and development of subsoil of the Russian Federation and to operate using advanced methods. Using state-of-the-art techniques for effecting transactions, for instance, an electronic access to the partner's documents (Electronic Due Diligence Room), results in breach of legislation. For information to be processed in foreign data processing centres, a company has to obtain a licence, which often causes suspension of work for quite a long time.

Recommendations

Foreign investors appreciate as a positive step, that information about balance-sheet reserves of natural resources was taken out of the list of information regarded as state secret. Based on government bodies' replies, the main aim of licencing of geological information export is to check if it contains information regarded as state secret. To this end, for effective lowering of administrative barriers, it seems necessary for information that a priori cannot be regarded as state secret pursuant to Clause 67 of the List of Details Regarded as State Secret (approved by Decree of the President of the Russian Federation No. 1203 of 30 November 1995, as amended in Decree of the President of the Russian Federation No. 90 of 11 February 2006), to be taken out of the Comprehensive List, i.e. information obtained during joint works engaging foreign states' individuals and legal entities in particular natural resource fields or in their parts.

Issue 3. Proposals for Legislation on Prevention of and Response to Oil and Petroleum Product Spills.

The current laws related to OSR include different requirements to the content and different approval procedures of approval for OSR Plans for offshore vs onshore facilities, resulting from RF Government Resolutions #1188 and #1189 of November 14, 2014, which forces companies to develop different OSR Plans while there are no criteria established for classing facilities as onshore or offshore.

The projected amendments to Art.46 of Federal Law FZ-7 "On Protection of Environment", which vest the RF Government with the authority to establish the Rules for development of measures for prevention of and response to oil and petroleum product spills on the territory of the Russian Federation except the internal sea waters and the territorial sea, and the requirements for content of OSR plans, do not take into account the fact that in addition to the internal sea waters and the territorial sea the Government Resolution #1189 covers the continental shelf. To remove a potential duplication of the OSR organizational matters for the continental shelf it is proposed to include the continental shelf into the list of Rules coverage exception zones

As the requirements for contents of the OSR Plans for offshore facilities are already established in RFG Resolution #1189 it is recommended that theses be harmonized with the requirements to OSR Plans for onshore facilities in the subordinate regulations to be issued by the RF Government after the above amendments to Federal Law FZ-7 "On Protection of Environment" become effective.

The requirement of conducting SEER of an OSR Plan as a separate expert review target creates additional administrative barriers in the OSR Plan approval process, which would require extra effort, time and expense from the subsoil reserve user, due to the following:

1. Pursuant to Federal Law #174-FZ "On Environmental Expert Review" the documentation subject to SEER (OSR Plan) shall include the environmental impact assessment materials, but the contents of OSR Plans, prescribed by MChS Order #621, do not include development of such section in an OSR Plan. Development of a separate EIA in OSR Plans for the single purpose of meeting the requirements of Federal Law #174-FZ is not just one more administrative barrier; it presents an additional financial burden on business, which impairs projects' economics.
2. The procedure for amending OSR Plans is not addressed as pursuant to Federal Law #174-FZ an OSR Plan is subject to a repeat SEER in the case of any changes, which could result in the majority of the OSRP losing their legitimate status and in overloading the SEER panels as they would have to conduct the repeat review of the plans. At present the repeat OSRP approvals are required only in the cases when the changes necessitate increases of the OSR personnel and equipment.

3. The need for repeat SEER every 5 years and in the cases of amending OSR Plans to address comments received from authorities in the approval process.

At present intensive offshore field development effort is under way, including in the Arctic region. One of the most effective OSR methods for offshore is the use of dispersants recommended for this application by RFG Resolution #1189. At the same time, none of the dispersants available on the market has an approved fishery MPC in accordance with RF Fishery Agency of January 18, 2010 #20 "On Approval of Water Quality Standards for Fishery Water Bodies, Including the Standards for Maximum Permitted Concentrations of Pollutants in the Waters of Fishery Water Bodies", which makes it legally impossible to use dispersants for OSR in accordance with the "Rules for Use of Dispersants for Oil Spill Response STO 318.4.02-2005". Notwithstanding the fact that the procedure for MPC approval is available, the associated timeline for review and approval has not been established.

Based on the above it is recommended that an Administrative Regulation for review and approval of fishery MPC's be developed and approved.

Recommendations

- Promote the prompt approval of the Draft Federal Law "On Introduction of Amendments to Article 46 of Federal Law FZ-7 "On Protection of Environment" of January 10, 2002" (where related to vesting the RF Government with the authority to establish the Rules for development of measures for prevention of and response to oil and petroleum product spills on the territory of the Russian Federation except the internal sea waters and the territorial sea)";
- Exclude OSR Plans from separate SEER targets and amend Federal Laws 187-FZ and 155-FZ accordingly;
- Develop and establish a uniform approach to the requirements for development and approval of OSR Plans for offshore and onshore facilities, both by the Authorized State Bodies and SEER panels;
- Consider application of an integrated approach for planning OSR measures: mechanical oil spill recovery, burning, use of dispersants. Choice of the measures should be based on the net environmental benefit analysis (NEBA) results;
- Develop and approve an Administrative Regulation with the prescribed timelines for review and approval of fishery MPC's, including for dispersants used for OSR purposes, as well as an operational "Guidelines for Application of Dispersants".

Issue 4. Implementation of the Federal Law #89-FZ "On Production and Consumption Waste" of June 24, 1998.

4.1. Refinement of the List of Products Subject to Disposal.

The draft RF Government Resolution *"On Approval of the List of Finished Products Including Packaging Subject to Disposal upon Loss of Consumer Properties"* lists oils and lubricants, which cannot be disposed since they are not finished products, but are used as components for the manufacturing of other products.

Recommendations

Amend the draft RF Government Resolution *"On Approval of the List of Finished Products Including Packaging Subject to Disposal upon Loss of Consumer Properties"* by adjusting Group 4 to read as follows:

4. Lubricants	
Aviation engine oils	19.20.29.111
Gasoline engine oils	19.20.29.112
Diesel engine oils	19.20.29.113
Gasoline and diesel engine oils	19.20.29.114
Other engine oils not included in other groups	19.20.29.119

Hydraulic oils	19.20.29.120
Industrial oils	19.20.29.130
Electrical insulating oils	19.20.29.140
Transmission oils for mobile plants	19.20.29.150
Compressor and turbine oils	19.20.29.160

4.2. Disposal Standards Refinement.

The draft RF Government Resolution *"On Approval of Standards for Disposal of Goods (Products) Consumption Waste Including Packaging Subject to Disposal upon Loss of Consumer Properties"* envisages the establishment of disposal standards at a significantly higher level than the capabilities of importers/manufacturers and the existing disposal capabilities.

Recommendations

Establish a 3% disposal target for oil-based lubricants including engine, hydraulic, industrial, electrical insulating, transmission, compressor and turbine oils, and other lubricants.

4.3. Establishment of Transition Period for Environmental Fee Payment.

Companies have to make considerable administrative efforts to comply with the requirements of the Federal Law *"On Production and Consumption Waste"* for the disposal of used products and for the environmental fee calculation and payment. However, the regulatory framework for the implementation of the above law has not been established so far.

Recommendations

Establish a transition period through January 1, 2019 for the Russian Federation Government to enact the missing regulations, and the companies to arrange the disposal process. It is suggested that a zero environmental fee rate and disposal standards be established for the transition period.

4.4. Environmental Fee Calculation Basis.

The draft RF Government Resolution *"On Defining Environmental Fee Collection Procedure (Including Calculation Procedure, Payment Term, Procedure of Levy, Offset and Repayment of Unduly Paid or Unduly Levied Environmental Fee Amounts)"* envisages the implementation of environmental fee definition mechanism based on the finished product or package cost. The said approach has certain drawbacks:

- the environmental fee rate calculation based on the product costs puts the manufacturers of same-type goods (for example: engine oils) in an unfair competitive position since, despite their homogeneity, those goods can have significantly different consumer properties and, accordingly, different cost of production;
- the proposed approach is in conflict with the provisions of the Federal Law *"On Production and Consumption Waste"* as it obliges the manufacturers of the goods meeting higher environmental standards (the goods whose production costs are usually higher than those of similar products of lower environmental class) to incur higher disposal costs;
- the international experience (reviewed in detail in Table 2 of the Explanatory Note to the draft RF Government Resolution *"On Defining Environmental Fee Rates to be Paid by Manufacturers and Importers of Products Subject to Disposal upon Loss of Consumer Properties"*) shows that specific rates (fixed rates for units, weight and volume of goods) are nearly always used for the environmental fee calculation.

Recommendations

It is recommended to apply the specific fees model envisioned by the customs law to the environmental fee rates. In that regard, it is recommended to amend Item 9 of the draft RF Government Resolution *"On Defining Environmental Fee Collection Procedure (Including Calculation Procedure, Payment Term, Procedures of Levy, Offset and Repayment of Unduly Paid or Unduly Levied Environmental Fee Amounts)"* to read as follows:

"The amount of environmental fee for the goods to be disposed upon the loss of consumer

properties shall be calculated for each product item by multiplying the environmental fee rate in rubles, expressed as the product unit cost (weight, volume, quantity and other units can be used depending on the product type) excluding value added tax, by relative finished product units put on the Russian Federation market or by the units of consumer packaging used for such product manufacturing, and by the disposal standard expressed in relative units, as per the form approved by the RPN. The accounting units are established for each type of goods simultaneously with the environmental fee rate".

Ament Item 4 of the draft RF Government Resolution *"On Defining Environmental Fee Rates to be Paid by Manufacturers and Importers of Products Subject to Disposal upon Loss of Consumer Properties"* to read as follows:

Item #	**Name of Groups of Goods (Products)**	**Environmental Fee Rate, RUB per 1 liter of Product, excl. VAT**
15.	**Oil-based lubricants** (including: engine, hydraulic, industrial, transmission, compressor, and turbine oils, etc.)	1

4.5. Exemption from Environmental Fee for Exports.

Pursuant to Item 4, Art. 24.5 of the Federal Law #89-FZ of June 24, 1998 *"On Production and Consumption Waste"*, the goods subject to the disposal and exported from the Russian Federation are exempt from the environmental fee.

Recommendations

To enable more efficient implementation of the above provision we suggest adding a new Item 9.1 to the draft Environmental Fee Collection Procedure (Including Calculation Procedure, Payment Term, Procedures of Levy, Offset and Repayment of Unduly Paid or Unduly Levied Environmental Fee Amounts) to read as follows:

"The goods to be disposed upon the loss of consumer properties exported from the Eurasian Economic Union customs territory (including in the form of waste) under the customs export procedure, shall be deemed disposed of and hence, shall not be taken into account for the environmental fee amount calculation purposes."

2.10. Innovation Development

Issue 1. Leveraging the technical competences of FIAC member companies to drive Russia's economic growth, promote innovative business models, facilitate cooperation and support the development of Russia's innovation policies. The FIAC's participation in the activities of the National Technological Initiative (the Agency for Strategic Initiatives). Delivering sustainable solutions for identifying key technologies.

FIAC member companies are the largest repositories of scientific, technological and engineering knowledge that is vital for the modernization of the Russian economy. However, their expertise is not fully used to develop, update and improve Russia's innovation policy or increase the efficiency of governmental agencies such as the Council for Russia's Economic Modernization and Innovation Development which are responsible for the country's innovation growth.

Solution

- Consider the participation of technical experts of FIAC member companies in existing advisory councils on innovation development, including the National Technological Initiative (NTI)
- Invite FIAC technological companies to expert panels and organizations to conduct foresight studies

Partner with FIAC member companies to conduct an analysis of the global market for successful innovative production technologies, products and services

Recommendations

Consider the participation of the FIAC in the activities of the National Technological Initiative (NTI), the Inter-departmental Working Group on the Development and Implementation of the NTI and decision-making on identifying key technologies, as well as the coordination of participation in the development of a framework for the NTI's cooperation with foreign partners

Develop proposals for improving the integrated evaluation system for Russia's innovation development programs. The integrated system is essential to determine the competitiveness of innovative solutions and international practices on the global market

Conduct a series of expert exercises (including surveys) involving FIAC member companies and organizations that provide research methodology support for the technological forecasting system with the participation of federal-level governmental agencies, technological platforms, companies in the real sector, innovative territorial clusters and organizations engaged in industry-specific research and technology development forecasting

Issue 2. The development of recommendations for amending the legal framework (particularly, Decree of the Government of the Russian Federation No. 218 of 9 April 2010) to stimulate innovation development. The improvement of the tax regime for innovative companies with the participation of foreign companies in Russia's innovation development programs and joint R&D.

It is essential to improve further the tax regime in order to stimulate innovation and keep in place tax credits and incentives for innovative companies.

Considerable progress has been made in the development of mechanisms for the exchange of information between FIAC member companies and development institutes, ministries and agencies (e.g., the Russian Energy Agency) under innovation development programs, but additional steps are required to improve such mechanisms in order to tap the potential of global leaders.

Solution

- Partner with foreign companies to implement Russia's innovation development programs, harness the technology expertise of global leaders and conduct joint R&D
- Partner with FIAC member companies to determine conditions that meet business interests, international leading practices, regulations and the objectives of Russia's innovation development programs
- Based on international leading practices, develop recommendations for improving the law on offset transactions, which are usually unique and one-off deals but have their own structure and methodology (Law No. 44-FZ "On Procurement for State Needs")

Recommendations

Take a series of organizational measures to collect underlying information for amending the relevant regulations of the Government of the Russian Federation

Review the effectiveness of tax credits and incentives for stimulating innovation in cooperation with the expert community, development institutes, the Open Government, etc.

Involve officials of the Russian Ministry of Education and Science in the think tank's work in order to synchronize efforts and plan joint activities

Issue 3. Despite the recent geopolitical and macroeconomic developments, the commercially viable policy of stimulating the localization of high-tech production in Russia remains an effective import substitution tool and a key business driver in the current economic environment.

The localization of high-tech production is helping Russian producers close the gap on global leaders, driving the industrial output of both the region and the enterprise. These are sustainable benefits that foster the regional economic growth as technology advances.

The localization of R&D in the country is a key priority amid tight competition on the international high-tech market.

The commercialization of R&D results plays a crucial role in the success of such localization initiatives.

Solution

Pursue a consistent policy of stimulating the localization of production in Russia with the focus on the competitiveness of finished products. The policy of stimulating the localization of production should be robust and outline support measures “in exchange for” the localization decision that will depend on the size of the market, the existing production capabilities and cost structure. Define the terms such as a Russian product, its substitute and a local/localized company for the purposes of so-called Special Investment Contracts and develop the underlying legal framework

Determine criteria for a favorable environment that ensures strong demand for localized high-tech products

Place an increased focus on the localization of R&D and **the development of cutting-edge, knowledge-intensive technologies** amid tight competition on the global high-tech market

Propose incentives for the development of the R&D infrastructure meeting international standards (including technology engineering hubs, laboratories and centers for pre-clinical and clinical research in the pharmaceutical industry) which are essential to attract the R&D divisions of major international corporations, as well as for the growth of domestic high-tech companies

Propose instruments/mechanisms to facilitate close cooperation with R&D institutes and centers, support of the **commercialization of R&D results**, the conversion of knowledge and ideas into goods and services and the promotion of innovation

Conduct advertising activities on a regular basis with the support of federal executive bodies to commercialize R&D results, as well as meetings of technology developers to critically assess the commercial viability of projects and discuss the growth prospects for innovative businesses. Such measures will help market high-tech products in Russia and abroad, as well as create new jobs and diversify Russia's economy

Recommendations

To encourage the localization of production in Russia (the relocation of high value-added activities to the country), the following steps are recommended:

Draw up proposals for improving Special Investment Contract mechanisms for high-tech manufacturing activities, including localization, exemption and preferential treatment criteria

Draw up proposals for other mechanisms of stimulating the localization of high-tech producers or providers of services, including small-sized enterprises

Tax incentives are considered to be most effective in stimulating the localization of high-tech companies, along with a favorable customs regime and simple administrative procedures for the import of components and technology and the export of finished goods

It is essential to align localization requirements for manufacturing activities and the local content formula with industry-specific factors, including the growth potential. Determining the local content in an arbitrary

way and disregarding industry-specific factors (e.g., the recent trends in the production of medical substances, the considerable share of international R&D activities or the important role of value-added services in telecommunication equipment manufacturing such as maintenance services and software development) can result into excessive requirements and affect investment inflows.

Measures to ensure that companies have skilled staff are important to the success of localization projects. In order to draw highly skilled workers, including foreign talent, to the high paid jobs, it is also critical to set up training platforms within regional clusters of localized high-tech manufacturing activities, implement large-scale housing construction programs, offer incentives to encourage the migration of tradespeople to the region and create attractive, safe and comfortable urban environments with broad educational and recreational opportunities.

It is essential to leverage the expertise and technical competencies of foreign companies to address complex issues such as boosting business safety and security, reducing energy consumption, cutting emissions and improving operational performance.

The acquisition of new technologies, including patent rights and licenses to use inventions or industrial prototypes, **and effective IP protection mechanisms** also play a key role in stimulating the localization of companies and the development of knowledge-intensive economy. Without a robust IP protection framework, there is little incentive to engage in R&D.

Issue 4. Promotion of sustainable development principles.

The Innovation Development Working Group was actively involved in the discussion and development of proposals for promoting sustainable development principles that translated into the law on best available technologies adopted by the State Duma in 2014. The law calls for harnessing cutting-edge environmentally friendly technologies and international best practices to bolster Russia's economy and improve its efficiency.

The conceptual framework for the transition of Russia to sustainable development requires a balanced approach to environmental protection and the management of natural resources to meet the needs of current and future generations. Advanced and environmentally friendly technologies are the foundation of environmentally sustainable development. The promotion of environmentally sustainable transport and renewable energy, including wind power technologies, play a central role in achieving sustainable development objectives.

The Innovation Development Working Group took part in the discussion and development of proposals for a federal-level government program outlining comprehensive measures to promote environmentally sustainable transport.

Solution

Propose recommendations and draft regulations for the development and implementation of new safety standards to increase environmental sustainability:

1. Continue work under the federal-level government program outlining comprehensive measures to promote environmentally sustainable transport

2. Develop clear standards on environmentally sustainable motor vehicles in Russia with a focus on measures to support light vehicle producers, as well as link tax and other incentives for vehicles users to the environmental class of the vehicles

3. Create favorable conditions and develop a legal framework for environmentally sustainable transport

3. Increase government support for electric and hybrid vehicle initiatives through:

(1) The existing zero rate of customs duty on EVs

(2) Reduced customs duty on plug-in hybrids

(3) Tax credits for the purchase of EVs/ plug-in hybrids (e.g., a lower rate of VAT)

(4) Tax incentives and subsidies for the use of EVs / plug-in hybrids

(5) Non-monetary benefits for users of EVs / plug-in hybrids (the use of public transport lanes or parking privileges)

(6) Restrictions on non-electric vehicles (restrictions on entering the city center, etc.);

4. Support the development of the infrastructure to provide charging and other services to EVs and plug-in hybrids

5. To ensure the effective enforcement of a directive issued by Russian Prime Minister Dmitry Medvedev in August 2015 to incorporate EV charging stations into existing filling stations, it is feasible to harness the experience of FIAC member companies in manufacturing and operating EVs and building advanced, rapid charging stations that can be used at fire and explosion-prone facilities such as nuclear power stations based on international practices

6. Develop and adopt federal regulations for the installation of advanced EV rapid charge points at filling stations and EV parking facilities, adapt international quality standards for related imports into Russia, simplify certification procedures for new, environmentally friendly goods and technologies and eliminate additional certification requirements for such goods and technologies in Russia

7. Draw up recommendations for improving the legal framework to promote renewable energy technologies in Russia

8. Increase government support for the manufacturing of wind turbines through:

(1) Establishing local content requirements for the wind power industry depending on the size of the market and margins and making other improvements to industry regulations

(2) Training and external consultations

9. Improve the business climate and legal framework for the development of renewable energy technologies and the construction of wind farms in Russia through drafting and adopting relevant regulations

Recommendations

- Continue work under the federal-level government program outlining comprehensive measures to promote environmentally sustainable transport (including light commercial vehicles)
- Develop clear environmental standards on motor vehicles in Russia and link the environmental class of motor vehicles to tax and other benefits for their owners
- Develop and adopt federal regulations on the installation of EV charging points at prospective EV parking places and existing filling stations
- Diversify energy sources through developing advanced, more environmentally friendly, cost efficient and economical energy technologies
- Accelerate work on the development and promotion of accessible and more environmentally friendly technologies to increase energy efficiency
- Place an increased focus on the manufacturing of wind turbines and the construction of wind farms subject to local content requirements to promote wind power that plays a central role in achieving sustainable development objectives
- Improve the tax regime for manufacturers of wind turbines
- Simplify certification procedures for new, environmentally friendly technologies and goods
- Adapt international quality standards for related imports into Russia
- Eliminate additional certification requirements for such goods and technologies in Russia

Issue 5. Human capital plays an important role in the country's investment attractiveness. It is essential to ensure cooperation between educational institutions and FIAC member companies in training specialists who will engage in the development and commercialization of innovative technologies, as well as in conducting advanced R&D and increasing the competitiveness of Russia's higher education system Through cooperation between higher education institutions and international technological companies participating in the FIAC, it is critical to create the right conditions for Russia's leading higher educational institutions to improve their reputation in the global arena and increase their international profile and ensure that 8 to 10 educational institutions join the elite of world-class research centers.

Higher education and professional training specialists have little knowledge of modern and prospective technologies, effective training practices or applied and fundamental breakthrough research to advance the industry's interests. The shortage of skilled workers is a major concern today. This can adversely affect the investment attractiveness of projects involving modern production, engineering and research.

Retaining and improving the knowledge potential is a key to Russia's sustainable development. It is critical to stimulate knowledge sharing through supporting both young researchers and senior academicians

Knowledge-intensive industries, including high-tech, play a leading role in improving the life of communities and driving economic growth. The size of the knowledge-intensive sector and the role of high-tech in the economy are indicators of the country's R&D and economic potential.

Solution

To address the current imbalances, it is critical to take a series of measures, including

1) Develop recommendations for improving the content and methodology of education programs in order to raise investment appeal to the level of "skilled staff available"

2) Based on the international experience of FIAC member companies, develop and submit recommendations to the Russian Government on establishing an integrated education center (including distance learning and on-line consulting) to assist both universities' innovation centers and young innovators in commercializing their ideas and launching start-ups

3) Develop, in collaboration with development institutes, a roadmap for creating an infrastructure to enable the successful operation of universities' innovation centers

4) Develop recommendations for training in multi-disciplinary skills

5) Draw up proposals for the development and implementation of a certification program for engineers based on international best practices

6) Develop and (if there is sufficient financing) launch pilot projects in cooperation with the Ministry of Education and Science. Assess the effectiveness of pilot projects and develop recommendations for their rollout

7) Partner with FIAC member companies to develop recommendations for the Federal State Educational Standard on bachelor's degree programs in engineering and management, assess the quality of educational programs and training processes and update educational programs based on technology advances

8) Develop, in collaboration with the Russian Ministry of Education and Science, recommendations for setting up learning centers to train students, researchers and engineers in innovative entrepreneurship skills, including business management and entrepreneurship, technology marketing and sustainable development planning

9) **Postgraduate education programs for the academic staff play an important role in strengthening further the country's knowledge potential. It is critical to develop, in collaboration with the Ministry of Science and Education, mechanisms of encouraging integration between international companies, higher education institutions and the academic community through the establishment of new centers and other measures to enhance postgraduate training. It is essential to implement new postgraduate training models based on international best practices.**

Recommendations

1) **Administrative staff of higher education institutions:** develop, in collaboration with the Ministry of Education and Science, further professional training programs to train the new generation of administrators and researchers at higher education institutions based on international best practices in organizing training processes, as well as applied and fundamental breakthrough research programs in cooperation with industry and in line with its interests

2) **Cooperate with the Russian Ministry of Education and Science and directly with higher education institutions and colleges in Russia** in developing innovation consulting centers at Russia's higher education institutions using technological platforms, as well as increasing the competitiveness of the country's s higher education system (through the development of further and advanced training programs). Identify the required competencies and educational institutions best suited to develop them

3) Engineering training: Develop, in collaboration with the Ministry of Education and Science, recommendations for “New Engineering Training” programs (providing training in multi-disciplinary skills, developing “clouds” of related competencies under basic education programs and introducing new degrees such as engineer/entrepreneur and engineer/product manger).

4) **University-industry knowledge transfer:** Sum up best practices of FIAC member companies and develop recommendations for the efficient forms of university-industry cooperation (basic departments at higher education institutions, internships, learning and certification centers, including distance learning and on-line consulting, innovation centers using technological platforms, rapid prototyping centers, small-scale production, etc.). The Ministry of Education and Science has proposed a number of measures to improve cooperation between high education institutions and FIAC member companies, including:

- Include companies' representatives in the working groups that are developing the federal state educational standards for innovative sectors
- Develop sustainable and long-term academic and cultural relations between higher education institutions and companies
- Hold the following events at higher education institutions jointly with companies: workshops, conferences, roundtable discussions and forums on mutually beneficial R&D priorities
- Organize joint marketing campaigns for advanced technologies
- Establish expert councils on research and education with the participation of businesses, partner with companies to assess the quality of learning programs and the efficiency of training
- Improve the legal framework (Decree No. 218 of the Government of the Russian Federation of 9 April 2010 “On Government Measures to Support the Development of Cooperation between Russian Higher Education Institutions and Organizations which Implement Comprehensive High-tech Production Projects,” etc.) to create favorable conditions for the participation of foreign companies that have a large high-tech potential and best available technologies in joint R&D and innovation activities
- Involve the Innovation Development Working Group of the FIAC in work performed by the Commission for Russia's Economic Modernization and Technological Development, Skolkovo and other development institutions
- Provide training to company employees at higher education institutions (retraining and further training programs)
- Organize further training and internship programs for the academic and administrative staff of higher education institutions at the premises of companies and provide joint training for highly qualified research personnel in line with business interests
- Set up departments at universities and other structural divisions to provide practical training at the premises of companies engaged in activities that are directly related to the students' major area of study
- Institute scholarships for students and grants for young instructors
- Set up internship and apprenticeship programs, including industrial and other training, for undergraduates and other students
- Conduct joint vocationally oriented activities for students to introduce them to cutting-edge technologies and promote foreign languages and cultures
- Promote science and technology competitions organized jointly by leading higher education institutions and businesses in the companies' innovation areas to award grants to winners for the development of technological solutions
- Jointly develop and produce visual learning aids, develop study guides, materials and other papers to aid teaching and training at higher education institutions
- Develop recommendations for improving the legal framework to create favorable conditions for the participation of foreign companies that have a large high-tech potential and best available technologies in joint R&D, innovation activities and commercialization processes

The further elaboration of these proposals may be critical to make interactions more efficient and improve cooperation between FIAC member companies and high education institutions in driving innovation development.

Issue 6. Driving the innovation growth of Russia's regions to increase their investment attractiveness.

According to numerous expert reports and Russian economic development forecasts, the country's GDP will slow down in the mid term under the current economic system. Russia's regions will play an increasing role, with a rapid growth in investment inflows to become their main priority. Innovative production, science, education and research will be among the key areas for investment. However, favorable conditions need to be created to attract investment into these sectors. The investment climate and conditions in the processing industry may have a low appeal for high-tech investors.

Solution

Identify the causes and impact of uneven distribution of foreign companies' innovative technologies across Russia

Russia's regions should adapt best practices of local successful innovative businesses to improve the infrastructure for innovations

Recommendations

1. Develop criteria for evaluating the investment attractiveness of Russia's regions for high-tech companies
2. Identify, in collaboration with the local authorities, the regions that are potentially most attractive for investment into high-tech sectors
3. Develop recommendations / a list of measures to attract investment into a region's innovative sectors
4. Implement a pilot high-tech project (a manufacturing facility, research center, etc.) in a region regarded as attractive for that purpose
5. Create conditions for the successful adoption and adaptation of international leading practices in driving regional innovation growth

2.11. Development of the Far East and Siberia

Report on the working group's activities in 2015 and plans for 2016

Promote foreign investments in the Far East and Siberia, and provide guidance for foreign investors by demonstrating successful, positive investment experience on the part of the FIAC member companies:

1) In 2015, top officials from Sakhalin Region, Magadan Region and Omsk Region, as well as officials from the Offices of the Plenipotentiary Envoys of the Russian President in Siberia and the Far East, the Ministry for Economic Development and the Ministry for the Development of the Far East addressed FIAC members at the working group's Investment Session, and gave information on the investment advantages and projects of their regions.

In 2010 – 2015, working-group members were addressed by top officials from the Republic of Sakha (Yakutia), Primorsky Territory, Amur Region, Magadan Region, Irkutsk Region, Krasnoyarsk Territory, Sakhalin Region, Khabarovsk Territory, Tuva, Buryatia, Chukotka, Kamchatka, Jewish Autonomous Region, Novosibirsk Region, Zabaikal Territory, Altai Republic, Tomsk Region, Altai Territory, Kemerovo Region and Omsk Region, and by representatives of the Offices of the Russian Presidential Envoys to the Far East and Siberia, the Ministry for Economic Development and the Ministry for the Development of the Far East.

2) In 2015, major corporations, banks and organizations which are currently not FIAC members have been invited to attend the working group's Investment Sessions. A number of major global corporations, organizations and banks that have a wealth of investment experience throughout the world are poorly informed about what FIAC does and how effective its efforts have been.

Representatives of several companies – JBIC (Japan Bank for International Cooperation), Nomura Research Institute, Japan External Trade Organization (JETRO) and JOGMEG (Japan Oil, Gas and Metals National Corporation) – took part in the Investment Sessions in 2012 – 2015 and are keen to do so in the future.

The involvement of such companies and organizations will stimulate FIAC’s work.

This issue should be continuously coordinated with the Russian Ministry for Economic Development.

3) In October 2013, the working group held the first meeting with the new leadership of the Ministry for the Development of the Far East headed by Minister A.S. Galushka, where they discussed joint work and set out further steps to attract foreign investments into the Russian Far East. The meeting resulted in the decision to establish close cooperation between the members of the FIAC working group and the ministry, "to be agents at the localities", to hold an international expert analysis of the situation in the regions on the basis of the company's global business experience, and to provide information on topical issues in the regions of the Far East in order to promote its rapid development and help attract foreign investments into that area. An agreement was also reached on direct contacts with the ministry's top officials in order to arrange meetings of FIAC member companies and promptly resolve pressing issues. For this purpose, the ministry's top officials and FIAC member companies hold traditional regular meetings every year before the main event – the FIAC Plenary Session in October.

Work plan for 2016

Cooperate and promote relations with the Ministry for the Development of the Far East and the Offices of the Plenipotentiary Envoys of the Russian President in the Far Eastern and Siberian federal districts.

Continue to hold Investment Sessions with officials representing the regional authorities of the Far East and Siberia, as well as the Offices of the Plenipotentiary Envoys of the Russian President in the Far Eastern and Siberian federal districts.

Invite major corporations, banks and organizations which are currently not FIAC members to attend the working group's Investment Sessions. This issue should be continuously coordinated with the Russian Ministry for Economic Development.

Cooperate with the organizing committees of forums held in the Far East (Eastern Economic Forum in Vladivostok) and Siberia (Baikal Economic Forum in Irkutsk).