

July 2017 года

## Russian Legislation Update

### ACCOUNTING

#### Doubtful debts: the Ministry of Finance provided elucidation concerning insurance compensation

According to the Ministry of Finance, if the company has insurance coverage, debts are set off by insurance policy within the insurance policy limits. Such debts cannot be recognized as doubtful since they will be paid off.

Note that this is the first time the Ministry of Finance has drawn that conclusion.

Source: the RF Ministry of Finance Letter No 03-03-06/1/31890 dated May 24, 2017

#### The Central Bank continues reducing the key rate

The key rate will be reduced to 9% from 9.25% p. a. as from June 19, 2017. The next change is expected on July 28, 2017.

The key rate is used to calculate interest rates under Article 395 of the Civil Code and legal interests.

Source: The Bank of Russia Notification dated June 16, 2017

## Change of electronic document management operator: the tax inspectorate must be informed of the new address of the taxpayer

The Federal Tax Service of Russia elucidates:

The tax inspectorate must be notified of the new address of the taxpayer to which the inspectorate could send electronic documents via telecommunication channels. The address in electronic form should be sent via the electronic document management system.

Source: The Federal Tax Service of Russia, Letter N ED-4-15/7716@ dated April 21, 2017

### PAYROLL ACCOUNTING AND HR RECORDS MANAGEMENT

## Payment for overtime work during weekends and non-working public holidays (the RF Labor Code, Article 152)

It is specified by the legislative authority that an employee who has received pay or another day off for work performed beyond the normal working hours during weekends or non-working public holidays is not entitled to a higher pay rate.

It is also made it clear that work performed by an employee beyond the standard working hours during weekends and non-working public holidays **is not considered overtime work anymore**. In that case, work is paid for in accordance with the general rules on payment for work during weekends and non-working public holidays.

If a workday/shift falls on a weekend/public holiday, the employee receives higher pay only for those hours that are actually part of the weekend/holiday.

## Payment for days off for caring for a handicapped child is not liable to income tax

According to the Ministry of Finance, whether or not personal income tax must be deducted in this situation should be determined on the basis of the 2010 Act of the Presidium of the Supreme Arbitration Court of the Russian Federation. The Court found that that payment for additional days off to one of the parents to care for a disabled child is not subject to personal income tax.

In 2017, the Ministry of Finance already informed that it is this judicial act that must be applied.

Interestingly, in 2015 and 2016 the Ministry did not support this decision of the Presidium of the Supreme Arbitration Court, nor did the Ministry instruct to abide by it.

Organizations should take the latest explanations of the Ministry into account.

Source: the Ministry of Finance Letter No. 03-04-06/22380 dated April 14, 2017

## The Supreme Court of the Russian Federation: Exemption from personal income tax also applies to severance pay if the employment contract is terminated by mutual agreement

The Supreme Court argues that:

- according to the RF Labor Code, the cases where severance pay is granted to an employee can be listed in the employment contract;
- employment severance agreement is an integral part of the employment contract;
- under such an agreement, severance pay is exempted from personal income tax within the established limits.

The Ministry of Finance and the Federal Tax Service have the same opinion.

Source: The RF Supreme Court Decision N 307-KG16-19781 dated June 16, 2017

## The Ministry of Labor: Payroll advances should necessarily include premium pay for overtime work. This means that payroll must be generated twice a month.

Specialists of the Ministry of Labor in letter № 11-4/OGG-718 dated April 18, 2017 recommend that not only salary be paid twice a month, but also pay for work:

- overtime;
- nights;
- on public holidays.

The RF Supreme Court Decision No 18-AD17-6 dated March 3, 2017:

The Supreme Court has examined a dispute between a company and the labor inspectorate. The company withheld the payment of wages to an employee three times.

Every time the payment was delayed by several days.

The law stipulates that penalties should be imposed on companies and company officials for delay in the payment of salary/wages to employees. It is required by law that the companies must pay the highest penalty: up to 50,000 rubles. Directors and chief accountants are liable to pay a penalty of up to 20,000 rubles (The Russian Federation Code on Administrative Offenses, Article 5.27, Part 6).

The limitation period for imposing penalties for labor law violations is one year (the RF Code on Administrative Offenses, Article 4.5, Part 1).

## The Federal Tax Service has explained how to have your contribution account balance as of January 1st corrected

A written request should be sent to the Pension Fund/Social Insurance Fund's office which reported the wrong balance to the Tax Service. The Pension Fund/Social Insurance Fund will report the error to the tax inspectorate which should specify the amount of arrears. There is no specific form that must be used to write the request.

Source: the RF Federal Tax Service Letter N ZN-2-22/714 @ dated of June 07, 2017

## Infringements in personal data handling

The range of administrative sanctions/penalties for violating the personal data protection legislation of the Russian Federation will be widened as from July 1, 2017; the size of penalties will also increase.

Before July 1, 2017, liability for infringements in handling personal data was under the Russian Federation Code on Administrative Offenses, Articles 13.11 and 13.14. The maximum penalty was 1,000 rubles for company officials and 10,000 rubles for legal entities.

Among the most important changes to come into force on July 1, 2017 are the following:

- (1) if the processing of personal data is performed without the data subject's consent, the company and its officials can be fined 75,000 rubles and 20,000 rubles, respectively;
- (2) if a company does not inform an employee of processing his/her personal data, penalties of up to 40,000 rubles and up to 6,000 rubles can be imposed on the company and its officials, respectively;
- (3) if a company fails to comply with a request from a data subject (e.g. an employee or his/her representative) for alteration, blocking or destruction of his/her personal data

(if the personal data are inaccurate, outdated, illegally obtained or unnecessary for the specified purposes for which the personal data is processed), an administrative penalty of up to 45,000 rubles can be imposed on the company and company officials can be fined up to 10,000 rubles.

To comply with data protection regulations, you are recommended to check:

- if there are written consents of data subjects to the processing of their personal data;
- whether your company has developed and approved regulations on the collection, transfer, and storage of personal data; whether all employees, as well as other persons whose personal data are processed by your company, are familiarized with the regulations;
- whether there are approved rules concerning access of employees to process the personal data of other employees;
- if there are persons appointed to be responsible for the processing of personal data.

Source: Federal Law N 13-FZ dated February 07, 2017 “On Amendments to the Russian Federation Code on Administrative Offenses”

## LABOR AND MIGRATION LEGISLATION

### On amendments to the Labor Code of the Russian Federation (hereinafter referred to as “the RF LC”) which will come into force on June 29, 2017

(Introduced by Federal Law No 125-FZ dated June 18, 2017 “On Amendments to the Labor Code of the Russian Federation”)

#### **Part-time employment (RF LC, Article 93)**

As from June 29, 2017, it can be agreed between the employer and the employee that the latter works on a part-time basis; this can be done either on the first day of the employment or later. Part-time work terms can be fixed for a certain period or without date.

If an employee of certain category (a pregnant woman, one of the parents (guardian) of a child under the age of fourteen years, etc.) makes a part-time working request, the employer should allow the employee to work part time as long as it is convenient for the employee provided that eligibility criteria are met. However, the employer should take the company's conditions into account when defining the work and rest schedule for such employees.

**Irregular working hours (the RF LC, Article 101)**

In accordance with the amendments, part-time employees can work irregular working hours, provided that they work full workdays (shifts) during short weeks. Earlier, employees who worked shorter workdays (shifts) were also allowed to work irregular working hours.

**Rest and meal breaks (the LC RF, Article 108)**

An employer may not provide employees who work less than 4 hours a day with meal breaks. In that case, the no-meal-break condition should be stipulated in the company's regulations or employment contracts.

## Minimum wage will increase as from July 1, 2017

(Federal Law No 460-FZ dated December 19, 2016 "On Amendments to Article 1 of the Federal Law on Minimum Wage; the Government of Moscow Decree No 355-PP dated June 13, 2017; 2017 St Petersburg Regional Agreement on Minimum Wages)

The federal minimum wage will be 7,800 rubles a month as from July 1, 2017.

The regional minimum wage will be 17,624 rubles and 16,000 rubles a month in Moscow and St Petersburg, respectively. It is recommended that the wages that are below the above-specified values should be promptly brought into line with the regulations to avoid penalties to be imposed by the supervisory bodies.

Note that it is possible under certain circumstances to avoid wage adjustment:

an employer has to send a reasoned written refusal of joining the regional minimum wage agreement to the regional authorized executive body of the Russian Federation within 30 days of official publication of the offer to join the regional agreement on minimum wages.

## New rules for migration registration in the Russian Federation in connection with the 2017 FIFA Confederations Cup football matches to take place from June 1, 2017 to July 12, 2017

(introduced by RF Presidential Decree No. 202 dated 9 May 2017 "On Special Aspects of Additional Security Measures during matches of the 2018 FIFA World Cup and the 2017 FIFA Confederations Cup in the Russian Federation)

During this period, all foreign citizens visiting Moscow, St Petersburg, Kazan, and Sochi must be registered **within 24 hours** of their crossing the national border of the Russian Federation. This requirement applies to all foreign citizens, including highly skilled specialists. Russian citizens must be registered at the place of stay/residence within **3 days** of the date of their arrival in the aforesaid cities of Russia.

Note that only the local offices of the Migration Department of the Ministry of Internal Affairs are authorized to perform registration. It is not allowed to notify of foreign citizens' arrival by post or through Multifunctional Centers.

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