



November 2017

Russian Legislation Update

ACCOUNTING

The Bank of Russia decided to reduce the key rate to 8.25% per annum

The amendment has become valid since October 30, 2017. It will enable to reduce the tax burden while calculating and paying penalties and fines, as well as make other payments that include the key rate. The subsequent adjustment of the rate is planned after December 15, 2017.

Source: The Bank of Russia information, dated October 27, 2017@

The RF Ministry of Finance clarified the VAT deductions that cannot be roll over to subsequent tax periods for three years

The letter of the Ministry of Finance has announced the VAT that cannot be declared for periods other than the period when the right to such a deduction had arisen:

- VAT paid by a purchaser - taxpayer;
- VAT presented to non-resident companies, which are not registered as taxpayers in the territory of Russia;
- VAT subjected to recovery in case of the return of goods, refusal of services and other changes of the contract terms;
- VAT claimed as deductible at construction and assembly of fixed assets;
- VAT paid on business trips and hospitality;

- VAT assessed on the received advance payment;
- VAT paid on unconfirmed exports;
- VAT calculated upon receipt of the share capital contribution;
- VAT calculated after a value of a good or service has been changed.

Source: The RF Ministry of Finance Letter No.03-07-11 / 67480 dated October 17, 2017@

PAYROLL ACCOUNTING AND STAFF RECORDS MANAGEMENT

Large families will be able to take annual leave at a convenient time

The State Duma introduced amendments to the RF Labor Code, Article 257.1, that give the right to employees with three and more children under the age of 12, to go on vacation at a convenient time.

At present just one parent (guardian, caregiver, foster parent) who brings up a disabled child under 18 years old has the right to a paid annual vacation at a convenient time (the RF Labor Code, Article 262.1). Additionally, juvenile adult workers, combat veterans, honored donors, spouses of military servicemen, Chernobyl victims, Heroes of the Soviet Union and the Russian Federation and full cavalier of the Order of Glory and other beneficiaries have similar preferences.

Penalties for late tax payments will be calculated according to the new rules published on the website of the Federal Tax Authority

The amount of penalty will depend on the time of tax deficiency. There are three possible rates:

- 1/300 of the base rate for an outstanding amount formed by October 1, 2017 (considering the settlements received in the subsequent periods);
- 1/300 of the base rate for an outstanding amount occurred after October 1, 2017, if the delay is less than 30 calendar days inclusive;
- 1/150 of the base rate for an amount of debt occurred after October 1, 2017, if the delay is more than 30 calendar days.

Alimony can now be withheld under a copy of the writ of execution

Amendments to Federal Law No.229-FZ dated October 2, 2017, Article 98, Part 3, specify that from June 9, 2017, alimony can be withheld under a copy of the writ of execution, but only if the copy was sent by a court bailiff.

The claimant should still provide the original. If the original is lost, the claimant should make a duplicate. Previously, the employer had the right to withhold alimony from wages only based on the original writ of execution.

Source: Federal Law No.101-FZ dated May 28, 2017@

The Ministry of Finance has explained how to impose personal income tax on the maternity cash aid for a childbirth

Letters by the RF Federal Tax Authority specify that maternity cash aid for a childbirth is the PIT exempted if its amount does not exceed 50,000 rubles for each child and if it is paid within a year from the date of birth. A non-taxable limit applies to each parent, the Ministry of Finance notes.

Source: The RF Federal Tax Authority letter No. GD-4-11/20041 dated October 5, 2017@;
The RF Federal Tax Authority letter No. GD-4-11/20043, dated October 5, 2017@

LABOR AND MIGRATION LEGISLATION

The Supreme Court has decided that an employee dismissal is illegal if it is done according to a copy of the resignation application

The RF Supreme Court considered the matter on an improper dismissal of an employee according to a copy of his resignation application. However, the employee kept the original and did not provide it to the employer. The company executed the dismissal according to a copy of the application. The employee did not admit the decision and appealed to the court.

The Supreme Court regards that a copy of the application does not prove the employee voluntary will.

The given information could be useful to employers who draw up the termination of labor relations with employees based on a fax or e-mail copy of the dismissal application.

Source: The RF Supreme Court ruling No. 20-KG17-7 dated September 11, 2017@

The RF Supreme Court explained the main difference between an employment contract and independent contractor agreement

The RF Supreme Court has specified the distinctive features of an employment contract and independent contractor agreement that will help to determine which contract to conclude with an individual in each particular case.

The court stresses that the purpose of the contractor agreement is to obtain a specific result, and not to perform the work as such. The subjects of the contractor agreement and employment contract differ; also, the contractor under the agreement acts as an independent economic entity and works at its own risk. The contractor does not bear any risk associated with labor.

At the same time, the employee follows the labor routine of a particular employer, works under his supervision and leadership.

When choosing which contract to conclude with an individual, it is worth remembering that conclusion of an independent contractor agreement instead of an employment contract, may cause a fine of up to 20,000 rubles to an official and up to 100,000 rubles to a legal entity.

Source: The RF Supreme Court decision No. 66-KG 17-10 dated September 25, 2017@

DISCLAIMER:

The information contained in this communication has been provided by ABU Accounting Services for information purposes only and shall not be regarded as professional legal and/or tax advice. ABU Accounting Services (MSRN 1027739238570) shall not be liable for any loss whatsoever sustained by any person in respect of this communication.