

December 2017

Russian Legislation Update

ACCOUNTING

The RF Ministry of Finance: how to apply the VAT offset from the received advance, the part of which was transferred to another/new contract

The Russian Ministry of Finance has considered the following situation. A company has received an advance for services rendered and paid appropriate VAT. Then a part of the advance was set off against the payment of services under another agreement with the same customer. The company concerned on the VAT previously paid to the budget.

The Ministry reported that the tax should not be subjected deductible based on The Tax Code, Art. 171, Cl. 5. The necessary conditions have not been fulfilled in the examined situation:

- The Parties have not amended or terminated the first agreement;
- The legal entity has not returned.

The Minister of Finance finds that VAT can be accepted for deduction based on the Tax Code, Art. 171, Cl. 6 and Art. 172, Cl. 6 after the date of rendering services under the new agreement. In this case, the deduction amount shall be determined in proportion to the part of the prepayment that has been offset.

NB! The Ministry has already expressed a similar opinion, considering the case of the goods delivery. The difference is that the prepayment was fully offset.

Source: The RF Ministry of Finance Letter No. 03-07-11/72105 dated November 2, 2017

Taxi fares for working trips can be recognized as the income tax expense

The RF Ministry of Finance considers that the taxi expenses can be included in expenses if they relate to activities aimed to income generation, are economically justified and documented.

The company could be held harmless from any claims if there is an internal order or local act with a list of employees allowed to travel by taxi. It could also specify the reasons for taxi use, such as the lack of company's cars and need to solve tasks effectively. A register book where the employees record the travels would be appropriate.

It would be easier to documentary confirm costs and purposes if signing an agreement with a taxi company. In such a case the employees have not to collect receipts and checks, because the employer does all the calculations. In addition, it is possible to agree acts and travel routes with the transport operator.

We remind that the Ministry has already advised how to enter the taxi expenses in business trip, and when deliver personnel from home to work and back. We believe that it is better to include a trip to a representative meeting in the meeting report.

Source: The RF Ministry of Finance Letter No. 03-03-06/1/68839 dated October 20, 2017

Compulsory separate VAT accounting even if the Five Percent Rule is met

The draft passed the third reading with the following amendments:

- Implementation of the Five Percent Rule will allow, as now, to claim the input VAT credit in full. However, there will be no possibility of keeping separate records;
- The Russian Tax Code will fix that the Five Percent Rule does not work when the goods are used in non-taxable operations only. Now the Ministry of Finance, the Federal Tax Service and the Supreme Court of the Russian Federation uphold this position.

The document is planned to come into force in 2018.

Source: Draft Federal Law No. 274631-7. Adopted in the third reading on November 16, 2017

PAYROLL ACCOUNTING AND STAFF RECORDS MANAGEMENT

107 approved checklists for planned inspections of employers

From January 2018, labour inspectors will use checklists that employers can use right now.

Checklists will help to assess the accuracy of:

- Employment Registration;
- Amendments to labour contacts;
- Paid leave provision;
- Wage determination and payment;
- Termination of labour relation.

Source: Order of Federal Service for Labour and Employment Rostrud No. 655 dated November 10, 2017 (effective from January 1, 2018)

Compensation for working trips by a private car is not assessed

No contribution should be charged on the compensation for the use of a personal car, which the company and employee provided for in an agreement.

Source: The RF Ministry of Finance Letter No. 03-15-06/69146 dated October 23, 2017

Employee does not need to apply to the employer for the 2-NDFL certificate

The Federal Tax Service of Russia announced the new function in the service 'Personal account of the individual taxpayer'.

Up to date a person could only see an income certificate (2-NDFL) in the Personal Area; now he/she can download it to own computer. To do this, the person needs to use link 'Download with an electronic signature' in section 'Personal income tax and insurance premiums'.

The certificate is downloaded as a pdf and xml file, confirmed by the enhanced encrypted and certified digital signature of the Federal Tax Service of Russia.

It is explained how to verify the authenticity of the electronic signature in the certificate.

Thus, it is no longer necessary to apply for a certificate at the work place.

Source: Information by The Federal Tax Service of Russia, dated November 2, 2017

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