

April 2018

Russian Legislation Update

ACCOUNTING

In exceptional cases, tax debts will be paid off at the expense of officials of a legal entity

The Ministry of Finance decided to remind of the position of the RF Constitutional Court, which says that the taxes underpaid due a director or accountant's crime are exacted from the organization. When it is impossible, then the suit could be claimed to the individual. The taxes from officials could be demanded without waiting for the moment when to receive a debt from the organization will be impossible.

It is worth noting that the mentioned position of the Constitutional Court applies not only to taxes, but also to penalties. This position is not applicable to fines, they can be claimed from a legal entity only.

Source: The RF Ministry of Finance Letter No. 03-02-08/9589 dated February 15, 2018

When to correct errors in the income tax in the current period? Reminder of the Ministry of Finance

An organization has the right to correct the error that had led to the overpayment of the profit tax in the past period in the current reporting or tax period, if it has received a profit in it. If the period turned out to be unprofitable, the tax base shall be recalculated

for the period when the mistake occurred. Earlier letters from the Ministry of Finance contains the similar position.

Source: The RF Ministry of Finance Letter No. 03-02-07/1/9766 dated February 16, 2018

The demand to get explanations to the tax return may help to avoid a fine

A request sent to a taxpayer to submit explanations to the tax return does not mean an error in the previously submitted form. Detected inaccuracies, which lead to the underpaid tax is confirmed only by the tax audit. In other words, the organization can pay the missed amount including penalties, and file an updated tax return even having received a request for explanations to the calculation. There will not be any penalty for non-payment, if you have done everything before the act drawing up. This follows from the letter of the Federal Tax Service.

We advise taxpayers to consider this letter of the Federal Tax Service more thoroughly. In case of the appeal of the additional taxation in the tax authority, it can play a key role: there may not be a fine for the tax non-payment.

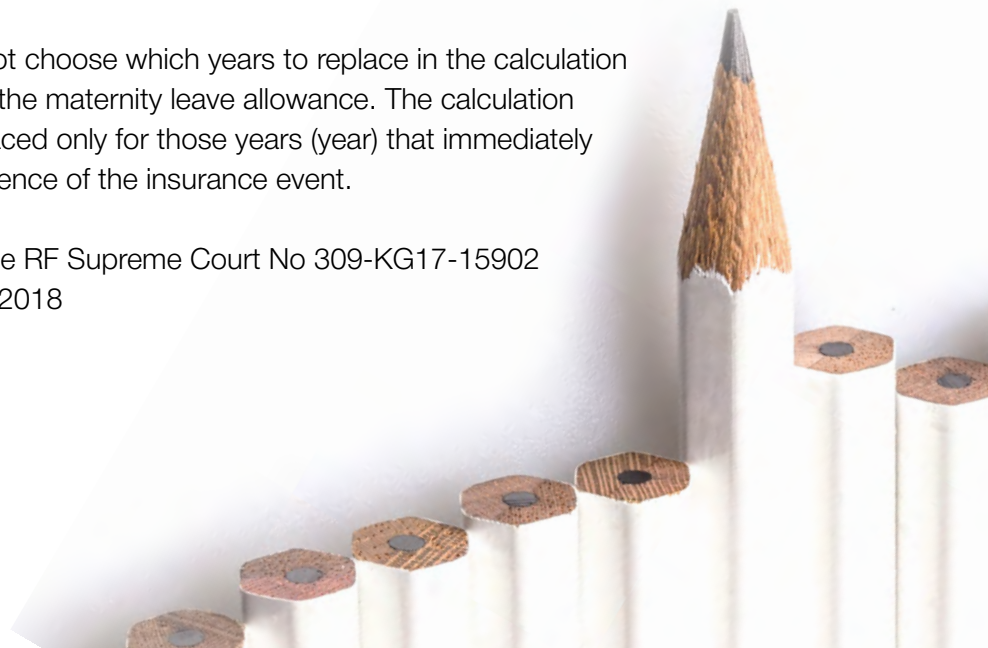
Source: The RF Federal Tax Service Letter N CA-4-9/3514 dated February 21, 2018

PAYROLL ACCOUNTING AND STAFF RECORDS MANAGEMENT

The Supreme Court specified how to choose the years to calculate the maternity leave allowance

An employee cannot choose which years to replace in the calculation period to calculate the maternity leave allowance. The calculation period can be replaced only for those years (year) that immediately precede the occurrence of the insurance event.

Source: Letter of the RF Supreme Court No 309-KG17-15902 dated February 12 2018



The Ministry of Labor has specified the working time of the part-time worker in case of a business trip at the main place of work

If an employee is sent on a business trip at the main place of work, he / she can apply for an unpaid leave at the part-time job. The Ministry of Labor advises to include the provision on unpaid leave for a business trip at the main place of employment in the employment contract on part-time work.

Source: Letter of the RF Ministry of Labor No. 14-2 / B-149 dated March 5, 2018

The employment contract could be added by the clause about the employee's obligation to report on changes in his / her personal data

To avoid possible problems due to irrelevant information of the employee, the employment contract can include the obligation to inform the employer about any changes of a family name, residence or other personal data.

Source: Review of hot-spot issues of employees and employers, February 2018
<https://onlineinspector.ru/>

LABOR AND MIGRATION LEGISLATION

The Federal minimum wage increase

From May 1, 2018, the minimum wage in Russia will be increased up to 11,163 rubles per month. To date, the minimum wage is 9,489 rubles per month.

Source: The RF Federal law "On Amending Article 1 of the Federal Law "On the Minimum Wage Amount" No. 41-FZ dated March 7, 2018

New draft Federal law provides for liability for violation of the employee's right to change a credit organization where the wage is transferred

In accordance with the text of the draft law, those employers who will prevent employees from changing the credit organization will be subject to the same sanctions that are currently envisaged for non-payment of wages in due time, namely:

- Warning, or
- Imposing of administrative fine (10,000 - 20,000 rubles for officials; 1,000 - 5,000 rubles for individual entrepreneurs; 30,000 - 50,000 rubles for legal entities)

Source: Draft Federal Law "On Amending the RF Code on Administrative Offenses, Article 5.27, Part 6"

The RF Ministry of Labor has developed a draft order on the approval of standard contracts on provisioning training in occupational safety and assessment of working conditions

The subject of such standard contracts is provision of educational services on occupational safety. The executor under such a contract can only be a licensed educational organization that is included in the register of the organizations accredited for the right to provide training on labor protection for employers and employees.

Source: Draft Order of the RF Ministry of Labor "On the approval of standard contracts on provisioning training on occupational safety for employers and employees and special assessment of working conditions"

On March 13, 2018, a draft law establishing responsibility for facilitating illegal migrants was introduced in the State Duma

In particular, the draft adds the RF Criminal Code, Article 322.1., which establishes the responsibility for organizing the illegal entry of foreigners into the Russian Federation, and their illegal stay. In accordance with new amendments, fine of up to 80,000 rubles, or forced labor for the period of up to two years, or imprisonment for the same period, could be applied to persons who "deliberately assist in the commission of the crime by instructions, information provision or removal of obstacles to its commission".

Source: Draft Federal law "On Amending the RF Criminal Code, Article 322.1 and the RF Code of Criminal Procedure, Article 150"

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