



September 2018

Russian Legislation Update

ACCOUNTING

VAT desk audits: courts let taxpayers not to submit turnover balance sheets

A turnover balance sheet is an accounting register, and it is not necessary to require that a taxpayer provides this document for VAT verification. Therefore, it is improperly to hold liable a taxpayer who has not submitted the return form with the VAT claimed for reimbursement during the desk audit.

Source: Resolution of the Arbitrary Court of the West Siberian District on Case N A67-6742/2017 dated July 27, 2018

Inaccurate tax return: the tax inspection has no right to reject admission

The court took the side of the taxpayer, when the Tax Inspection refused to accept a declaration with errors.

The administrative regulation provides for an exhausted list of grounds when the inspection can refuse to accept the return. The court stressed that the notification dispatched to the taxpayer did not include the exact errors made in the tax return form. The Tax Inspection failed to prove that the form:

- Excludes a fortified electronic signature of the company manager;
- Is filed improperly;
- Excludes the required reference details.

It was also not proved that the data related to the signature certificate owner varies from the taxpayer manager. Hence, there was no ground to reject the tax return form. The argument of the inspection that the form contains incomplete and unreliable data, and the taxpayer is unfair, did not succeed. The court recalled that it was impossible to reject the tax return for these reasons.

Source: Resolution of the Arbitrary Court of the West Siberian District on Case N A67-9224/2017 dated July 25, 2018

IFTS has the right to review the period exceeding three calendar years as a part of an on-site audit

An on-site tax audit may review a period that is less than three calendar years preceding the year when the decision on the audit has been made. The Ministry of Finance has indicated that the tax authorities are granted to include the reporting periods of the current year into the period to be audited.

The courts also support the Ministry of Finance.

We draw your attention to the position of the Federal Tax Service which says that taxpayers and payers of insurance premiums cannot be held accountable for failing to pay advance payments as for taxes so for insurance premiums, based inter alia on the Russian Tax Code, Art. 122.

For example, if an on-site audit is scheduled for the second quarter of 2018, the audited period may be from January 1, 2015 to March 30, 2018. At the same time, if inspectors reveal non-payment of VAT and advance payments of income tax for 2018, they may, under the Tax Code of the Russian Federation, Art. 122, impose a fine only on the VAT.

Source: The RF Ministry of Finance Letter N 03-02-07/1/52519 dated July 26, 2018

PAYROLL

Updated forms from the Federal Service for Labor and Wages (Rosstat)

The following forms are submitted in 2019:

- N 1-T (working conditions) “Working conditions and compensation for work with harmful and (or) dangerous labour conditions” — annual report for 2018;

- N 3-Φ “Overdue wages” — monthly report, as of February 1, 2019;
- N П-4 “Staff number and wages” — monthly report, starting from the report for January 2019;
- N П-4 (H3) “Part-time employment and movement of employees” — quarterly report, starting from Q1, 2019 report.

Generally, the updated reports do not differ greatly from the previous formats, but they have some important amendments:

- Report T-1: the submission deadline has changed from January 19 to January 21. The fill-in instructions specify that if a company has not acted for some time during the period, it should be mentioned in the report.
- Report N 3-Φ includes that if a separate business unit of a company located in some other territorial entity is closed, the information on the delay should be specified according to its location for the period of the debt formation.

Source: The RF State Statistics Service Order N 485 dated August 6, 2018

Payment for work on weekends, holidays and night hours

Based on the approach of Federal Labor and Employment Service (Rostrud), when an employer calculates an increased payment for work on weekends, holidays, overtime and night work, not only the wage tariff should be considered, but compensatory and incentive payments, which are parts of the wage system and include:

- Labor bonuses, which amount is predetermined (monthly premiums);
- Extra amounts for working a non-standard working day.

Source: Data by the Federal Labor and Employment Service (Rostrud) 4951/2018

LABOR LEGISLATION

The minimum wage will increase from January 1, 2019

The Russian Ministry of Labor has offered to raise the minimum monthly wage from 11,163 rubles to 11,280 rubles.

In the future, the minimum wage will be increased annually from January 1 in order to establish a general equality between the minimum wage and subsistence rate of the working-age population in the Russian Federation for Q2 of the previous year, in accordance with requirements of Federal Law N 421-FZ, Article 3 dated December 28, 2017 "On Amendments to Some Legislative Acts of the Russian Federation on Raising the Minimum Wage up to Subsistence Rate of the Working-age Population".

Source: Draft Federal Law "On Minimum Wage Amount Established from January 1, 2019"

Ministry of Labor plans to extend the deadline for employees' applications to change a credit organization

The Russian Ministry of Labor has prepared a draft Federal Law on amendments to Article 136 of the Labor Code of the Russian Federation.

At the moment, in accordance with the provisions of the mentioned article, if an employee wishes to change the credit organization where his/her wage is transferred, he/she should send an application on changing the details to the employer no later than five working days before the day of the wage payment.

This period is planned to increase up to fifteen calendar days before the day of the wage payment in order to exclude the risk when the employer fails to meet the requirements of the labor legislation related to the need to process too many applications from employees.

Source: Draft Federal Law "On Amendments to the Labour Code of the Russian Federation, Art. 136, part 3"

Increase of unemployment benefit from 2019

As the draft resolution of the Russian Government says, the minimum amount of the unemployment benefit is planned to increase up to 1,500 rubles, the maximum amount will be 8,000 rubles.

In addition, the draft resolution provides for to increase up to 11,280 rubles the maximum unemployment benefits for the persons of pre-retirement age (five years before the age that gives the right to the old-age insurance pension, including early retirement). This increase is considered within the program a compensatory measure of pension increase.

Source: Draft Resolution of the Government of the Russian Federation "On Minimum and Maximum Amount of Unemployment Benefit for 2019"

MIGRATION LEGISLATION

Ministry of Internal Affairs proposes to introduce a simplified procedure to obtain the Russian citizenship for highly-qualified specialists

A draft law has been brought in the Russian State Duma, which proposes to amend Article 14 of the Federal Law “On Citizenship in the Russian Federation”. Foreigners, working in Russia for at least one year from the date of application for the Russian passport, will be able to obtain the Russian citizenship under a simplified procedure. Now the term is three years.

Additionally the new document offers to review the list of the mostly demanded occupations, categories and positions at least every three years. According to the idea of the draftsmen, it will allow to quicker respond to the needs of the labor market.

Source: Draft Federal Law “On Amendments to the Law “On Citizenship in the Russian Federation”

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