



April 2019

Russian Legislation Update

ACCOUNTING AND TAX

VAT paid at customs can be deducted without a payment order

Federal Tax Service has clarified that if VAT on the imported goods was written-off a single current account of the organization, the tax transfer is confirmed by the bill of entry.

In this case, the purchase ledger contains only the registration number of the declared goods indicated in column 3 'Number and date of the seller's invoice'. Column 7 'Number and date of the document confirming payment' is left clear.

Source: RF Tax Service Letter N СД-4-3/3108 dated February 22, 2019

The State Duma introduced a bill on duplicate electronic documents: to store documents will be easier

Draft Federal Law N 657361-7 says that organizations and individual entrepreneurs will be able to create electronic copies of documents that will be identical to the paper versions. In this case, the shelf life of the original paper documents can be reduced. The duplicate shall contain all the details of the original document.

The draft law contains the list of documents for which electronic duplicates are planned. It includes primary accounting documents, accounting ledgers, financial reporting and audit opinions to the reporting.

Electronic documents can be transferred to the third parties according a checklist certified by an encrypted and certified digital signature.

Source: RF Draft Federal Law N 657361-7

The payback term of overpayment to the Federal Tax Service is not interrupted when reconciliation act with the tax authorities is signed

The company tried to recover the tax overpayment arising after the three-year limitation period. When the tax inspectorate refused to refund, the company appealed to the court, referring to the provisions of the Russian Civil Code that says that the limitation statute is interrupted if the debtor acknowledges the debt. The company considered the reconciliation act signed by the FTS as such an action.

However, the Moscow District Arbitration Court refused to refund the overpayment, since generally the date of overpayment is the date of the tax transfer to the budget. The only exception is when the taxpayer can prove that he did not know about the overpayment before some moment.

The court referred to the Tax Code that does not authorize tax inspectors to draw up acts on their own initiative or refuse to sign them. The Civil Law doesn't apply in this case.

Source: Resolution of the Moscow District Arbitration Court under case N A41-45928/2018 dated March 14, 2019

PAYROLL

How to deal with an employee replacing the person on maternity leave if the latest slides from one maternity leave to another

An employee slides from one maternity leave to another. In this case, the dismissal of an employee working on her position depends on how the parties have treated the term of the contract:

- If the contract is concluded for a specific period and an exact expiration date is indicated, it should be terminated on the specified date;
- If it is written that the contract is valid for the period while the child care person is on leave, then the temporary employee is dismissed on the next day after the leave ends.

In such situations the Ministry of Finance offers to terminate the current contract and sign a new one.

There is no need to terminate the contract if it does not include the date of its commencement and the reason for the main employee absence. In this case, the contract will continue until the main employee returns.

Source: RF Ministry of Labor letter N 14-2/V-139 dated March 7, 2019

Reduced rates for the employers paying premium rate contributions

The Federal Tax Service and the Ministry of Finance confirmed that the Companies paying premium rate contributions and using 10% rate should not pay pension contributions for the employees in excess of the limit base.

Source: RF Tax Service letter N BS-4-11/5055 dated March 21, 2019

Electronic format of the SNILS cards

From April 1, 2019 the certificates of compulsory pension insurance (SNILS) will no longer be issued. Data on the individual personal account will be presented in the electronic document.

Employers should know that the employees applying for a job can provide documents at their own choice. It could be:

- A document confirming the registration in the personalized filing system. It can be downloaded to the personal profile on the Pension Fund website. The information can be sent in electronic format;
- The SNILS card issued before.

Also, an employer should not any longer issue SNILS for workers who enter into an employment contract for the first time. Information about such employees shall be transferred to the local Pension Fund office only if they have not yet opened an individual personal account.

Source: Federal Law N 48-FZ dated April 1, 2019



LABOR LEGISLATION

The Russian Government has proposed a new procedure to replace a credit institution for the employee wage

The Government of the Russian Federation submitted to the State Duma two draft Federal laws amending the Russian Labor Code, Article 136 and the Russian Administrative Code, Article 5.72.

According to these drafts, the period during which the employee should notify the employer in writing about changing of the payment details for the wage transfer will be increased and will be fifteen calendar days before the date of the wage payment.

Additionally, it is proposed to include “obstruction by the employer of the employee’s exercise of the right to change the credit organization to which the wage should be transferred” as a separate administrative offense in the Russian Administrative Code, Article 5.27, Part 6.

Source: Draft Federal Law N 677255-7 “On amending the Russian Labor Code, Article 136, Part 3”, Draft Federal Law N 473887-7 “On amending the Russian Administrative Code, Article 5.72”

Approved standard contracts on rendering special assessment of working conditions and training of employers and employees in occupational safety issues; the approved employee information cards

On March 9, 2019, an order of the Ministry of Labor came into force that approved templates of information cards and contracts on provision of services on special assessment of the working conditions as well as training of employers and workers in labor protection issues. These templates are provided primarily for the state and municipal institutions engaged in occupational safety, however, commercial organizations can also use certain provisions from them.

The mentioned template contracts has the following structure:

- Subject of the contract;
- Price and payment procedure;
- Rights and obligations of the Customer and Provider;
- Delivery and acceptance of the services rendered;

- Liability of the Parties;
- Contract performance security;
- Confidentiality;
- Anti-corruption clause;
- Force majeure;
- Contract validity term;
- Miscellaneous.

In addition to the general provisions, the templates also provide for possibility to choose specific contract terms, such as distance trainings on occupational safety for employers and employees.

Source: RF Ministry of Labor and Social Protection Order N 834n dated December 24, 2018 “On approved standard contracts on rendering special assessment of working conditions and training of employers and employees in occupational safety issues; the approved employee information cards”

MIGRATION LEGISLATION

Check lists are in place to check companies and migration agencies

Since March 11, 2019, the Russian Ministry of Internal Affairs has introduced the approved checklists for routine inspection of legal entities and individual entrepreneurs attracting foreigners or stateless persons to work, as well as acting as host or inviting party.

Source: RF Ministry of Internal Affairs order N 42 “On approval of checklist forms (checklists) used in compliance with the requirements of migration legislation of the Russian Federation by legal entities and individual entrepreneurs who recruit foreigners and stateless persons to work in the territory of the Russian Federation, as well as legal entities and individual entrepreneurs who in accordance with the legislation of the Russian Federation are the host or inviting party” dated January 1, 2019

The procedure of foreign citizens and stateless person registration has changed

Since March 20, 2019 new requirements for migrant registration has entered into force. The Decree of the Russian Government introduces some changes related to notification of the arrival of a foreign citizen at the place of stay:

- Organizations should indicate the address registered in the Unified State Register of Legal Entities in column Notice;
- Abbreviations and abbreviated terms are allowed;

- The notification should include the details of the document confirming the right to use residential or other premises.

The list of documents that the host party provides to the migration registration authorities is increased. In addition to the documents provided earlier, the host party has to attach the following documents to the notification on arrival:

- 1) Copies of all pages of the identification document of the foreign citizen, which contain the information about the foreign citizen and (or) have notes on crossing of the state border of the Russian Federation or other foreign state;
- 2) A copy of the document confirming the right to use residential or other premises provided for the actual residence of the foreign citizen;
- 3) A copy of the migration card;
- 4) A copy of the labor or commercial contract concluded between the employee and the employer (customer) on the territory of the Russian Federation, copies of the documents, confirming the kinship relations (for family members).

The need to attach the documents referred to in paragraph 4 applies only to the employees who are citizens of the EAEU states and their family members.

In addition, the Resolution specifies the filing procedure of the departure notice of a foreign citizen working on a rotational basis and the registration procedure of the children of foreigners under the age of 1 year who were born in Russia but do not have a passport of a foreign citizen.

Source: RF Government Resolution N 246 "On Amendments to the procedure of migration registration of foreign citizens and stateless persons in the Russian Federation"

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