



14th of May 2021

Russian Legislation Update

ACCOUNTING AND TAX

It is planned to specify the procedure for filing accounting statements

The Russian government has introduced a bill with a proposal to change the deadlines for filing of amended financial statements of organizations:

1. On, or before, July 31st of the year following the reporting year, for accounting statements approved by the shareholders before that date;
2. Within 10 business days from the date of approval, but no later than December 31st of the year following the reporting year, for accounting statements approved by the shareholders after July 31st.

Document: Draft Federal Law N 1159731-7 (<https://sozd.duma.gov.ru/bill/1159731-7>)

The Federal Tax Service has specified the mandatory details of the certificate required to confirm the residency of a foreign company

In transactions between Russian and foreign organizations, involving double taxation agreements, organizations are required to submit a certificate upon request, confirming

the permanent location of the counterparty. The Inspectorate clarified a number of mandatory details of such Document:

1. Taxpayer's name;
2. Taxpayer's status (resident, or person with permanent residence);
3. The signature of the official, who issued the certificate;
4. The certificate does not necessarily specify the period of validity, nor the name of the agreement.

Document: The letter of the Federal Tax Service of Russia of 20.02.2021 N ШЮ-4-13/2243@

The new VAT declaration format has been approved

A VAT declaration, complying with the new form, should be filed, starting from Q3 2021. The changes will include additional fields to fill in the data on traceable goods, line 150 of Section 8, where the customs declaration number was specified, will be replaced with additional lines for traceable goods.

Document: The Order of the Federal Tax Service of Russia of 26.03.2021 N ЕД-7-3/228@

PAYROLL AND HR RECORDS KEEPING

The law on new procedure for Personal Income Tax deductions

The procedure for obtaining social, property and investment deductions, under the Personal Income Tax regime, has been significantly simplified. To receive a deduction, the taxpayer will have to only make an application through his/her personal account on the website of the Federal Tax Service Inspectorate. The Tax Inspectorate will independently clarify the information, to confirm the eligibility for the deduction.

The filing of inaccurate information will entail a 20% fine of the amount of Personal Income Tax, improperly received by the individual.

The new order applies to deductions, for which individuals have a right from January 1st 2020.

Document: Federal Law of 20.04.2021 N 100-ФЗ

Legislative transition to direct payment of benefits

Some laws on compulsory social insurance have been amended. Direct payments have been legalized with effect from 2022. The offset mechanism, for the payment of benefits, will no longer exist. From 2021, there will be a gradual transition within the framework of the Social Insurance Fund pilot project.

Due to the transition to direct payment of benefits, the forms of Documents, for application in 2021, have been updated at the expense of the Social Insurance Fund. New forms of documents have appeared, compared to the previous ones:

- Information about the insured person;
- Notice of termination of the insured person's right to a monthly childcare allowance;
- Notice of corrections to the sick leave periods.

Document: Federal Law of 30.04.2021 N 126-ФЗ

Personal Income Tax at the expense of a tax agent

From January 1st 2020, the tax agent must pay the Personal Income Tax out of his or her funds, if the tax has been collected on the basis of the results of the audit: due to the failure to withhold completely, or partially, when paid. The provisions shall apply based on the results of on-site and off-site inspections of the 2020 tax and income earned no earlier than January 1st 2020.

The amounts that the tax agent paid out of its funds shall not be reflected in the Personal Income Tax reporting.

Document: Letter of the Federal Tax Service of Russia of 23.04.2021 N EC-4-11/5630

Explanation of the procedure for formalization of a leave period at the main place of work and internal secondary employment

The Russian Ministry of Labour confirmed that to guarantee a full rest, a part-timer should be granted a period of leave, taking into account the period of his/her rest at the main place of work. The employer must allow the use the leave periods at the same time.

If the number of accumulated vacation days, earned by a part-time job, does not correspond to the period of the leave at the main place of work, the part-time related vacation can be extended by formalizing a leave period, without pay.

Document: Letter of the Ministry of Labour and Social Protection of Russia of 26.03.2021 N 14-2/ОФ-2680

LABOR LEGISLATION

Established time for employee's application to the court, with a demand to compensate for moral harm, in cases the court has recognized the violation of his/her labour rights

The Federal Law was adopted in compliance with the Ruling of the Constitutional Court of the Russian Federation of July 14th 2020 N 35-P. The latter recognized that Part 1 of Article 392 of the Labour Code of the Russian Federation was inconsistent with the Constitution of the Russian Federation, to the extent that it does not specify the timing of application to the court, with a claim for compensation of moral harm, caused by violation of labour rights. This applies to those cases, when the said claim is filed with the court after the court decision enters into force, and this decision restores the labour rights in full, or in part.

The amendments establish that, if there is a dispute over compensation for moral harm, caused to an employee as a result of violation of his/her employment rights, the claim for such compensation may be made to the court at the same time as the requirement to restore the violated labour rights, or within three months after the court decision, which restores the labour rights in full, or in part, enters into force.

Document: Federal Law of 05.04.2021 N 74-ФЗ "On amendments to Article 391 and 392 of the Labour Code of the Russian Federation"

Issues related to termination of employment contract in connection with a theft by an employee at the place of work, and appearance at work in state of alcoholic, narcotic or other intoxication, have been considered

The Report states, in particular, that committing any theft (including petty stealing) of property of another by the employee at the place of work, which is established by a court verdict, or by the order of a judge, body, or official authorized to consider cases of administrative offences, is a gross violation of his/her employment duties, on the basis of which the employer has a right to terminate the employment contract.

In order to terminate the employment contract on this basis, the employer should comply with certain conditions:

- the employer must have evidence that the theft was committed at the workplace;
- the employer must comply with the established procedure for disciplinary action;

- if there is an effective court verdict, or a ruling of a judge, body, or official authorized to consider cases of administrative offences, and the employer complies with the procedure for disciplinary action, the employer has a right to issue an order (instruction) on disciplinary proceedings against the employee in the form of dismissal.

Clarifications have also been given, including:

- dismissal of an employee, when revealing the fact of alcohol intoxication, after the end of the working day;
- dismissal for theft, when an employee is on parental leave;
- dismissal of an employee who was injured, while intoxicated by alcohol.

Document: "Prevention of violations. Report and guidance on compliance with mandatory requirements, explaining what conduct is lawful, and explaining the new regulatory requirements for Q1 2021. A list of regulations on or their parts containing mandatory requirements. Guidance on compliance" (approved by the Federal Service for Labour and Employment (Rostrud)).

The Ministry of Labour has prepared recommendations for non-working days in May 2021

It is reported, in particular, that employers should independently determine the number and composition of employees needed to ensure the operation of relevant bodies and organizations, including the ability to work remotely.

The presence of non-working days in May 2021 is not a reason for reducing wages for employees.

Workers, who provide for the functioning of bodies and organizations from 4th to 7th of May 2021 shall be paid at the normal salary rate, rather than increased.

Pay for work from May 1st to May 3rd and from May 8th to May 10th, 2021 shall be made under the rules of Article 153 of the Labour Code of the Russian Federation.

If the employee is on leave, the leave shall not be extended for the period of established non-working days.

Document: "Information of the Ministry of Labour of the Russian Federation. Recommendations to employees and employers on non-working days in May 2021"

The provisions of the Employment Act concerning payments to laid-off workers are brought in line with the norms of the Russian Labour Code

The Labour Code of the Russian Federation sets forth a new procedure for payments to employees in case of liquidation of the organization, or reduction of staff.

(The new version of Article 178 of the Labour Code of the Russian Federation provides for the following payments at the employment contract termination, in these specified cases: severance pay, average monthly earnings for the period of employment, and/or one-off compensation).

Relevant clarifications are included in the articles of the Employment Law.

Document: Federal Law of 30.04.2021 N 137-ФЗ “On amendments to the law of the Russian Federation on employment of population in the Russian Federation”

A draft law on electronic document flow, in the sphere of labour relations, has been introduced in to the State Duma

According to the drafters, at present the employer independently chooses the form of work-related document management (on paper, or electronically), except for those documents that should be registered in writing, or communicated for familiarization by the employee, against his/her signature, and this is expressly set out by labour laws of the Russian Federation. Therefore, there are no legal grounds for the registration of these personnel documents only electronically.

The draft law adds a new Article 22.1 “Electronic document flow in the sphere of labour relations.” to the Labour Code of the Russian Federation. The electronic document flow is conceived as the creation, use and storage by an employer, employee, or person taking employment, of documents formalized electronically, without duplication on paper.

The employer makes a decision to switch to electronic document flow by issuing a relevant local regulation. The employer notifies each employee about the transition to electronic document flow, and the person taking employment – at the conclusion of employment agreement. An employee, or a person starting employment, have a right to apply for a waiver, to switch to electronic document flow.

According to the draft law, electronic document flow can be carried out by the employer through: the electronic digital signature “Work in Russia”, or other information system,

which ensures the signing of electronic document, its storage, and recording the fact of its receipt by the parties of labour relations.

It is worth recording that an experiment provided for by the Federal Law of 24.04.2020 N 122- ΦЗ “On realization of an experiment on the use of electronic documents related to work”, is currently underway.

Document: Draft Federal Law N 1162885-7 “On amendments to the Labour Code of the Russian Federation (with regard to the regulation of electronic document flow in the sphere of labour relations”

The Government is planning to improve the use of electronic documents related to work

The project proposes to supplement the Russian Government Resolution “On the information and analytical system of the All-Russian base of vacancies “Work in Russia” with a new section V(l). It should be noted that the said resolution has a similar section; however, it expired on 1st April 2021.

The proposed section basically echoes the previously contained provisions. In particular, it has been established that the section regulates the relationship related to the experiment on the use of documents, which, according to the Labour Law of the Russian Federation, should be registered on paper and/or communicated to the employee for familiarization in writing, including under his/her signature, in electronic form, without duplication on paper.

Electronic documents, which require the employee’s signature, are generated in the System by filling out forms and templates presented in the System, or by downloading draft documents signed by the employee, with a simple electronic signature.

When concluding employment agreements, financial liability agreements, apprenticeship contracts, contracts for workplace education, or off-the-job education, and when making changes thereto, the encrypted digital signature of the employer and simple electronic signature of the employee are required.

The list of documents, for which the experiment is conducted, is approved by the employer independently.

The information, which is required for generating and posting work-related electronic documents in the System, may include the following documents:

- Employment agreements
- Financial liability agreements;
- Apprenticeship contracts;
- Contracts for workplace education, or off-the-job education;
- Contracts for on-the-job, or on-the-job, education;

- Orders (regulations) on employment;
- Orders (regulations) on employment termination;
- Other electronic documents related to work.

The information shall be posted by employers participating in the experiment. According to the draft, the Resolution will apply, without limitation, to legal relations that arose from April 1st, 2021, and will be valid until November 15th, 2021. Document: Draft Russian government order “On amendments to the resolution of the government of the Russian Federation of 25th August 2015 N 885”

MIGRATION LEGISLATION

The Government has clarified the requirements to documents submitted by the employer for a work permit to a foreign national

It has been established, in particular, that copies of documents, certifying the identity of foreign nationals and recognized by the Russian Federation in this capacity, which are submitted by the employer for issuance, or extension, of a work permit to a highly qualified professional, as well as to a foreign national sent to work in a foreign commercial organization in the Russian Federation, do not require a notary certification.

Copies of other documents, not notarized, should be presented together with the original.

Document: Order of the Ministry of Internal Affairs of the Russian Federation dated 02.03.2021 N 99 “On amending the Administrative Regulations of the Ministry of Internal Affairs of the Russian Federation on public service provision related to issuing permits to recruit and use foreign workers, as well as work permits for foreign citizens and stateless persons, approved by the Order of the Ministry of Internal Affairs of the Russian Federation of August 1st, 2020 N 541”

Venezuela, Germany, Syria, Tajikistan, Uzbekistan and Sri Lanka are included in the list of countries, for which citizens now have the restrictions of entry to Russia, through air checkpoints, lifted

Citizens of the Russian Federation, on the basis of reciprocity, may also travel to any of these countries.

Document: Russian Government Resolution of 31.03.2021 N 814-p <On amendments to the Order of the Government of the Russian Federation dated 16.03.2020 N 635-p>

The Ministry of Internal Affairs of the Russian Federation reminds migrants who are in Russia illegally, of the possibility to settle their legal status, without the application of sanctions, envisaged in such cases

It is reported that, in accordance with the Decree of the President of the Russian Federation of 18.04.2020 N 274 “On temporary measures to settle the legal status of foreign citizens and stateless persons in the Russian Federation in connection with the threat of further spread of the new coronavirus infection (COVID-19)”, foreign citizens, who are in the territory of the Russian Federation in violation of the order of stay established by the migration law, are given an opportunity to settle their legal status without any sanctions.

During the year, the Ministry of Internal Affairs of the Russian Federation have been implemented a set of measures aimed at promoting this category of foreign nationals in obtaining documents necessary for further legal stay in Russia and the implementation of work activities, including through the awareness-raising measures for foreigners, together with diplomatic missions of foreign states and public organizations. These measures are in effect until June 15th, 2021.

Document: “Information” of the Ministry of Internal Affairs of the Russian Federation of 16.04.2021 “Press Centre of the Ministry of Internal Affairs of the Russian Federation explains”

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