

Issue 6

Summary of selected documents published for the period from March 7, 2011 to March 18, 2011



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General Legislation

Tax Legislation

- Corporate profits tax
- Value-added tax
- Personal income tax

Customs Legislation

GENERAL LEGISLATION

1. Title: **On the introduction of an addendum to Ruling 60 of the Plenary Session of the Supreme Court of Arbitration of the Russian Federation of July 23, 2009, On certain issues relating to the adoption of Federal Law 296-FZ, On Amendments to the Federal Law On Insolvency (Bankruptcy), of December 30, 2008**

Document: Ruling of the Plenary Session of the RF Supreme Court of Arbitration

Signed: February 17, 2011

Number: 9

Abstract: January 1, 2011, saw amendments to the Bankruptcy Law concerning the definition of the status of a receiver take effect. Under this definition, a receiver is a professional with a private practice. Registering as an entrepreneur is not required for becoming a receiver. In this light, the previously issued clarifications from the Supreme Court of Arbitration on amendments to the Bankruptcy Law have been added to.

2. Title: **On certain issues of the application of the legislation on pledges**

Document: Ruling of the Plenary Session of the RF Supreme Court of Arbitration

Signed: February 17, 2011

Number: 10

Abstract: The Plenary Session of the Supreme Court of Arbitration focused in particular on out-of-court foreclosure. In particular, courts should bear in mind that a pledger-pledgee agreement on the out-of-court foreclosure of pledged property is void under Article 168 of the Russian Civil Code if the out-of-court foreclosure of the object of the pledge is prohibited when it is signed. If the pledge contract clause on the out-of-court foreclosure of the pledged property is illegal, foreclosure of the property pledged under the contract shall take place in court.

3. Title: On certain issues regarding the application of the Code of Arbitration Practice of the Russian Federation as amended by Federal Law 228-FZ, *On Amendments to the Code of Arbitration Practice of the Russian Federation, of July 27, 2010*

Document: Ruling of the Plenary Session of the RF Supreme Court of Arbitration

Signed: February 17, 2011

Number: 12

Abstract: November 1, 2010, saw amendments to the CAP, optimizing the work of arbitration courts, take effect. In connection with this, clarifications on their application have been issued.

4. Title: On amendments to the Regulations on the specific aspects of the procedure for calculating temporary disability benefit, maternity benefit and monthly child care benefit to private citizens with statutory social insurance against temporary disability and in connection with maternity

Document: RF Government Resolution

Signed: March 1, 2011

Number: 120

Abstract: Amendments have been introduced regarding the definition of the calculation period for the benefits, and the procedure for paying them to insured persons if, at the time of the insured event, the person is, or has been, employed by several insuring parties, as well as regarding the specific aspects of calculating the benefits if the insured person does not have any earnings in the calculation period, or has average earnings below the minimum wage in that period, and with the specific aspects of calculating benefits to persons employed on a part-time basis when the insured event occurs. In addition, if, in either or both of the two calendar years immediately preceding the year in which the insured event occurs, the insured person was on maternity or child care leave, the relevant calendar years may, at the request of the insured person, be replaced with the preceding calendar years for the purposes of calculating the average earnings, if this produces an increase in the benefits. This resolution applies to legal relations arising since January 1, 2011.

5. Title: On amendments to the Regulations establishing the form of a visa, and the procedures and conditions for processing, issuing, extending, reissuing in case of loss, and annulling visas

Document: RF Government Resolution

Signed: March 1, 2011

Number: 132

Abstract: The following paragraph has been added to Point 35.1: "Foreign nationals or stateless persons who are family members of such a foreign national are issued standard work visas valid for the duration of the visa issued to that foreign national, entitling them to engage in paid employment, study, or any other activity not prohibited by the legislation of the Russian Federation, and renewable in the event of the renewal of the visa issued to the foreign national".

6. Title: On confirmation of the List of documents insurers are obliged safeguard, and the requirements for safeguarding such documents

Document: RF Ministry of Finance Order

Signed: December 29, 2010 (registered with the RF Ministry of Justice on March 10, 2011, Registration No. 20043)

Number: 193n

Abstract: This confirms the List of documents insurers have to safeguard, and the requirements for doing so. In particular, the List contains the following documents: the insurer's constituent documents and memorandum of incorporation, documents on the state registration of the certificate of entry in the Unified State Register of Legal Entities, the tax registration certificate, information on the composition of the shareholders/members (the insurer's register of shareholders/members), documents confirming payment of the authorized capital in full, documents relating to the issuance of the insurer's shares and other issued securities, minutes of meetings of founders/shareholders/members confirming the insurer's constituent documents and amendments thereto, etc.

7. Title: On Amendments to Order 39 of the Russian Ministry of Economic Development and Trade, On confirmation of the Guidelines on the state cadastral valuation of land in population centers, of February 15, 2007

Document: Ministry of Economic Development and Trade Order

Signed: January 11, 2011

Number: 3

Abstract: The procedure for determining the cadastral value of plots that are part of population center land has been changed. The procedure for calculating the cadastral value of plots that are part of rural population center land has also been revised. In particular, it has been established that if a plot has more than one form of permitted use as part of a housing development, its estimated cadastral value shall be equal to that of whichever of form of permitted use as part of a housing development has the highest cadastral value.

8. Title: The rules for the mandatory medical insurance fund

Document: Appendix to a Ministry of Healthcare and Social Development Order

Signed: February 28, 2011

Number: 158n

Abstract: The following have been established: the procedure for an insured party to file notice of his/her choice (or replacement) of health insurance organization; common requirements for a compulsory medical insurance policy and the procedure for issuing it, or a temporary certificate; the procedure for maintaining the register of health insurance organizations operating in the field of compulsory medical insurance; the procedure for maintaining the register of medical organizations operating in the field of compulsory medical insurance; etc.

9. Document: Information from the Social Insurance Fund

Signed: March 3, 2011

Abstract: This explains the procedure for providing temporary disability benefit and maternity benefit to citizens of Belarus working in Russia.

TAX LEGISLATION

Corporate Profits Tax

10. Document: RF Ministry of Finance Letter

Signed: December 31, 2010

Number: 03-03-06/1/817

Abstract: This clarifies a query on determining the start period for the depreciation of items of immovable property transferred to a successor as a result of a demerger (or spin-off) in a reorganization procedure, and on accounting for the lease payments for the sites where the items of immovable property acquired in the reorganization are located.

11. Document: Ministry of Finance Letter

Signed: February 11, 2011

Number: 03-03-06/1/87

Abstract: This clarifies a query on the profits tax treatment of business travel expenses denominated in a foreign currency, the exchange rate of which is not set by the Central Bank of Russia.

12. Title: On a query on the treatment for profits tax purposes of funds received from the sale of immovable property paid for out of membership contributions

Document: RF Ministry of Finance Letter

Signed: February 22, 2011

Number: 03-03-06/4/14

Abstract: Membership contributions used for running not-for-profit organizations and their performance of the activities outlined in their charter, as well as expenses paid for out of membership contributions, are ignored. Expenses associated with the purchase of a building out of membership contributions are also ignored. Nor are the historical cost and residual value of the property recorded in the tax accounts.

13. Document: Letter of the Moscow Department of the RF Federal Tax Service

Signed: October 18, 2010

Number: 16-15/108647@

Abstract: Cash outlays on gifts for an organization's clients may be taken into account when calculating the tax base if they qualify as promotion expenses – i.e., if they are given to an indefinite group of persons. If the organization gives gifts not to all its clients, but only its VIP clients, the group of persons is in this case is not indefinite, so the costs of purchasing the presents cannot count as advertising expenses.

VAT

14. Title: On Amendments to the list of technical equipment (including components and spare parts thereto) analogues of which are not produced in Russia and the import of which into Russia is not subject to value-added tax

Document: RF Government Resolution

Signed: March 11, 2011

Number: 154

Abstract: The list of technical equipment that can now be imported VAT-free into Russia includes: PG 6111FA gas turbines (Customs Union Foreign-Trade Commodity Classification 8502 31 000 0).

15. Title: On the taxation of income from the sale of property

Document: RF Ministry of Finance Letter

Signed: February 7, 2011

Number: 03-03-06/1/78

Abstract: When a real estate property is sold, the time when the VAT base is determined should be the earliest of the following dates: the date of transfer of the title to the property, specified in the document confirming the transfer of title, or the day it is paid (or partially paid). If the VAT base is determined on the payment (or partial payment) date, it may need to be reassessed on the date of transfer of the title to the property.

16. Document: Federal Tax Service Letter

Signed: January 12, 2011

Number: KE-4-3/65@

Abstract: This clarifies queries regarding VAT on the sale of goods/work/services where the production cycle exceeds six months.

Personal Income Tax

17. Title: On Amendments to Article 3.1 of the Federal Law On Amendments to Part Two of the Tax Code of the Russian Federation and certain other legislative acts of the Russian Federation

Document: Federal Law

Signed: March 7, 2011

Number: 24-FZ

Abstract: Under the law, personal income tax cannot be charged simultaneously on voluntary pensions insurance contract contributions paid by employers before January 1, 2008, and insurance payout incomes received by actual individuals under such contracts after January 1, 2008. The law takes effect from its official publication date, and applies to legal relations arising since January 1, 2008.

18. Title: On a query on personal income tax on the income of an employee of an organization who is a citizen of Belarus

Document: Ministry of Finance Letter

Signed: February 21, 2011

Number: 03-04-05/6-112

Abstract: If the employment contract between the organization and the citizen of Belarus calls for the latter to spend at least 183 days in Russia, his/her income from sources in Russia is taxable at the 13% rate from the date that he/she starts work for the organization. If, at the end of the 2010 tax period, the employee has been in Russia for less than 183 days in a calendar year, the condition of Article 1, Point 1 of the Protocol will be not be observed, and the personal income tax on that person's income from sources in Russia should be withheld by the organization as the withholding agent at the 30% rate. At the same time, for income received from January 1, 2011, the employer, under Point 1 of the Protocol, should continue to withhold personal income tax from his/her income at the 13% rate.

CUSTOMS LEGISLATION

19. Title: On the establishment of cases where goods being exported from Russia can be declared under a single classification code of the Customs Union's Common Foreign-Trade Commodity Classification.

Document: RF Government Resolution

Signed: March 1, 2011

Number: 117

Abstract: This determines when goods being exported from Russia can be declared with 1 Foreign-Trade Customs Union Commodity Classification code.

This is possible for goods placed under the customs procedure of temporary export and meant for exhibitions, fairs, sports contests and training, concerts, competitions, festivals and other such events, as well as for coverage of them in the media. Moreover, export duty rates should not be set and/or prohibitions and restrictions applied for them.

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