

Issue 19

Summary of selected documents published for the period from June 27 to July 1, 2011



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GENERAL LEGISLATION

1. Title: On the National Payment System

Document: Federal Law
Signed: June 27, 2011
Number: 161-FZ

Abstract: This establishes the legal and organizational framework for the National Payment System ("NPS"). It sets out the operating procedures for NPS agents, and defines the requirements for setting up and running payment systems, and the oversight and monitoring procedures for this area. NPS operators include: money transfer agents (the Central Bank of Russia, lending institutions and Vnesheconombank); bank paying agents/subagents; federal postal service organizations; paying agents; payment system operators; and transaction, payment clearing and processing centers. The Law also regulates electronic money transfers.

2. Title: On amendments to certain legislative acts of the Russian Federation in connection with the adoption of the Federal Law *On the National Payment System*

Document: Federal Law
Signed: June 27, 2011

Number: 162-FZ

Abstract: Following the adoption of the Law On the National Payment System, various other laws have been amended: *On the Central Bank of the Russian Federation, On Banking and Banking Activity, On the Securities Market, On Communications, On Currency Regulation and Currency Control, On the Protection of Competition, On Enforcement Proceedings, On Customs Regulation in the Russian Federation, and the Tax Code.*

3. Document: Government Directive

Signed: June 10, 2011
Number: 1021-r

Abstract: This confirms the Framework for reducing administrative barriers and improving access to municipal and state services in 2011-2013, and its implementation plan. In particular, a unified list of types of activity requiring a license, and the procedure for licensing them, are to be established. The directive calls for a transition to electronic licensing procedures. The licenses will be valid indefinitely. With regard to accreditation, a single national body with the powers of the federal accreditation and certification authorities will be created. Work on the regulation of municipal and state services/functions is to be completed in 2012. The directive also states that, to ensure the "one-stop" principle, administrative regulations will have to specify procedures for interdepartmental cooperation, etc.

4. Title: **On confirmation of the list of federal state unitary enterprises for which a special procedure for decision-making by federal executive bodies on individual issues concerning the activities of the enterprises has been established**

Document: Government Directive

Signed: June 20, 2011

Number: 1060-r

Abstract: This establishes a special procedure for decision-making by federal authorities on individual issues concerning an enterprise's activity. The list includes FSUEs including the Civil Airport Administration, Russian Post, Goznak, Ostankino Television Center, RIA Novosti and ITAR-TASS, Rosmorport, etc.

5. Title: **On conditions for the admission of goods originating from foreign states for the purposes of placing orders for the supply of goods for customer needs**

Document: Ministry of Economic Development and Trade Order

Signed: May 12, 2011

Number: 217

Abstract: This sets out the conditions for the admission of certain goods originating abroad for the purposes of placing orders for the supply of goods for state and municipal needs (until December 31, 2011).

6. Title: **On specific aspects of classifying offenses under Article 15.25, Part 6 of the Code of Administrative Offences of Russia**

Document: Federal Customs Service Letter

Signed: June 6, 2011

Number: 01-11/26394

Abstract: This clarifies queries regarding the prosecution of tax residents who fail to meet deadlines for filing foreign-currency transaction accounting and reporting forms, supporting documents and information when performing foreign-currency transactions, or fail to comply with the rules for processing foreign-currency transaction certificates, or to keep foreign-currency transaction accounting and reporting forms, supporting documents and information for the required period when performing foreign-currency transactions or processing foreign-currency transaction certificates.

TAX LEGISLATION

International Treaties

1. Title: **On certain issues of the application of the Treaty between the Government of the Russian Federation and the Government of the Republic of Lithuania on the Avoidance of Double Taxation and Prevention of Tax Evasion in Respect of Taxes on Income and Property, of April 21, 1995**

Document: Ministry of Finance Information Memorandum

Signed: June 23, 2011

Number: ED-4-3/9433

Abstract: The tax authorities in Belarus and Russia have agreed a procedure for charging profits tax on payments in the form of supply contract bonuses/premiums. These payments

should be seen not as a separate form of income, but as compensation for/reduction of the acquisition costs of the goods. Therefore, such amounts may be deducted for profits tax purposes by a company domiciled in a relevant contracting state.

Part One of the RF Tax Code

2 Title: **On transferring cases to the Presidium of the RF Supreme Court of Arbitration**

Document: Supreme Court of Arbitration Ruling

Signed: June 17, 2011

Number: VAS-4134/11

Abstract: The Tax Code does not link the moment when a statute of limitations expires with the date on which the violation is discovered and the inspection report is compiled.

3. Title: **On confirmation of the Procedure for analyzing the financial position of an entity in order to determine its risk of insolvency or bankruptcy in the event of a lump sum tax payment by that entity**

Document: Ministry of Economic Development and Trade Order

Signed: April 18, 2011 (registered with the RF Ministry of Justice on June 21, 2011, Registration No. 21083)

Number: 175

Abstract: Criteria for establishing taxpayers' solvency for the purposes of granting the deferral or payment in installments of taxes have been developed.

4. Title: **On Applying Point 7 of Article 76 of the Tax Code of the Russian Federation**

Document: Ministry of Finance Letter

Signed: May 23, 2011

Number: 03-02-07/1-169

Abstract: When a taxpayer's bank accounts are frozen, this applies from the moment when the bank receives the tax authority order to freeze the accounts to when the bank receives the tax authority order to unfreeze them. The moment when the bank receives freezing order is defined by both the date and the time. Therefore, until the moment when the bank receives the freezing order, the restrictions specified in Article 76 of the Tax Code on the bank's performance of debit transactions on the customer's accounts do not apply.

Corporate Profits Tax

5. Title: **On the treatment of expenses**

Document: Ministry of Finance Letter

Signed: June 3, 2011

Number: 03-03-06/2/86

Abstract: An organization's costs relating to the implementation customer loyalty programs (i.e., where customers paying for services receive points that can later be redeemed for a reward) may be treated as expenses incurred for the performance of activity aimed at generating income only if the activity is directly aimed at attracting more customers to the organization and at retaining existing customers.

6. Title: **On the application by an organization of different tax rates when calculating corporate profits tax and corporate property tax benefits**

Document: Ministry of Finance Letter

Signed: June 8, 2011

Number: 03-02-07/1-184

Abstract: The corporate profits tax return form allows the tax to be calculated at a reduced rate for part of a tax base in a tax/reporting period. In particular, the reduced rate and the tax base to which it applies should be indicated in line items 130 and 170 on page 02 of the return. The amount of tax for the tax period, which is calculated using the different tax rates, should be stated in line item 200 on page 02. The tax should be calculated using the formula given in that line item. The corporate property tax return form also allows a tax benefit to be applied when calculating the tax base, both for a whole tax period and for a partial tax period.

7. Title: **On the procedure for establishing an allowance for doubtful debts when calculating profits tax**

Document: Federal Tax Service Letter

Signed: June 15, 2011

Number: ED-4-3/9433

Abstract: If a pledge agreement stipulates that the pledge guarantees the principal of the loan only, the interest may be included in doubtful debts when calculating the allowance for doubtful debts.

8. Title: **On the application of a 0 percent tax rate**

Document: Federal Tax Service Letter

Signed: June 21, 2011

Number: ED-4-3/9824@

Abstract: In connection with the Tax Code amendments introduced by Law 132-FZ of June 7, 2011, this explains that from January 1, 2011, but no later than December 31, 2011, and within two months of the official publication date of the government-established List of Educational and Medical Activities, an organization wishing to apply a zero corporate profits tax rate may submit to the tax authorities an application and copies of its licenses to perform educational and/or medical activities, issued in accordance with Russian law. Applications and documents submitted to the tax authorities before the List's official publication do not need resubmitting.

VAT

9. Document: Ruling of the Presidium of the RF Supreme Court of Arbitration

Signed: April 26, 2011

Number: 23/11

Abstract: Taxpayers have the right to tax deductions, but they must be declared in the tax return, and can only be applied if the conditions set in Chapter 21 of the Tax Code are met. In itself, the fact that a taxpayer has documents confirming, in the taxpayer's opinion, the right to apply deductions does not entitle the taxpayer to a VAT reduction unless the deduction amount is specified in the tax return. Having documents providing for the application of tax deductions is no substitute for declaring them.

10. Title: **On queries regarding the application of value-added tax to goods/work/services paid for under the terms of a contract in rubles in an amount equivalent to an amount in a foreign currency**

Document: Ministry of Finance Letter

Signed: May 16, 2011

Number: 03-07-11/127

Abstract: If a contract states that payment for goods/work/services is to be made in rubles in an amount equivalent to an amount in a foreign currency (or conditional monetary units), there are no grounds for reducing the amount of tax calculated and paid to the budget for the tax period in which the goods/work/services were delivered by the negative settlement differences arising in the tax period in which the payment for the goods/work/services previously delivered was actually received.

Mineral Extraction Tax

11. Document: Ruling of the Presidium of the RF Supreme Court of Arbitration

Signed: May 18, 2011

Number: 1109/11

Abstract: The Supreme Court of Arbitration has ruled that the criterion for classifying costs as deductible for Mineral Extraction Tax purposes is the aim for which they are incurred –in the case in question, to ensure delivery of the mineral to the user. Consequently, since the delivery of the mineral entails accounting for and administering such operations and keeping the loading and unloading areas in good condition, counting general business expenses as expenses on the delivery of the mineral does not contravene Article 340, Point 3 of the Tax Code.

Land Tax

12. Title: **On the application of mark-up factors when calculating land tax**

Document: Ministry of Finance Letter

Signed: June 1, 2011

Number: 03-05-05-02/30

Abstract: With regard to land plots acquired or granted for individual housing construction by organizations or individual entrepreneurs, the mark-up factors referred to in Article 396, Point 15 of the Tax Code should be used if the land plots were acquired or granted, and title to them registered, on or after January 1, 2010.

CUSTOMS LEGISLATION

1. Title: On amendments to Resolution No. 1155 of the Government of the Russian Federation of December 27, 2010

Document: Government Resolution

Signed: June 22, 2011

Number: 493

Abstract: The calculation coefficients for certain types of oil derivatives (except for liquefied petroleum gases) have been changed. In the appendix to the formulae used to calculate the export customs duty rates for certain types of oil derivatives, the Customs Union Foreign-Trade Commodity Classification codes in the "light distillates" section have been changed from "2710 11 110 0 - 2710 11 310 0, 2710 11 700 0 - 2710 11 900 9" to 2710 11 310 0, 2710 11 700 0". The resolution takes effect on July 1, 2011.

2. Title: On confirmation of the export customs duty rates for crude oil and certain types of oil derivatives that are exported from the Russian Federation and the member states of the Customs Union agreements

Document: Government Resolution

Signed: June 22, 2011

Number: 494

Abstract: From July 1, 2011, new export customs rates will apply to crude oil and goods produced from oil to be exported from the Russian Federation outside the member states of the Customs Union. In particular, the rate for crude oil is now 445.1 USD/tonne.

3. Title: On confirmation of the Regulations for the performance of customs operations and customs control with regard to aircraft and goods carried by them.

Document: Federal Customs Service Order

Signed: May 27, 2011 (registered with the RF Ministry of Justice on June 20, 2011, Registration No. 21052)

Number: 1070

Abstract: This confirms the new customs operations and control procedures for aircraft and goods carried by them. This follows the adoption of the new Law On Customs Regulation. The carrier must notify a customs authority of the aircraft's arrival on Customs Union territory. To do so, it must provide various documents and information. A list of these is attached to the order. When giving notice of the arrival of the goods, documents confirming compliance with prohibitions and restrictions, except for non-tariff measures, should be provided. The documents may be submitted on the carrier's behalf by a customs broker, or by other persons authorized by the latter to do so. Information on an aircraft and the goods carried by it may be submitted in advance, before they actually arrive on Customs Union territory.

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