

Amendments to Russian Tax Code regarding advance pricing agreements - latest news.

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On 25 September 2020, the draft law “On amending part one of the Russian Tax Code to improve tax control over prices, and on the procedure for entering into advance pricing agreements” (hereinafter, the “Draft Law”), was passed to the State Duma.

The Draft Law, among other provisions, is intended to optimise the procedure governing the conclusion of advanced pricing agreements (hereinafter, “APA”).

27 October 2020 was assigned as the deadline for the State Duma Committee for the Budget and Taxes to provide its comments, suggestions and corrections to the Draft Law. Following this, the Draft Law will be prepared for review in the Duma’s 2020 autumn session.

The APA developments proposed by the Draft Law contain the following positive updates worthy of specific mentioning¹:

- The taxpayer will have the opportunity to apply the TP method as required by the laws of the foreign jurisdiction;
- A moratorium will be introduced for TP audits in regard to transactions subject to an APA, unless a decision has been made to conclude or deny the conclusion of that APA;
- Time limits for negotiating an APA will be introduced.

It should be noted that there are still points to be discussed in the current version of the Draft Law, including comments received from the business community. We trust that some of these comments will be taken into consideration during the review stage.

The Head of KPMG’s Tax and Legal practice in Russia and the CIS, Mikhail Orlov, is the chairman of the expert council to the State Duma Committee for the Budget and Taxes, and as a result KPMG is actively participating in review of the Draft Law, as well as proposing amendments that are applicable for both the business community and the Federal Tax Services of the Russian Federation (FTS).

Should the Draft Law be reviewed and approved in the current autumn session, it will take effect starting from 1 January 2021.

There are currently more than 10 bilateral APA’s at the review stage of the FTS. In particular, there are applications regarding transactions involving the export of goods, royalty payments (for trademarks as well as know-how), transactions involving the rendering of services, among others. The completion of an application for a bilateral APA is a unique opportunity to discuss the current approach to pricing in controlled transactions and coordinate a decision that is both applicable under Russian legislation as well as the legislation of the jurisdiction of the counterparty.

We at KPMG actively support our clients in all matters related to the conclusion of bilateral APAs, and have particular experience involving agreements with the tax authorities from Finland (an approved APA is now at signing stage), Switzerland, and Germany, as well as other countries. Detailed information about our services, including APA-related services, is presented [on our website](#).

Our team at KPMG will be pleased to answer any questions you may have about this Draft Law in more detail and give you any assistance you need in obtaining an APA, or in respect to any other issues related to the application of transfer pricing legislation.

¹ A detailed review is presented in [KPMG Publication of April 2020](#)

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