Law amending the Tax Code of the Russian Federation to implement top priority anti-crisis support measures

The Law, inter alia, introduces the following amendments to the Russian Tax Code:

**Part One of the Tax Code:**

— The accrual of double penalty (1/150 of the rate of the Russian Central Bank) on arrears from the 31st day of delay has been abolished for the period from 9 March 2022 to 31 December 2023.

— Transactions with foreign related parties will be recognized as controlled if the amount of income from such transactions for the corresponding calendar year exceeds RUB120 million (instead of RUB60 million previously).

— The application of sanctions for failure to submit documents confirming the amount of profit or loss of a controlled foreign company (CFC) to the tax authority for 2020–2021 has been restricted.

**VAT:**

— A zero VAT rate has been set for services to provide temporary accommodation in hotels and other lodging facilities. For facilities commissioned after 1 January 2022 and included in the special register, this provision will remain in effect until the expiration of 20 consecutive tax periods after their commissioning. For other facilities, it will be effective until 30 June 2027.

— A zero VAT rate has been set for services to rent out or otherwise grant the use of tourism industry facilities commissioned after 1 January 2022 and included in the special register. The rate will be applied for 20 consecutive tax periods after the commissioning of the relevant facility.

— The list of taxpayers entitled to use the application-based VAT refund procedure for tax periods in the years 2022 and 2023 has been expanded. According to this procedure, the reclaimed VAT amount is refunded to the settlement account or offset against tax liabilities (insurance contributions liabilities) within two weeks before the completion of the desk tax audit of the VAT return where the VAT was claimed for a refund. Now the application-based VAT refund procedure can be applied by taxpayers that have not provided a bank guarantee or surety for an amount not exceeding the aggregate amount of taxes and insurance contributions paid by the taxpayer for the previous year subject to the following conditions:
  — If taxpayers are undergoing reorganization or liquidation, or against them insolvency (bankruptcy) proceedings have been initiated, they cannot use the application-based procedure.
  — The tax authorities may disallow the application-based VAT refund procedure if there is information on potential violation of the VAT assessment procedure by the taxpayer (including for previous periods).

**Personal income tax:**

— The following personal income has been exempted from taxation: income in the form of material benefits received in 2021–2023; income in the form of interest received in 2021 and 2022 on deposits (balances on accounts) with banks located in the Russian Federation; income in the form of property (except for money) and/or property rights the ownership of which was obtained in 2022 from a foreign organization, provided that certain conditions are met.

**Corporate profits tax:**

— The profits tax rate for IT organizations has been set at 0% for 2022–2024.

— Taxpayers have been granted the right to switch in 2022 to monthly advance payments based on their actual profits.

— The foreign currency exchange rate for calculating “thin capitalization” has been fixed until the end of 2023.

— The “safe” range for recognizing interest on debt obligations in expenses has been expanded.

— When calculating the tax base, the exchange difference accrued on claims (obligations) denominated in a foreign currency will be determined when the relevant debt is repaid so that estimated amounts depending on changes in the exchange rate of the ruble to foreign currencies do not impact profits tax liabilities. This provision applies to foreign exchange gains in 2022–2024 and to foreign exchange losses in 2023–2024.
Transport tax:
— Starting from 2022, the multiplier is used to calculate the tax amount only for vehicles worth RUB10 million or more (previously it was RUB3 million).

Corporate property tax and other taxes:
— In 2023, to calculate the tax base for real estate assets the tax base for which is determined as their cadastral value, the cadastral value as at 1 January 2022 will be used in certain cases. Thus, the cadastral value is temporarily “frozen” for taxation purposes.
— A similar provision is stipulated for payment of personal property tax and land tax.

Laws simplifying registration in special administrative regions (SARs)
The two Laws, inter alia, give the right to get the status of an international holding company (IHC) in case of redomiciliation to a SAR to companies incorporated prior to 1 March 2022 (previously the company had to be incorporated prior to 1 January 2018); ease the requirement concerning the unchanged composition of organizations’ controlling persons and requirements concerning the composition of documents to be submitted by companies during redomiciliation; allow applying reduced corporate profits tax rates to certain types of income received (paid) to the IHC; allow applying the exemption on dividends received by the IHC from 1 January 2021 to 31 December 2023 in case of indirect participation in a Russian company; introduce a stabilization clause for a number of taxes; extend the investment period to one year; allow registering personal funds in a SAR; require annual confirmation of the status of an international company and payment of a duty of RUB150,000, etc.

Law simplifying the regulation of the import of goods into the Russian Federation
The Law, inter alia:
— establishes the right to import multicomponent goods until 1 January 2029 on the basis of a preliminary classification decision in several foreign trade transactions;
— sets a shorter deadline for issuing certain classification decisions by the customs authorities when the relevant application is submitted through the Personal Account;
— removes the need to secure obligations to pay customs duties and taxes for participants in foreign trade activity that have been operating for less than a year;
— exempts participants in foreign trade activity that have paid a security deposit when the goods were released from paying the penalty if the customs authority assesses additional payments based on the results of an expert examination;
— authorizes the Government to establish the list of categories of goods imported as part of implementation of investment projects that may be declared for release prior to submitting the declaration of goods;
— extends the application of the experiment being carried out in the Kaliningrad Region on labeling in the Russian Federation of alcoholic beverages imported into Russia, entitles the Government to determine the territories where the experiment is to be conducted and extends the period of running the experiment until 31 May 2024;
— increases the period of applying federal special stamps and importing labeled alcoholic beverages into the Russian Federation from nine to eighteen months (this rule will be in effect until 31 May 2024) to make it easier for producers and importers of alcoholic beverages to plan their activities.
Second set of anti-crisis measures in response to sanctions | KPMG Review | 26 March 2022 | 3

Law expanding the list of activities permitted in special economic zones (SEZs) and introducing other support measures

To ensure further implementation of investment projects and attract new production enterprises to SEZs, amendments have been made to the Federal Law “On Special Economic Zones in the Russian Federation” that exclude production and refining of ethane, liquefied petroleum gas and liquid steel from prohibited types of activity in SEZs. The Law also postpones the effective dates of onerous mandatory requirements. In particular:

— The deadline for submitting applications for comprehensive environmental permits by 300 enterprises included in the special list of facilities having a significant adverse environmental impact has been extended until 31 December 2024.

— The deadline for creating automatic control systems that ensure automatic measurement and recording of emissions and/or discharges of pollutants for category I facilities by companies that have received comprehensive environmental permits has been extended for two years, to 1 September 2022.

— The extension of the list of territories participating in the experiment with quotas on emissions of pollutants into the air has been postponed for a year (until 1 September 2023), and the completion date of the experiment with quotas on emissions of pollutants has been postponed for two years (until 31 December 2026).

In addition, the Law allows companies that took out ruble loans at floating rates before 27 February 2022 to fix the amount of their payments to lenders for three months.

**Federal Law No. 71-FZ dated 26 March 2022**

“On Amending Certain Legislative Instruments of the Russian Federation”

Draft law extending the list of foreign currency transactions between residents

The Draft Law supplements the list of permitted foreign currency transactions between residents stipulated by part 1 of Article 9 of the Federal Law “On Currency Regulation and Currency Control” with transactions related to settlements and transfers in a foreign currency under loan participation financing agreements. The Draft Law introduces the term “loan participation financing agreement” into the Federal Law “On Currency Regulation and Currency Control”. Under this agreement, one party (external participant) provides financing to another party (authorized bank) for issuing a loan (refunding a previously issued loan) and the risk of non-repayment of this loan is transferred from the authorized bank to the external participant.

**Draft Law No. 84949-8 “On Amending the Federal Law ‘On Currency Regulation and Currency Control’”** (as regards the extension of the list of permitted foreign currency transactions between residents) was passed in its first reading on 11 March 2022.

How KPMG can help

Having extensive practical experience of tax and legal consulting in the areas covered by the adopted laws, **we would be pleased to:**

— Analyze and assess the impact and applicability of the proposed anti-crisis measures for companies and individuals; review and evaluate related opportunities and risks

— Prepare targeted recommendations concerning the potential impact of the anti-crisis measures on companies and individuals and relevant risk mitigation options

— Provide comprehensive support and assistance with tax and legal planning, preparation for and practical implementation of necessary steps related to the adopted anti-crisis measures

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