

LT in Focus

Tax & Legal



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Law on implementing the key directions of Russia's fiscal policy

The law adopted to fine-tune the Russian tax system was followed by [another one](#) introducing massive changes to the tax legislation.

Principal amendments include:

- lower entry thresholds for tax monitoring: RUB 80 mln of total taxes paid in the preceding year (previously RUB 100 mln) and RUB 800 mln each of total generated income and total value of assets (down from RUB 1 bn);
- a possibility of engaging regional tax officers in TP audits (at the discretion of the head/deputy head of the Federal Tax Service);
- excluding foreign persons from groups eligible for IT benefits (this will have a major impact for identifying proprietary software/databases and calculating the share of qualifying income);
- extending the duration of the temporary rules for recognizing foreign exchange differences;
- continued freezing of the liability for failure to confirm a CFC's profits.

Let's take a closer look in our new LT in Focus.

Corporate income tax (CIT)

Extended duration of the temporary procedure for recognizing FX differences

Despite [earlier announcements](#), the Ministry of Finance will extend the preferential treatment of FX differences until the end of 2027.

For three more years, FX gains and losses on foreign currency-denominated receivables and liabilities will be recognized on the settlement date rather than on a monthly basis.

The procedure is not available to banks (the prohibition is already [in effect](#) for 2024).

Loss carry-forwards

The law clarifies the provisions on loss carry-forwards. No losses incurred as part of zero-rated taxable activities may be carried forward (the current limitation [applies](#) only to certain zero-rated transactions).

The law also removes the limitation on loss-carryforwards for any profits taxed at beneficial rates. Currently, only certain types of qualifying transactions are free from the limitation.

The new rules will be in effect for losses incurred **from 2025 onwards** (prior-period losses will be deducted based on the previous rules).



Emil Baburov
Partner

Effective from 1 January 2025, IT companies will pay CIT at 5%. This raises a question whether they will be able to carry forward losses accumulated over the periods in which they applied the 0% rate.

In the current wording of the Russian Tax Code ([Paragraph 1.15, Article 284](#)), the 'carry-forward' benefit for IT companies is not on the list of prohibited loss carry-forwards.

Since the amendments will only affect the losses incurred on or after 1 January 2025, it is natural to assume that IT companies will retain the right to carry forward losses incurred in earlier periods (but not more than 50% of the current year's base).

Moreover, losses incurred by IT businesses since moving to the 5% rate may be carried forward without restrictions.

We hope that the tax authorities will soon issue clarifications confirming that our understanding is correct.

CIT benefit for the IT industry

Foreign entities (except those controlled by Russian persons), as well as foreign citizens and stateless persons, are excluded from members of a corporate group for the purposes of applying a reduced CIT rate in the IT industry.

What are the potential implications?

At present, qualifying income of IT companies includes income from providing licenses to use software and databases that are developed internally or adapted and/or modified by the taxpayer or a person in the same corporate group as the taxpayer.

With foreign persons excluded from treatment as part of a corporate group, the scope of software and database licensing activities qualifying for the benefit will become narrower.

[According to the Ministry of Finance](#), the amendments will "make the benefit more targeted by directly stimulating IT activities of Russian companies".

Similar amendments were made with regard to reduced social contribution rates for IT companies.

CIT exemption for forgiven debt

In 2024 and 2025, the exemption for income from a ceased liability will continue for:

- the liability under an agreement for the sale and purchase of participatory interests in Russian entities/shares where the seller (a foreign entity, a foreign citizen or another person the debt was assigned to before 31 December 2025) decides to forgive the debt;
- the liability related to the fair market value of proceeds payable to a foreign member of a limited liability company on their voluntary exit or a forced exit pursuant to a court order in 2022-2025.

Notably, the exemption for canceled loan obligations **has not been extended**.

CIT exemption for the sale of participatory interests/shares meeting the ownership test

The amendments eliminate the requirement that an issuer's assets must comprise of maximum 50% of Russia-based real estate to apply 0% CIT rate when selling small portions (maximum 1%) of circulating shares.

Cash basis

Income such as fines, penalties and/or other sanctions for breach of obligations, as well as compensation for

losses/damage payable under a legally binding court ruling effective on or after 5 March 2022 by a foreign entity from an unfriendly country, will be recognized on a cash basis until the end of 2026.

If a Russian taxpayer is jointly responsible for the obligations of a foreign legal entity from an unfriendly country, then the penalties to be paid by such a taxpayer will be also recognized of a cash basis.

The cash basis will also apply retrospectively from 1 January 2024 to interest on foreign debt securities.

The law expressly provides that no allowance for doubtful debts may be created for transactions where income is recognized on a cash basis.

Multinational holding companies (MHCs)

As per the [current legislation](#), an MHC applying reduced CIT rates must invest at least RUB 300 mln within a three-year period starting from 1 January of the year when such rates were first applied.

The amendments stipulate that Russian regions may extend the investment period for one more year upon an MHC's application.

Personal income tax (PIT)

Economic benefit from buying participatory interests

Participatory interests acquired below the market price will be considered to create an economic benefit for the buyer. Currently, such an economic benefit [arises](#) only in acquisitions of securities and derivative financial instruments.

Taxable income will be determined as the excess of the market value of the participatory interests over the taxpayer's acquisition costs.

The market value of a participatory interest will be determined as the respective portion of the entity's net asset value as at the latest reporting date.

The amendments will apply as of 1 January 2025.

Loan fringe benefits

The list of situations creating an economic benefit will be expanded to include instances where a loan is provided not only by the employers but also by their related entity/individual entrepreneur.

In addition, where obtained as part of refinancing the relevant loans or financing construction/acquisition of residential real estate, loan fringe benefits will now be recognized as an economic benefit.

However, fringe benefits on loans provided to employees under government support programs will not be deemed to create an economic benefit. Such fringe benefits will arise only if the amount of interest charged at 2/3 of the CBR's minimum key interest rate set for the loan agreement date and the date of receiving the income is greater than the amount of interest under the loan agreement. In this case, income will be calculated as the positive difference between the interest that would have been charged under the government program and the interest stipulated by the loan agreement. The amendments will apply retrospectively from 1 January 2024.

Also starting from 1 January 2024 the approach to income calculation will change.

According to the current provisions, income is calculated as the excess of the interest charged at 2/3 of the CBR's key interest rate **as at the date of receiving the income** over the interest under the loan agreement.

The amendments stipulate the use of **the lower of the CBR's key interest rate** as at the agreement date (or, if the rate was changed, the date of the latest change) and the date of receiving the income.

This approach seems more fair amid the recent hike in the key interest rate.

Interest on deposits with Russian banks

As per [the current rules](#), interest income on deposits with Russian banks is subject to PIT.

Such income is determined as the excess of the interest received on all deposits (account balances) with Russian banks during the fiscal period over the tax-free amount calculated as the product of RUB 1 mln and the higher of the CBR's key interest rate in effect as of the first day of each month in the fiscal period.

The amendments change the approach to calculating interest income on long-term time deposits exceeding 15 months.

If the exempt amount in a given fiscal period exceeds

that of interest income on all deposits, the difference may "reduce" (possibly to zero) long-term deposit interest income that will be received in subsequent fiscal periods.

With this amendment, the tax-free amount for periods where no interest income is received will not be lost: the taxpayer will be able to benefit from it in the period in which they receive interest on long-term deposits.

The changes will apply to interest income received on or after 1 January 2023.

Real estate acquisition costs

Under the current legislation, taxable income from the sale of real estate is determined as the income reduced by the taxpayer's documented acquisition costs. In the absence of documentary evidence for acquisition costs, the taxpayer may benefit from an established non-taxable amount.

After the amendments, the income from the sale of real property, in the absence of documented acquisition costs, will be reduced by the acquisition costs calculated using the transaction price that was the basis for registering the title to the asset. If tax officers do not have access to the transaction price, a benefit in the form of the established exempt amount will apply.

The amendments will come into effect retrospectively from 1 January 2023.

Severance pay

Under the current rules, severance pay not exceeding three times the employee's average monthly salary (or six times for Russia's Far North) is exempt from PIT.

The amendments specify that the average monthly salary will be determined similarly to determining maternity benefits and monthly childcare benefits.

Sale of real estate received through division of property

[The applicable legislation](#) stipulates that the income from the sale of real property that has been owned for longer than a maximum period (generally five years) is exempt from taxation.

The amendments clarify that:

- the ownership period of the assets created by division of residential property, architectural alterations or renovations of residential property or apportionment of participatory share in residential property must include the period of the taxpayer's ownership of the original property;
- If a residential property was created by joining together pieces of residential property, the ownership period of such newly created property will be calculated from the acquisition date of the piece that was acquired last.

Similarly, costs incurred to acquire the original properties will be taken into account if the ownership period exemption is not used and the received income is reduced by acquisition costs associated with the property (or, for divided properties, proportionally to the share in the newly created property).

The amendments will apply retrospectively from 1 January 2024.

Other changes

- Employees of Russian entities who perform employment or other duties abroad under Russia's cooperation agreements with foreign governments on the construction of nuclear facilities will be recognized as Russian tax residents regardless of how long they stay abroad.

- A 20% PIT deduction will be available to professionals, including unincorporated entities that are not registered as individual entrepreneurs.
- Withholding agents calculating PIT will have to consider the taxpayer's actually incurred and documented expenses on the basis of the taxpayer's application. For this purpose, the taxpayer will have to enclose relevant original documents or duly certified copies and documents confirming the incurred expenses.
- If there are reasons for adjusting taxes charged previously, the taxpayer will have the right to file a respective application (including via a multi-functional service center) along with required documents. The application will be considered within 30 days, which period may be extended for another 30 days. The tax authorities will then send a notice to the taxpayer, informing whether the tax adjustment is available. The reassessed tax will have to be paid by the 28th day of the third month following the month in which the tax notice was issued. The amendments will be effective for fiscal periods beginning from 2022.

Controlled foreign corporations (CFCs)

There will be no liability for not submitting confirmation of a CFC's profits for financial years ending between 2022 and 2024 if the following conditions are met simultaneously as of the first day of the last month of the document submission deadline established by the Russian Tax Code:

- the controlling person (taxpayer) is under foreign sanctions preventing/limiting them from obtaining such documents;

- the CFC is located in an unfriendly country.

A CFC's profits may be calculated based on the financial statements prepared in accordance with IFRS or other internationally recognized standards (and not the CFC's local standards) if at least one of the conditions is met: the controlling person and/or the CFC are under foreign sanctions or the CFC is located in an unfriendly country.

Transfer pricing

The amendments remove the condition that additional taxes assessed following a TP audit may only be recovered in court.

Such additional amounts will now be shown in the single tax account on the date when the relevant decision of the FTS (rather than the court ruling, as is currently the case) enters into force.

As regards the secondary adjustment under TP rules, at-source tax on the adjustment amount reclassified as dividends will be paid no later than on the due date for payment of CIT for the fiscal period in which the non-resident received the relevant income. That is, the tax due date is March 28 of the year following the year of the controlled transaction.

Certain ambiguities around one of the conditions for not applying secondary adjustment have been removed, namely those related to factoring in the foreign person's imputed use-of-money interest when calculating the taxable income. Imputed interest will be calculated not from **the date of payment** but from the date of **recognition** of the income (the last day of the year in which the controlled transaction took place).

Inspectors from regional tax offices may now be engaged to perform TP audits at the discretion of the head/deputy head of the FTS of Russia. The provision will take effect one month after the law is officially published.



Dmitry Kulakov
Partner

Given the general focus on increasing tax revenues, the amendments are possibly aimed at growing the FTS resources for TP audits and expanding the scope of control.

While TP audits traditionally target major commodity exporters, the past year has seen a surge of the FTS interest in other transactions such as imports and exports of products and services.

We recommend that taxpayers be proactive in considering the risks of the tax scrutiny and in preparing TP documentation.

Tax monitoring

The entry thresholds for tax monitoring will be lowered from RUB 100 to RUB 80 mln for total taxes paid in the preceding year and from RUB 1 bn to RUB 800 mln for total generated income and total value of assets.

The list of taxpayers not falling under these requirements will be expanded to include:

- former members of consolidated taxpayer groups;
- lottery operators;

- state and municipal institutions;
- entities, if one has at least a 50% direct and/or indirect participatory interest in the other and they **jointly** paid at least RUB 1 bn in taxes, earned an income of at least RUB 10 bn and had assets of at least RUB 10 bn.



Yulia Orlova
Partner

More relaxed conditions for entering tax monitoring is a clear signal that the tax authorities are ready to engage digitally with larger numbers of taxpayers.

This is certainly good news highlighting the tax authorities' focus on growing the system organically on the back of self-driven digital transformations as technologically mature businesses set to take their cooperation with the regulator to a new level.

Hopefully, an organically growing tax monitoring will help certain taxpayer categories maximally delay forced transition, in particular those whose current tax and IT functions would struggle with digitalization. So, joining the regime would only distract them from more pressing issues.

Value-added tax (VAT)

A preferential VAT rate of 10% will be extended to treated seeds of **all agricultural crops**. Currently, it is [available](#) only for sunflower and corn seeds.

The VAT [exemption](#) for imports of raw materials for the manufacture of immunobiological medicines used for diagnosing, preventing and/or treating infectious diseases will be canceled.

The following preferential rates will remain in effect until the end of 2027:

- 0% VAT on passenger and cargo air services to and from the Republic of Crimea or Sevastopol;
- 0% VAT on passenger and cargo air services to and from the Kaliningrad Region and the Far Eastern Federal District;

- 10% VAT on domestic air services.

The [provision](#) about reclaiming input VAT on goods bought for resale has been excluded, at the same time taxpayers will retain the right to claim such tax back under the [basic rule](#) on reclaiming VAT on taxable transactions.

Certain amendments are introduced in respect of [register-based confirmation](#) of eligibility for zero-rated VAT on certain transactions such as inland marine transportation of exported cargo and icebreaker escorting of sea vessels.

State duties in courts

The fees for filing lawsuits will be raised significantly.

For example, the maximum fee for filing a property lawsuit with a court of general jurisdiction is currently RUB 60,000 (for claimed amounts in excess of RUB 1 mln). After the amendments take effect, it will amount to RUB 900,000 (for claimed amounts in excess of RUB 100 mln).

The fees for disputes in commercial courts will be increased as well: from the current maximum of RUB 200,000 for filing a property lawsuit (for claimed amounts in excess of RUB 2 mln) to RUB 10 mln (for claimed amounts in excess of RUB 50 mln).

For companies, the fee for appealing against decisions

of government agencies will rocket almost 17 times, from RUB 3,000 to RUB 50,000.

The government [said](#) this is because state duties in courts have not been raised for a decade and a half, covering only 5% of Russia's expenditures on the judicial system.

The changes will come into force one month after the law's official publication.

They will apply to cases initiated in a court of the relevant instance on the basis of applications and complaints filed with the court after the amendments enter into force.

Нововведения вступят в силу спустя месяц после официального опубликования закона.

При этом они будут применяться к делам, возбужденным в суде соответствующей инстанции на основании заявлений и жалоб, направленных в суд после дня вступления в силу нововведений.

Other developments

The Russian Government's special taxation powers extended

Special powers of the Government have been extended for another four years until the end of 2028. They allow to resolve certain tax matters promptly without amending the Russian Tax Code.

These powers were first introduced amid the COVID-19 outbreak and have been renewed regularly.

They include the Government's right to adopt decrees in order to:

- suspend, cancel or postpone tax control measures;
- extend the due dates for tax payment;
- extend the due dates for filing tax returns, financial statements and (or) other documents with the tax authorities;
- extend the deadlines for giving and paying tax notices and for making decisions to collect taxes;
- introduce additional criteria for tax deferral (tax payment by installment);
- determine specific rules for the application of, or decide on non-application of, measures to enforce payment of taxes;
- determine the grounds and conditions for not imposing the liability for failure to file tax returns, financial statements and (or) other documents;
- set rules for collecting tax arrears using the funds on the taxpayer's accounts.

Mineral extraction tax (MET)

The MET [deduction](#) rules for oil produced from deposits located entirely within the Nizhnevartovsk District have been amended by revising the approach to calculating the amount and time limits for a special surcharge. There is also more clarity on the MET [deduction](#) for Arctic residents. The taxpayers that have availed of the MET deduction are not allowed to apply

the tax deduction under an investment protection and promotion agreement .

Simplified Taxation System (STS)

Russian high-tech equipment will not be taken into account when calculating the residual value of fixed assets to check compliance with the STS thresholds.

Property taxes

A [reduced](#) property tax rate of 1.6% for public railways and the related infrastructure will now be applied indefinitely. Previously, the time limit was set for the end of 2026.

A procedure was established for individual taxpayers seeking a reassessment of property taxes.

Property tax exemptions for participants of Russia's special military operation in Ukraine and their family members will be effective for 2022 and 2023.

Marketplaces and automated STS

Снимается запрет на применение АУСН лицами, The prohibition for marketplace sellers to use an automated STS is lifted.

Taxpayers using this system may also allow marketplaces to share information with the tax authorities, namely the information about:

- set-offs;
- agency fees received by the marketplace.

The FTS of Russia will prepare an information exchange memorandum specifying information to be transferred.

The information will be transferred before the 10th day of the month following the month of the transaction.

The new rules will apply as of 1 January 2025.

Windfall tax

There will be changes to the procedure for assessing windfall tax in case of additional CIT charges after tax audits that affect the amount of windfall tax.

[Currently](#), profit subject to windfall tax is increased by additional CIT charges multiplied by five.

This seems not quite fair though. For instance, such an approach does not cover situations where the tax authorities impose additional tax after they have challenged the reduced CIT rate applied by the taxpayer rather than the amount of their profit.

The amount of profit for determining the windfall tax will now be adjusted by the amount of “changes in the tax base resulting from the tax audit”.

Tax administration

The preferential penalty rate for companies will stay at 1/300 of the CBR’s key interest rate (vs the regular 1/150) until the end of 2024. Earlier, the benefit was supposed to expire on 31 December 2023. The rule will apply retrospectively starting from 1 January 2024.

Taxpayers with no account transactions/taxable assets and activities will be filing simplified tax returns less frequently:

- CIT returns will have to be filed by the 20th day of the first month of the second quarter following the tax period in which the taxpayer last had transactions on their bank accounts and/or assets or

activities subject to CIT;

- tax returns for other taxes will have to be filed by the 20th day of the first month of the second tax period following the tax period in which the taxpayer last had transactions on their bank accounts and/or taxable assets or activities.

At present, simplified tax returns are filed once a quarter.

The amendments also specify the procedure for desk audits of simplified tax returns.

Exemption from liability for a tax offense where the taxpayer has an overpayment for taxes has been also clarified. No fine will be imposed if, from the tax due date to the date of the decision to bring them to liability, the taxpayer continuously had a positive balance on their single tax account and/or amounts set off against the upcoming liability for a particular tax, and these amounts were sufficient for full or partial payment of the tax (currently, exemption is available only in case of a positive balance on the single tax account).

Banks will be liable for failure to timely inform the tax authorities about amounts of interest paid on deposits (account balances). The fine will be RUB 1,000 for each instance.

We hope you find this information useful.

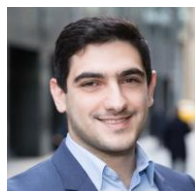
If you have any questions, please don't hesitate to ask.

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