OVERVIEW OF TAX EVENTS FOR NOVEMBER 2014

REGULATORY DEVELOPMENTS

On 4 November the Russian President signed the following federal laws:

- No. 348-FZ "On amending part one of the Russian Tax Code". Russia will have a system of proactive tax control (so-called tax monitoring) for major organisations,

For information:
(www.kommersant.ru, 26 November 2014)
According to the assessment of the Russian Federal Tax Service, tax monitoring may cover about 2,000 taxpayers.

- No. 347-FZ "On amending part one and two of the Russian Tax Code" establishes at the legislative level an official status of the Internet services "Taxpayer personal account for individuals" and "Taxpayer personal account for legal entities" and the main rules for using them.

On 24 November the Russian President signed the following tax laws:

- No. 376-FZ - amendments to the Russian Tax Code with regard to taxing the profit of controlled foreign companies and income of foreign companies;
- No. 366-FZ regarding what is known as the "tax manoeuvre" in the oil sector. The manoeuvre implies that the export duty on oil will be gradually reduced over three years by 1.7 times and the export duty on oil products will reduce by 1.7-5 times. However, the rate of mineral extraction tax will rise.

On 29 November the Russian President signed a number of tax laws:

- No. 382-FZ "On amending part one and two of the Russian Tax Code" allows for a new sales tax (tax on business activity) to be introduced in Moscow, St Petersburg and Sevastopol from 1 July 2015. In municipal units that are not on the list of cities of federal significance, the sales tax may be introduced only after a special federal law is adopted;
- No. 380-FZ "On amending part two of the Russian Tax Code in connection with adopting the Federal Law 'On areas of advanced social and economic growth in the Russian Federation'" establishes tax benefits for residents of areas of Russia that are designated as being of advanced growth. The zero rate of corporate profit tax to be paid to the federal budget will be in effect for five years;
- No. 379-FZ "On amending part one and two of the Russian Tax Code in connection with adopting the Federal Law 'On developing the Crimean Federal District and free economic zone in the Crimean Republic and the city of federal significance Sevastopol'".

The State Duma has also adopted in the first reading the draft law "On amending the Russian Criminal Code": liability has been introduced for avoiding to pay taxes by using conduit companies, as well as by concealing or distorting information with regard to controlled foreign entities and controlled transactions. The law also provides for the tools, equipment and other means of committing an offence to be confiscated, even if they belong not only to the accused persons, but also to other persons, including legal entities.

The Duma of the Khanty-Mansi Autonomous Okrug (Yugra) has put a draft law before the State Duma regarding a change of the tax regime in the oil industry and mineral extraction tax being replaced with a tax on financial results.

www.kommersant.ru, 18 November 2014

In the near future, the Russian Government will finalise the draft law that will create a market for domestic solid waste to circulate in Russia. It is presumed that standard rates for utilisation will be established and companies will either have to meet them or to pay the environmental fee to the state budget. The money collected for the waste will be spent on state programmes.

Vedomosti, 20 November 2014
www.kommersant.ru, 7 November 2014

Companies may be granted a right to deduct VAT on advances paid to foreign suppliers. This initiative has been proposed by lawyers and representatives of the business community at a meeting of the Expert Committee under the Russian Chamber of Commerce and Industry. The proposal received support from the representatives of the Ministry of Finance and the Federal Tax Service who were present at the meeting.

rg.ru, 11 November 2014

PRACTICE

Tax systems in Russia and Italy were rated as the most complex for businesses among the seven leading European economies. Meanwhile, the tax systems in the UK and Netherlands have become the most attractive. They were rated highly for their transparency, simplicity and focus on the development of business.

Vedomosti, 28 November 2014

In the recent years, the Russian Federal Tax Service has dramatically changed its approach to organising its regulatory work: now this is based solely on economic analysis of taxpayers and a risk-oriented approach. All work is automated to the maximum extent possible.

nalog.ru, 28 November 2014

The Retail Companies Association (AKORT) and the Federal Tax Service have created a work group for fighting tax evasion in the retail sector. In this collaboration with the Federal Tax Service, the Retail Companies Association is responsible for analytics. The idea is to switch to analysis by trademarks.

www.vedomosti.ru, 26 November 2014

The tax authorities are demanding that retailers reduce their VAT deductions on bonuses received from suppliers for the volume of sold goods. The Russian Supreme Court has refused to re-examine the case of Castorama (Castorama rus LLC), which challenged additionally assessed tax of RUB 93 million based on results of a field tax audit for 2009-2010. The main conclusion was that: 'when a supplier provides a bonus or a discount to a retailer, this actually reduces the cost of goods'.

Ruling of the Russian Supreme Court
No. 305-KG14-3243 dated 10 November 2014

Excisable products, even if they are sold for no consideration (for example, as a part of promotional; campaigns), are subject to excise tax. The court ruled to this effect in a dispute between SUN InBev OJSC, the Russian subsidiary of the world's largest brewing concern AnheuserBusch InBev, and the tax authority.

Resolution of the State Commercial Court for the Moscow Circuit, dated 7 November 2014

The Moscow tax inspectorate used a new approach in a dispute with closed joint-stock company Korolevskaya Voda. The inspectorate raised a claim against the company for RUB 330 million (outstanding tax and default interest), but failed to collect the money, because the company actually transferred its financial and business activity to a new limited liability company. The tax authority argued that the companies were interchangeable: they had the same address, while the clients, the right to the trademark and all employees of the closed joint-stock company were transferred to the limited liability company with the same name. The court upheld the argument of the tax authority and held that the debt be recovered from the limited liability company.

Resolution of the State Commercial Court for the Moscow Circuit dated 31 October 2014 in case No. A40-28598/13

In addition:

www.nalog.ru, 6 November 2014

The Federal Tax Service points out that this case sets a precedent and confirms that new provisions of article 45 of the Tax Code work efficiently, helping to prevent the transfer of assets to related parties and to collect tax debts.

The City of Moscow State Commercial Court upheld the position of the tax authority in a dispute with Oriflame Cosmetics LLC, the subsidiary of the cosmetic concern Oriflame. The tax authority concluded that, under the guise of licence payments, the company was reducing its profit tax base, and assessed additional tax and default interest. The Russian subsidiary was paying for trademarks to Oriflame and another Dutch company Oriflame Kosmetiek. The main owner of these trademarks is the Luxembourg-based Oriflame Cosmetics. After the audit, the tax authority concluded that the Luxembourg-based company was indirectly controlling the Russian company.

www.vedomosti.ru, 28 November 2014