

**OVERVIEW OF TAX EVENTS
FOR DECEMBER 2014**

REGULATORY DEVELOPMENTS

The Russian President has signed amendments to the Russian Tax Code (*Federal Law No. 382-FZ dated 29 November 2014*), according to which Moscow, St Petersburg and Sevastopol may introduce a sales tax from 1 July 2015. The rate of the sales tax will be set by the cities themselves depending on the sales outlet or its area. Taxpayers will be able to deduct the sales tax from the profit tax they pay.

The Russian President has signed *Federal Law No. 406-FZ dated 1 December 2014*, which freezes, until 2017 inclusive, the rate of insurance contributions to state extra-budgetary funds at the level of 2012-2016. The bulk of taxpayers will, as previously, send 30% of their payroll fund to extra-budgetary funds. The threshold was eliminated for social contributions paid to the Compulsory Medical Insurance Fund.

ria.ru, 2 December 2014

Opinion:

(www.vedomosti.ru, 18 December 2014)

'Our steps this year to eliminate the threshold [of the minimum salary subject to contributions] to the Compulsory Medical Insurance Fund actually means additional tax on business. The reason for this is that the Fund is suffering a deficit and this is the result of reform not being sufficiently carried through', says *Alexey Ulyukaev, Russian Minister for Economic Development*.

On 23 December, the State Duma passed amendments to the Federal Law 'On production and consumption waste' (Federal Law No. 458-FZ dated 29 December 2014), which, among other things, established an environmental fee payable by manufacturers and importers of goods that are to be recycled after they lose their useful qualities.

www.vedomosti.ru, 24 December 2014

Gleb Khor, a State Duma deputy, has submitted to the State Duma a draft law 'On amending article 269, part two of the Russian Tax Code in terms of the definition of controlled debt'. The draft law suggests regulating the rules of 'thin capitalisation' when 'sister' loans and credits are extended by independent Russian banks.

Vedomosti, 22 December 2014

The Russian Ministry of Culture has published for public discussion the description of a draft law introducing the author's fee in the Internet (<http://regulation.gov.ru/project/21397.html>). The Ministry of Culture suggests creating a register of copyright-protected content in the Internet and obliging telecom operators to install special equipment to analyse traffic and to allocate on a fair basis the fees collected from users between the owners of copyrights to music, movies and literary works. The fees will come to about USD 860 million a year.

www.rbcdaily.ru, 10 December 2014

By the end of February 2015, the Russian Ministry of Finance and Russian Ministry of Economic Development will have completed their analysis of all compulsory payments to determine whether they are in essence taxes and levies. Based on results of this analysis, the

Ministries will have to submit their reports in which they will argue whether it is reasonable to have such payments regulated by legislation on taxes and levies.

www.kommersant.ru, 10 December 2014

PRACTICE

The US Foreign Account Tax Compliance Act (FATCA), which Russian banks started to comply with in summer of 2014, has posed its first problems to them. The representatives of the Big Four audit firms disagree regarding how the law's provisions should be interpreted and provide contradictory recommendations regarding how banks should be identified.

www.kommersant.ru 8 December 2014

At the meeting of the Intra-European Organisation of Tax Administrations in Budapest, international experts were lavish in their praise for the experiment conducted by the Russian Federal Tax Service, which had implemented an online system transferring information regarding settlements to the tax authorities using the cash register equipment.

nalog.ru, 11 December 2014

Of late, entering into settlement agreements between the tax authorities and companies has become increasingly popular. Often, tax inspectors suggest closing the dispute and dropping the lawsuit. Alternatively, any company may approach the tax inspectorate and suggest a settlement agreement. The text of a standard settlement agreement sent by the Federal Tax Service to its inspectorates shows what benefits may be granted to companies. It has been noted that actions at odds with the Tax Code may not be the subject matter of a settlement agreement. Companies need to make compromises: for example, to agree to pay the fine or to agree that they are not entitled to a tax benefit.

www.gazeta-unp.ru, 10 December 2014

"They came with Kalashnikovs and in masks instead of just calling", said *Magnus Brännström*, *President of Oriflame*, about his love for Russia and payment of taxes.

www.vedomosti.ru, 15 December 2014

The Russian Constitutional Court may consider whether compensation should be paid to former shareholders of YUKOS, if any suspicion arises that the decision passed by the European Court of Human Rights regarding compensations is at odds with Russian laws, stated *Valery Zorkin*, *Chairman of the Court*.

kommersant.ru, 18 December 2014

Opinion:

(www.kommersant.ru, 11 December 2014)

At the Senate Readings in the Constitutional Court, *Valery Musin*, *former Russian judge of the European Court of Human Rights on the YUKOS case and currently a member of Gazprom's Board of Directors*, stated that Russia is not obliged to enforce the ECHR's ruling if it is at odds with the Constitutional Court's position.

Russia is preparing to merge its courts of general jurisdiction and state commercial ('arbitration') courts. The relevant document is being drafted by the Presidential Administration and the Russian Supreme Court.

www.ng.ru 15 December 2014

On 23 December, the Supreme Court ruled in the case of United Europe-S.B. (a distributor of cosmetics that manages the Ile de Beauté cosmetics chain of stores) that the seller must pay profit tax on the gift certificates unredeemed by buyers immediately after their validity expires.

www.kommersant.ru, 24 December 2014

Additionally:

(Vedomosti, 25 December 2014)

The result of this dispute as a precedent will be of great significance to many chain stores that actively sell their gift certificates to clients, said an officer of the Federal Tax Service.

The Moscow State Commercial ('Arbitration') court handed down its decision regarding the claim of the representative office of the British Freshfields Bruckhaus Deringer LLP (FBD) against Inter-District Inspectorate No. 47 of the Federal Tax Service. The claim of the tax inspectorate related to how the profit tax amount payable by the Moscow representative office of FBD for 2009-2011 was calculated. The representative office included expenses of its headquarters in its tax returns. For example, it paid for the work of employees who stayed abroad during the audited period. The tax inspectorate also took account of the headquarters' expenses on telecommunications, reading materials, business trips and stationery. The inspectorate believed that, by doing so, the Russian office of FBD could have understated its tax base, because not all expenses were documented in a proper manner.

Officially:

top.rbc.ru, 1 December 2014

The legal position adopted by the court in FBD's case is a turning point in the existing case law, says *Sergey Arkelov, Deputy Head of the Federal Tax Service*. 'The tax authority actually managed to put a stop to the foreign company's abuse in accounting for expenses'.