

A new procedure for tax authorities to reduce fines

FAO chief accountants, tax managers and lawyers

Pepeliaev Group advises that, on 30 September 2026, a new procedure will enter into force for applying mitigating circumstances when fines are imposed in relation to tax matters¹. It has been approved by the Russian Federal Tax Service (the “Federal Tax Service”) for tax authorities to use. A court may both verify whether a tax authority’s decision complies with this procedure and reduce a fine on other grounds, providing justification for its conclusion.

The Russian Accounts Chamber previously concluded, following an audit of the tax authorities’ work, that there was excessive discretion in whether to apply mitigating circumstances when imposing fines for tax matters. In its view, this creates corruption risks. The Federal Tax Service tightened its approach by means of an internal letter for its own use, the contents of which have not been disclosed². The law has limited the discretion of tax authorities by providing that penalties may not be reduced by more than tenfold (article 114(3) of the Russian Tax Code – the “Tax Code”) and has authorised the Federal Tax Service to establish in a regulatory legal instrument uniform approaches to how tax inspectorates apply mitigating circumstances.

The new procedure, which replaces the internal letter mentioned above, sets out the types of mitigating circumstances that must be taken into account (in addition to circumstances specified by law, which apply mainly to individuals) and introduces strict limits on how they are to be taken into account. Some types of mitigating circumstances are described in general terms and illustrated by examples that are not exhaustive (the wording “in particular” is used). However, given current regulatory trends, it is likely that circumstances not described in the new procedure will be taken into account only rarely in practice. The procedure also identifies circumstances that do not reduce a fine.

¹ Order No. ED-1-7/514@ of the Federal Tax Service dated 24 July 2026.

² Letter No. BV-5-7/888DSP of the Federal Tax Service dated 30 May 2025.

1. In terms of a violation being insignificant, the following circumstances concerning the objective aspect of it are recognised:

1) for violations of obligations to provide information and documents – the delay being short (no more than three working days) or the proportion of documents not submitted on time being no more than one tenth in relation to the total number;

2) for violations of the obligation to pay or remit tax – the same short delay of no more than three working days (but only for a tax agent) or the proportion of the tax obligation that has been violated being no more than one tenth of the amount due for the relevant period, but no more than RUB 5 million, and provided that the violation was committed through negligence.

2. A legal error is recognised as a circumstance mitigating fault – namely, incorrectly interpreting legislation in the absence of clarifications from the financial and tax authorities or case law, or where such clarifications or case law is contradictory.

Pepeliaev Group's Comment

The principle of legal certainty requires tax laws to be clear (article 3(6) of the Russian Tax Code), and a violation of this should not be left without legal consequences. The Federal Tax Service deserves support for its departure from a formalistic “legalist” approach, under which an incorrect understanding of an unclear law not only does not exempt a taxpayer from liability but also does not mitigate it.

3. Voluntarily correcting tax reporting before a violation is identified or before a tax audit begins (and likewise after it is completed where the audit did not identify a violation) excludes liability by operation of law, provided that the tax and interest are paid in full (article 81(4)(1) and article 123(2) of the Tax Code). If the payment condition is not met, the voluntary correction is recognised as a mitigating circumstance.

One provision of the new procedure expresses this approach without qualification, while another provides that where there is a positive balance on the unified tax account when the amended tax reporting is submitted and at least one quarter of the outstanding debt has been repaid by the date on which the matter of whether to impose a penalty is considered, two mitigating circumstances will be recognised. The fine may be reduced by between 20% and 80%, depending on the proportion of the debt repaid.

If amended tax reporting is submitted after the violation has been identified (or a tax audit has commenced), the tax self-assessed by the taxpayer will be taken into account (and will not be assessed again), but this will not exempt the taxpayer from the fine. On this ground, the fine may be reduced by between 50% and 75% if at least half of the tax and interest is paid.

Pepeliaev Group's Comment

We expect the practice to continue of tax liabilities being “voluntarily corrected” following a pre-audit letter from a tax authority, which refers to signs of violations but is not formally regarded as such violations being identified, meaning that penalties will not be imposed. The reason for this is not that tax authorities are lenient, but because there is no procedural opportunity to impose a fine for tax being underpaid without an audit being scheduled.

4. The new procedure establishes criteria for the difficult financial position of an organisation subject to liability, so that fines can be reduced:

- 1) debt relating to current expenses (wages, rent, utilities, loans, leases, etc.) exceeds current income and balances in bank accounts;
- 2) profit has declined by at least 30% or a loss has been generated;
- 3) external circumstances have arisen as a result of which income has fallen by at least 10% compared with the tax period before they occurred, or an authorised body (or other person) has recognised that the entity has been adversely affected.

That the financial position has deteriorated owing to the payment of tax arrears does not mitigate liability.

5. Circumstances that characterise the offender in positive terms and potentially reduce the penalty include:

- 1) complying with the obligations established by the Tax Code while bearing a tax burden above the industry average for its principal business activity;
- 2) its activities having a social orientation;
- 3) having the status of a city-forming enterprise;
- 4) it giving charitable assistance, for which a regressive scale of the required amount has been established as a proportion of total income for the period of the violation (from 0.1% to 0.5%).

6. Circumstances falling within the same category are taken into account as a single circumstance.

Where several types of mitigating circumstances are identified, a fine is reduced by increasing the reduction multiplier by two (two-, four-, six-, eight- or tenfold), rather than by doubling it each time (two-, four- or eightfold). A reduction depending on the proportion of debt repaid is calculated differently: not by a multiplier, but according to a percentage scale; where mitigating circumstances of another type are identified, the multiplier is increased by one (two-, three-, four- or fivefold).

7. Liability is not in itself mitigated by the mere absence of the repetition (recidivism) of the violation committed, i.e. a similar violation being committed within one year after a fine was imposed for the previous violation (article 112(3) of the Tax Code).

At the same time, the fine may not be reduced by more than half:

- 1) where several intentional violations involving related persons (persons under control) are identified during a single field tax audit in different tax periods;
- 2) where an intentional violation involving related persons (persons under control) is identified as a result of a desk tax audit in circumstances involving a repeated violation of the same kind.

This restriction does not apply to a reduction calculated as a percentage rather than by a multiplier, where the reduction depends on whether the outstanding debt has been repaid.

8. The new procedure establishes limits on the reduction of fines where several types of mitigating circumstances are identified:

- 1) down to RUB 10,000 for organisations other than small and medium-sized enterprises and non-profit organisations;
- 2) down to RUB 3,000 for individual entrepreneurs, non-profit organisations and organisations classified as small or medium-sized enterprises;
- 3) down to RUB 1,000 for individuals.

Pepeliaev Group's Comment

Although the Russian Constitutional Court (the "Constitutional Court") has recognised that it is permissible to establish a minimum fine below which a fine may not be reduced (see the Constitutional Court's Ruling No. 4-P dated 25 February 2014), it is open to debate whether such restrictions can be introduced not by law but by a departmental order.

The risk of excessive penalties is increasing for violations that take the same form, which are often caused by technical failures but entail a fixed fine without the sanctions being aggregated (which occurs when administrative liability is imposed pursuant to article 4.4(2) and article 4.4(5) of the Russian Code of Administrative Offences),.

For example, this refers to a failure to provide information that bank accounts have been opened (article 132 of the Tax Code).

What to think about, what to do

During the first months when the new procedure is applied, difficulties may arise in relation to the transition from the approaches under the internal letter that applied previously. We recommend carefully comparing approaches to reducing

finances with the newly introduced procedure, taking into account the formalised criteria that the latter has established.

Help from your adviser

We are ready to advise you on any matters relating to fines being imposed for violations of tax legislation.

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