

**OVERVIEW OF TAX EVENTS FOR FEBRUARY 2015**

## REGULATORY DEVELOPMENTS

An amended draft law has been put before the State Duma which makes the term “controlled indebtedness” more specific when interest under debt obligations is included in expenses (the “thin capitalisation” rules).

The Committee for Budget and Taxes proposes to suspend in 2015-2016 tax regulation of the prices for internal transactions to give the tax authorities an opportunity to concentrate on prices in foreign trade transactions because these are used for the illicit capital outflow from Russia.

*Vedomosti, 16 February 2015*

For public discussion purposes, the Russian Ministry of Culture has published on the website for regulatory acts ([regulation.gov.ru](http://regulation.gov.ru)) a draft law concerning the so-called 'Internet tax'. The document was drafted at the initiative of the Russian Union of Right Holders and proposes to legalise the online consumption of copyrighted content; in particular, it proposes that payments from providers (the “Internet tax”) be introduced.

*kommersant.ru, 20 February 2015*

*Opinion:*

*Vedomosti, 17 February 2015*

The Main Control Directorate of the Russian President's Administration has prepared a negative response to the proposal that a 'private copying levy' be introduced.

*top.rbc.ru, 12 February 2015*

Frances Moore, the CEO of the International Federation of the Phonographic Industry (IFPI), in his letter to Igor Shuvalov, Russian deputy prime minister, has criticised the anti-piracy levy in the Russian Internet.

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The Government Commission for Legislative Drafting has approved the proposal of the Russian Ministry of Finance that the tax burden be decreased on new industrial companies. It has proposed that regional authorities be granted the powers to decrease the tax burden within the amount of the capital expenditures by decreasing profit tax by up to 10%.

*rbcdaily.ru, 26 February 2015*

## PRACTICE

Pepeliaev Group's tax lawyers have analysed the changes in the area of taxation and compiled a list of the most important developments in 2014. The adverse events clearly outbalance the positive ones and the worst event was the Supreme Commercial Court being abolished. The best news item was the Government's refusal to increase taxes.

*[pravo.ru](http://pravo.ru), 12 February 2015*

A list of 73 mandatory payments has been published which are similar to taxes and levies but are not set out in the Russian Tax Code.

*[kommersant.ru](http://kommersant.ru), 23 February 2015*

The results of tax audits in 2014 show that field audits are becoming more efficient. While the number of audits has reduced by 13%, the additionally assessed sums per audit have increased from RUB 6,900,000 to RUB 8,300,000. 78% of the sums which taxpayers had challenged in court were eventually paid to the state budget.

*[rg.ru](http://rg.ru), 25 February 2015*

*Additionally:*

[www.minfin.ru](http://www.minfin.ru), 24 February 2015,

Anton Siluanov, Head of the Russian Ministry of Finance, said: "We see that the tax service has a potential to increase tax output and improve the administration of tax income". Tax authorities should also take into account the deterioration of taxpayers' conditions during the crisis and should apply grace periods and deferrals of payments more widely. The Ministry of Finance is also urging the Federal Tax Service to prevent further growth of the practice when salaries are partially paid off the books.

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The Russian Federal Tax Service plans to analyse VAT returns electronically and keep tax histories of companies that are subject to VAT.

*[www.gazeta-unp.ru](http://www.gazeta-unp.ru), 27 February 2014*

The Russian Federal Tax Service has issued *Letter No. OA-3-17/87@ dated 16 January 2015* concerning the criteria for classifying an individual as a tax resident when applying the legislation on controlled foreign companies. The tax service recommends that the criteria of the permanent place of residence and centre of vital interests be used, even though these criteria have originally been intended only for the application of double taxation treaties.

*[top.rbc.ru](http://top.rbc.ru), 18 February 2015*

The Russian Ministry of Culture has reported the results of last year's audits assessing whether four consumer electronics importers have paid the 'private copying levy' which applies when sound recording equipment (computers, phones, players, etc.) are produced or imported. Violations have been identified for Panasonic, Toshiba and HP. These companies imported such goods into Russia without paying the contributions to the Russian Union of Right Holders. Toshiba has eventually complied with the order while Panasonic is challenging it in the court. HP's representative office has been hit with a RUB 5,000 fine for failing to provide information to public officials.

[www.kommersant.ru](http://www.kommersant.ru), 27 February 2015

On 26 February an open session of the Russian Constitutional Court took place concerning JSC Gazprom Neft's claim to invalidate as inconsistent with the Russian Constitution the provisions of the law on the Russian Supreme Court, which prevented the company from challenging a letter of the Russian Federal Tax Service. The decision is expected to be announced in one month.

*Vedomosti*, 27 February 2015

The Ninth Commercial Appeal Court has upheld the decision of the first instance court that nearly RUB 537,000,000 of additional tax payments were properly assessed against LLC Oriflame Cosmetics (the Russian subsidiary of Oriflame). The additionally assessed sums are connected with the tax audit of license payments (royalties) that the company pays to Oriflame Kosmetiek B.V. (Netherlands). In the tax authority's opinion, which the court has upheld, the company intentionally created a tax optimisation scheme and has been using it over an extended period.

*rapsinews.ru*, 25 February 2015

The Ninth Commercial Appeal Court has dismissed the claim of Mazda Motor Rus (the Russian distributor) to invalidate a decision of the tax authority. The tax inspectorate had decided that the company overestimated its costs when calculating the profit tax base for 2009: the distributor intentionally overestimated the purchase prices for Mazda vehicles and the costs at the end of the year were greater than they could have been. The court has decided that it was legitimate to reduce the price for the distributor's transactions with its foreign supplier, which was a related party.

*Vedomosti*, 27/02/2015