

# Federal investment tax deduction: a new opportunity, a new restriction, and...?

*FAO company staff applying the federal investment tax deduction (FITD) or considering its potential application*

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## **Pepeliaev Group advises of planned amendments to the Russian Tax Code concerning the regulation of the Federal Investment Tax Deduction (the "FITD").**

The amendments proposed in the draft law of the Russian Government (the "Draft Law") on large-scale changes to the Russian Tax Code<sup>1</sup> (the "Tax Code") regarding the FITD can be conditionally characterised as follows: a new opportunity, a new restriction, and a new wording of an existing provision, which, at first glance, does not entail any substantive changes.

### **The new opportunity**

It is proposed to grant taxpayers the right to transfer the right to apply the FITD within a group of companies to another entity, regardless of the industry in which it operates.

#### **Pepeliaev Group's Comment**

The FITD may only be applied by companies whose main type of activity is included in the list established by the Russian Government's Resolution No. 1638 dated 28 November 2024 "On the Parameters for Applying the Federal Investment Tax Deduction" (the "Government Resolution"). The list contains a total of seven categories.

At the same time, the Tax Code allows for the right to apply the FITD to be transferred within a group of companies.

In its letter No. 03-03-06/1/22387 dated 6 March 2025, the Russian Ministry of Finance noted that a company which has acquired the right to apply the FITD cannot transfer this right to an entity that does not meet the criteria for applying it (in particular, one operating in an industry for which the Government Resolution does not provide).

The Draft Law removes this restriction.

### **The new restriction**

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<sup>1</sup> Draft Law No. 1026190-8 "On Amending Parts One and Two of the Tax Code of the Russian Federation and Certain Legislative Instruments of the Russian Federation." URL: <https://sozd.duma.gov.ru/bill/1026190-8>

At present, the FITD cannot be applied to fixed assets / intangible assets whose initial cost was formed using an increasing coefficient, or to those for which a regional investment tax deduction was applied (article 286.2(4) and article 286.1(4) of the Tax Code).

To these existing restrictions, a new one may be added: the non-applicability of the FITD to items whose initial cost was formed at the expense of subsidies.

### **The new wording**

As a result of applying the FITD, the amount of profit tax payable to the federal budget cannot be lower than the amount of tax calculated at the rate of 2% (3% in 2025–2030) (article 286.2(6)(3) of the Tax Code).

It is proposed to reword this limitation as follows: the amount of profit tax payable to the federal budget “may not be reduced by an amount greater than the calculated sum of tax determined from the tax base of the current tax (reporting) period, provided that a tax rate of five per cent is applied.”

It appears that the essence of the rule does not change: the FITD cannot reduce the amount of profit tax to the federal budget by more than 5%. However, it is possible that the legislature intended a different meaning. The Explanatory Note to the Draft Law provides no clarification on this matter.

### **Pepeliaev Group’s Comment**

According to information from relevant business associations, the results at present of applying the FITD have been rather modest. This is largely due to uncertainties in the legal regulation of the FITD, the extremely limited range of entities able to apply it, and the restrictions on the amount of the deduction.

It might have been advisable for the legislature to refine precisely these aspects of the FITD in order for it to gain greater popularity.

### **What to think about, what to do**

Despite all its restrictions and the lack of clarity, companies are applying the FITD in practice, as it allows them to reduce the amount of their tax liabilities in a situation where the tax burden is increasing. Companies that meet the established requirements but have not yet used the FITD should consider applying it in the future, taking into account the existing practice and the planned legislative changes.

### **Help from your adviser**

Pepeliaev Group’s specialists have extensive experience in advising on various issues of tax law, including those related to the FITD.

We are ready to assist you in assessing whether your company’s use of the FITD is legitimate and to provide recommendations for applying it.

## Contact details



**Natalia Kovalenko**  
Partner

Tel: +7 (495) 767 00 07  
[n.kovalenko@pgplaw.ru](mailto:n.kovalenko@pgplaw.ru)



**Evgeny Leonov**  
Senior Associate