

Russian Supreme Court: the deadline for ordering a transfer pricing audit is not merely procedural

FAO heads of finance and legal departments

The Russian Supreme Court has resolved a dispute over whether the Federal Tax Service of Russia may apply a new, longer deadline for ordering an audit of controlled transactions to notifications submitted before the legislation was amended.

On 24 September 2026, the full text of [the Ruling of the Judicial Chamber for Economic Disputes of the Russian Supreme Court](#) in Case No. A40-72524/2025 (No. 305-ES26-8266) (the Ruling) was published.

The dispute concerned an audit of OJSC Ural Mining and Metallurgical Company (UMMC) for 2021, in respect of which the taxpayer had submitted a notification of controlled transactions in May 2022.

At that time, Clause 2 of Article 105.17 of the Russian Tax Code provided for a special two-year deadline: a decision to conduct an audit could be made no later than two years from the date on which the notification was received.

However, on 26 March 2024, Federal Law No. 39-FZ dated 26 February 2024 (hereinafter, Law No. 39-FZ) entered into force, removing the two-year deadline from Clause 2 of Article 105.17 of the Russian Tax Code. Following this amendment, the Federal Tax Service of Russia began making decisions to conduct transfer pricing (TP) audits without regard to that deadline, relying on Clause 5 of Article 105.17 of the Russian Tax Code, which provides for a general period covering the three years preceding the year in which the decision to order an audit is made.

The Federal Tax Service of Russia applied the new rules and, on 28 December 2024, ordered an audit that covered, among other things, UMMC's transactions for 2021.

The court of first instance and the court of appeal held that the Federal Tax Service of Russia's decision was unlawful in this respect. In April 2026, the Moscow Circuit Court took the opposite position. It held that the two-year deadline was procedural in nature and applied only until it was repealed. Accordingly, in the circuit court's

view, after 26 March 2024, that deadline no longer prevented an audit from being ordered.

The Russian Supreme Court disagreed with this approach and set aside the circuit court's ruling.

Five key findings of the Russian Supreme Court

1. TP audits for 2021–2022 and the continuation of the position set out by the Russian Constitutional Court in Ruling No. 41-P dated 14 July 2023

The Russian Supreme Court held that Law No. 39-FZ, which abolished the two-year deadline for ordering a TP audit, does not apply to notifications of controlled transactions submitted before 26 March 2024. The Federal Tax Service of Russia may not use such notifications to order TP audits after the previously applicable two-year deadline has expired.

For controlled transactions carried out in 2021–2022, taxpayers submitted their notifications before Law No. 39-FZ abolished the two-year deadline for ordering an audit.

Where a notification of controlled transactions was submitted before 26 March 2024, the subsequent abolition of the two-year deadline does not permit the new regime to be applied to that notification.

In practical terms, this means that all TP audits for 2021–2022 ordered by the Federal Tax Service of Russia in breach of the two-year deadline are unlawful.

In its Ruling No. 41-P dated 14 July 2023 (hereinafter, Ruling No. 41-P), the Russian Constitutional Court had already considered the deadline for ordering a TP audit. At that time, the issue was that the Federal Tax Service of Russia calculated the two-year deadline from the date on which an amended notification was received, regardless of the significance of the changes made.

The Russian Constitutional Court found the relevant rules unconstitutional and stated that tax authorities must avoid a formalistic approach to ordering audits. Any legislative amendment that worsens a taxpayer's position must take account of the principle of legitimate expectations and provide for a reasonable transitional period.

Law No. 39-FZ was subsequently adopted, removing altogether the link between the deadline for ordering an audit and the date of the notification.

The Russian Supreme Court has now, in effect, developed the constitutional reasoning underlying Ruling No. 41-P in relation to the temporal application of the new legislation.

The UMMC Ruling can therefore be viewed as an important continuation of the line of reasoning established by Ruling No. 41-P.

However, the significance of the Russian Supreme Court's Ruling extends far beyond this particular dispute.

2. The deadline for ordering an audit is not merely procedural

The Russian Supreme Court's principal finding is that deadlines for ordering audits delineate the periods of a taxpayer's activities that may still be subject to tax control from those in respect of which tax control is no longer permitted.

This is precisely why the Court refused to treat the deadline for ordering a TP audit as exclusively procedural.

This is a fundamental approach.

If the deadline were merely procedural, it would be possible to reason as follows: the new procedure is in force today, so the Federal Tax Service of Russia must follow it today.

The Russian Supreme Court explains why this logic is incorrect.

The two-year deadline defined the scope of the Federal Tax Service of Russia's powers and, at the same time, the length of time for which the taxpayer remained subject to the relevant tax control. Once that deadline had expired, the taxpayer acquired a clearly defined legal position: the Federal Tax Service of Russia could no longer order an audit of the relevant controlled transactions.

Consequently, abolishing the two-year deadline in respect of a notification that had already been submitted does not merely change the procedures followed by a tax authority; it worsens the taxpayer's legal position.

In our view, this is one of the most important aspects of the Ruling.

3. The Russian Supreme Court has effectively linked tax control to the principle of legal certainty

The Russian Supreme Court refers to a number of legal positions adopted by the Russian Constitutional Court and states that the tax system must ensure the "proper legal character of the activities of authorised bodies and officials".

In other words, the lawfulness of a tax authority's actions is itself one of the components of the constitutional framework governing taxation.

The Russian Supreme Court goes on to state that tax relations must be characterised by certainty, which creates the conditions for lawful and fair taxation and is consistent with the legitimate expectations of the parties involved. The Court expressly links legal certainty to tax authorities' compliance with the legislation in force when exercising tax control and to protection against arbitrary enforcement decisions.

This represents an important development in the application of constitutional principles specifically to tax administration.

4. An even more important finding: after the deadline expires, a tax authority may neither conduct an audit nor establish a violation

The following statement by the Russian Supreme Court is particularly noteworthy: "In respect of periods that are not subject to tax control, it is also precluded to assess a taxpayer's actions as containing indications of a violation of legislation, or to issue acts against the taxpayer establishing tax arrears, interest and grounds for tax liability."

In substance, the Russian Supreme Court is identifying the temporal limits of a tax authority's competence itself.

Once the relevant period has fallen outside the scope of permissible tax control, the issue is no longer simply that the Federal Tax Service of Russia has breached the procedure for ordering an audit. The tax authority no longer has the power to exercise the relevant control or to draw the legal conclusions that would otherwise follow from its results.

This may have implications far beyond transfer pricing.

5. The Russian Supreme Court has expressly linked continuing legal relationships to Clause 2 of Article 5 of the Russian Tax Code

Relying on Clause 2 of Article 5 of the Russian Tax Code, the Russian Supreme Court found that a taxpayer's position in continuing legal relationships may not be worsened. The Court classified relationships arising from a taxpayer's submission of a notification of controlled transactions as such continuing relationships.

The notification was submitted in May 2022. As at 26 March 2024, when Law No. 39-FZ entered into force, the legal relationship concerning tax control had not yet ended. It therefore continued to be governed by the previous legislation.

This makes it possible to formulate a practical rule: where a legal relationship concerning tax control has already arisen but has not yet ended when the legislation changes, new rules that worsen the position under that relationship cannot simply "restart" the deadline and expand the tax authority's powers.

According to the Russian Supreme Court, this is precisely what happened when the Federal Tax Service of Russia ordered the audit of UMMC in December 2024.

This finding may have far-reaching implications for tax relationships unrelated to transfer pricing.

Help from your adviser

For our team, this case has an additional dimension.

The UMMC dispute is not an isolated episode but the result of consistent work on the procedural aspects of TP control and the constitutional limits of tax authorities' powers.

UMMC was represented in the proceedings by Rustem Ahmetshin, Senior Partner, and Alexander Kuznetsov, Counsel.

We also have experience in **the case involving PJSC VimpelCom**, which gave rise to Ruling No. 41-P. The UMMC and VimpelCom cases are directly connected. They confirm that procedural issues in TP matters cannot be treated as secondary to disputes over pricing.

Pepeliaev Group is the only law firm in Russia with a successful track record of representing clients in court disputes concerning TP audits. Through our work on the UMMC and VimpelCom cases, we have developed a number of legal arguments that may be used to challenge decisions of the Federal Tax Service of Russia, including disputes over the substance of potential additional tax assessments.

Pepeliaev Group specialists are ready to provide legal support in disputes concerning TP audits.

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