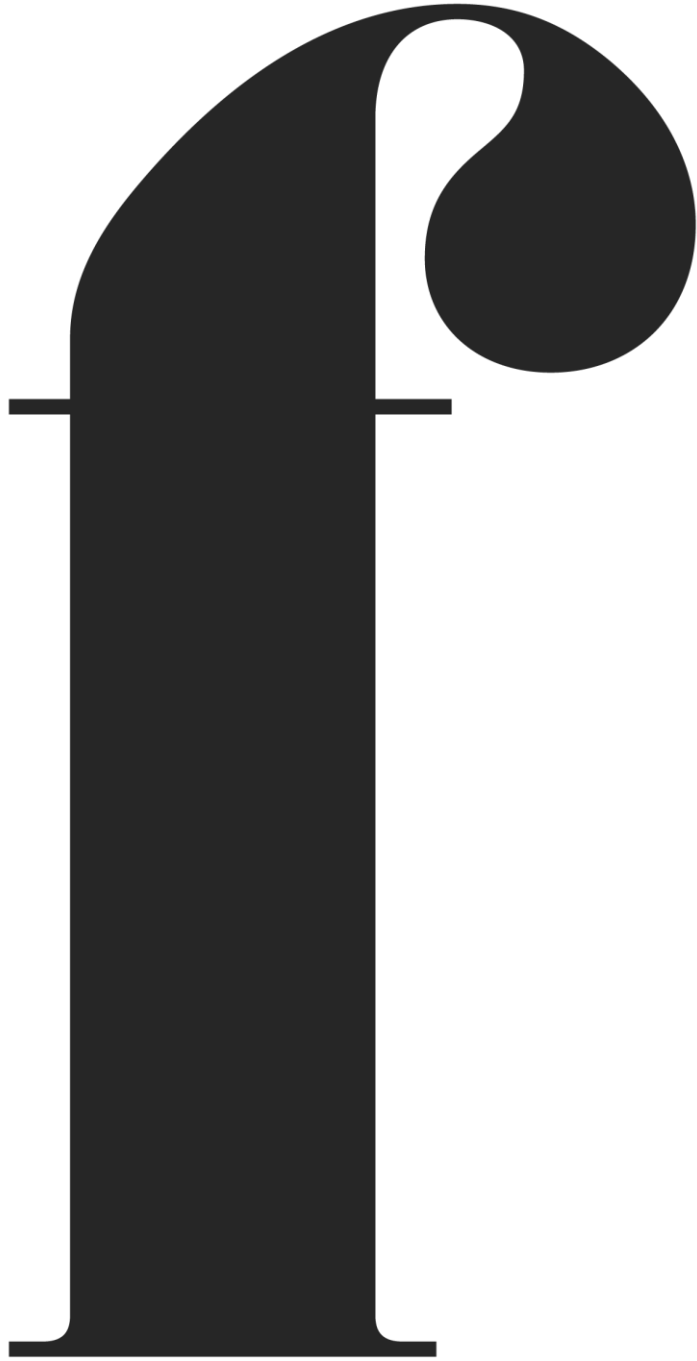


FORTE TAX & LAW

FOCUS ON YOUR BUSINESS













COVID-19 Legal Update

Julia Talagaeva
Senior Associate



Who can work in
Russia nowadays?

Basic information about lockdown

	Going outdoors	Going to work	Requirement for companies to continue operating	Traveling to other regions
St. Petersburg	 No restrictions *Excluding parks, sport fields, playgrounds and people over 65	 Only if the company's activity is not prohibited. The company must duly notify the relevant authority. *Employees do not need special documents to go to their place of work	Companies continue operating if their activity is not prohibited under presidential decree http://www.consultant.ru/document/cons_doc_LAW_348485/ or St. Petersburg Order No.121 http://docs.cntd.ru/document/564437085 Notification needed https://lk.ecp.spb.ru/clientauth/	 No restrictions *Checkpoints set up but no prohibition to move. It is recommended to get a certificate (справка) from employer
Leningrad Region	 No restrictions *Excluding parks, sport fields, playgrounds and people over 65	 Only if the company's activity is not prohibited. The company must duly notify the relevant authority. *Employees do not need special documents to go to their place of work	Companies continue operating if their activity is not prohibited under presidential decree or Leningrad Oblast Order No. 239 http://docs.cntd.ru/document/564600422 Free format notification needed	 No restrictions *Checkpoints set up but no prohibition to move. It is recommended to get a certificate from employer
Moscow	 Restricted *Walking close to home is allowed, public transport and driving allowed but only with a digital pass	 Only if the company's activity is not prohibited. The company must duly notify the relevant authority. *Personal digital pass needed	Companies continue operating if their activity is not prohibited under presidential decree or Moscow Order https://www.mos.ru/upload/documents/docs/39-YM(4).pdf Notification needed organization_size@mos.ru	 Limited *Digital pass needed. To apply www.gosuslug.ru Same pass is valid in MO
Moscow Region	 Restricted *Walking close to home is allowed, public transport and driving allowed but only with a digital pass	 Only if the company's activity is not prohibited. The company must duly notify the relevant authority. *Personal digital pass needed	Companies continue operating if their activity is not prohibited under presidential decree or Moscow Oblast Order http://docs.cntd.ru/document/564435519 Notification needed, to send to the portal of state and municipal services of the Moscow region	 Limited *Digital pass needed. To apply www.mos.ru Same pass is valid in Moscow



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Presidential decrees providing for non-working days from March 30, 2020 to April 30, 2020 inclusive. Who can work during those non-working days?

The presidential decrees providing for non-working days do not apply to the following organizations (employers and their employees):



Constantly operating organizations



Medical and pharmacy organizations



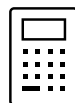
Organizations providing food and essential goods



Organizations performing necessary work in emergency situations and/or when a threat of the spread of a disease constituting a danger to the public arises, in other cases endangering the life, health and normal living conditions of the public



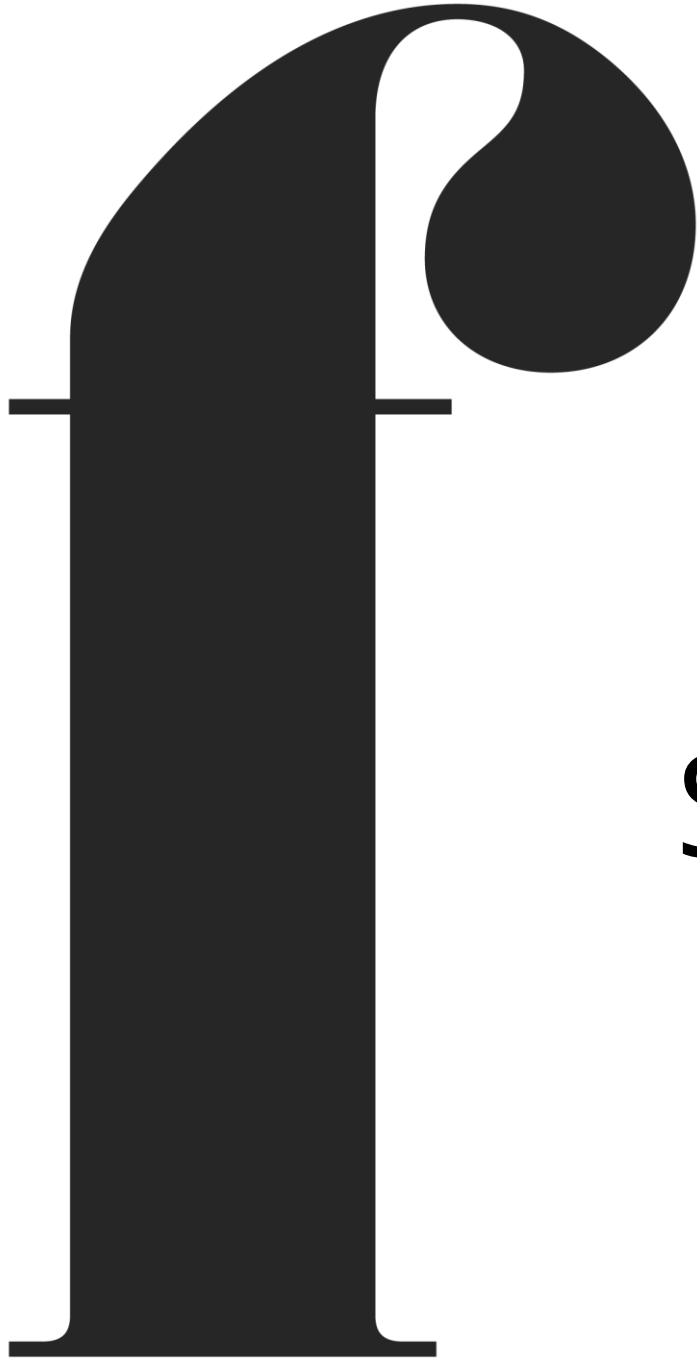
Organizations performing urgent repair and cargo handling operations



Organizations providing financial services, in particular, emergency functions (primarily, settlement and payment services)



Other organizations determined by decisions adopted by the highest executive body of a constituent entity of the Russian Federation based on the sanitary and epidemiological situation and the spread of Covid-19 in the constituent entity of the Russian Federation



TAXES
&
SUPPORT MEASURES



General support measures

(the list below is not exhaustive)

6

Lower tax rates in the regions

5

Suspension of tax arrears collection

4

Suspension of already initiated and no new field tax audits as well as checks of compliance with currency laws



1

Deferment of tax payments and social insurance contribution payments

2

Reduction of social insurance contribution rates

3

Interest-free payroll loans



Small and medium enterprises (SMEs)

When are Russian companies deemed to be SMEs?

Russian companies qualify as SMEs if they meet the following conditions:

1. They employ fewer than 250 people;
2. Their revenue for 2019 was less than RUB 2 billion;
3. Foreign companies' participation does not exceed 49% of shares in share capital.



If the above conditions are met, the Federal Tax Service automatically includes such companies in the SME register.



Small and medium enterprises (SMEs)

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What if a foreign company owns more than 49% of a Russian company?

If a foreign company owns more than 49% of shares in the share capital of a Russian limited liability company (OOO), such OOO may still be recognized as an SME.

But, in this case, the foreign company must meet the following requirements:

- a) Its staff headcount should have been under 250 in 2019;
- b) Its revenue for the previous calendar year should not have exceeded RUB 2 billion;
- c) The foreign company's place of permanent residence cannot be one of the countries included in the list of offshore zones approved by Russian Ministry of Finance Decree No. 108H dated November 13, 2007.



If these conditions are met, then the Russian company may be included in the SME register.



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Tax deferment



For whom: Organizations (and individual entrepreneurs) (all pre-conditions must be met) from:

- **affected sectors** (list approved by Governmental Decree N 434 dated April 03, 2020 updated from time to time),
- **included** in the list of activities set by Governmental Decree N 570 dated April 24, 2020, and
- **included** as of **March 01, 2020 in the register** of small and medium enterprises (SMEs).

For all taxes (excluding excise taxes, severance tax), advances and **social contributions** to be paid in 2020.



For whom: Organizations (and individual entrepreneurs) (all pre-conditions must be met) from:

- **affected sectors** (list approved by Governmental Decree N 434 dated April 03, 2020 updated from time to time),
- **included** as of **March 01, 2020 in the register** of small and medium enterprises (SMEs).

For all taxes (excluding **VAT**, excise taxes, severance tax), advances to be paid in 2020.

Corporate profit tax, single agricultural tax, tax paid under the simplified taxation system for 2019 - **deferment of 6 months;**

Personal income tax for 2019 payable by individual entrepreneurs - **deferment of 3 months;**

Taxes and advances for March and Q1 2020 - **deferment of 6 months**, for April-June, Q2 2020 and the first half of 2020 - **deferment of 4 months;**



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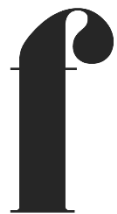
Tax deferral

! One of the following conditions should be met to be eligible for tax deferral:

- a) Income decrease by more than 10%;
- b) Decrease in income from sale of goods (work, services) by more than 10%;
- c) Decrease in income from sale of goods (work, services) subject of 0% VAT by more than 10%;
- d) Recorded loss as declared in corporate profit tax returns for 2020 reporting periods provided that no loss was recorded in 2019.

Income decrease is calculated based on the figures for the quarter preceding the quarter in which the application for deferral or installment is submitted. These figures are compared with the figures for the same period in 2019.

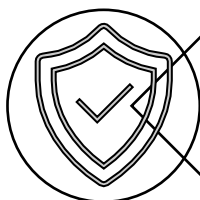
Deferral is granted for taxes that are due in 2020.



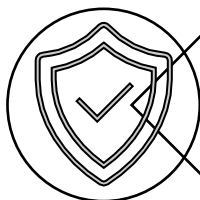
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Who else is eligible for anti-crisis deferment of taxes and social insurance contributions?

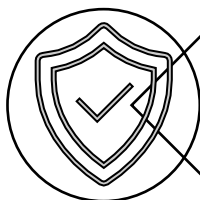
The Government has extended deferment to the following organizations which are not in the list of affected industries but are nonetheless affected by the pandemic:



Strategic organizations (List approved by Government Decree No. 1226-r dated August 20, 2009 as amended on March 21, 2020)



Core organizations (List approved by Ministry of Economy and Development Letter No. 8952-PM/Д18и dated March 23, 2020)



Town-forming organizations – organizations with an average number of employees of over 5,000 according to social insurance contribution calculation data for the last 4 reporting periods



General rules for deferment or installment

General rules for deferment or installment:

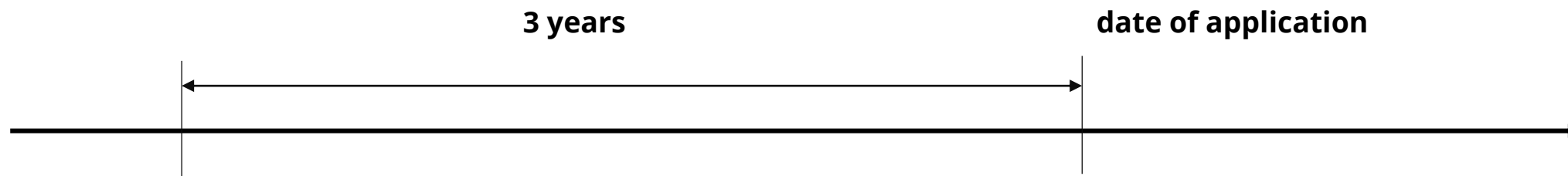
- Deferment or installment is granted based on an application + supporting documents;
- Deferment applies to taxes (including those paid under special tax regimes), charges, fines, penalties, social insurance contributions;
- Tax agents **are not entitled** to deferment;
- Tax authorities may request the provision of **security (if deferment is provided for more than 6 months)**:
 - a) pledge of property (the pledge giver may be a third party);
 - b) guarantee/surety (the guarantor may be a legal entity or an individual. The guarantor should not be in arrears with the budget for taxes, charges, social insurance contributions, fines, penalties);
 - c) bank guarantee (the bank should be included in the special list approved by the Ministry of Finance, or the guarantee may be issued by the State Development Corporation VEB.RF)
- Applications are to be examined within **30 working days**. Submitting an application does not suspend the process of debt collection. Tax authorities may suspend debt payment upon request.



Deferment / installment will be denied if

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- A criminal case for tax offense is initiated;
- Proceedings for tax offense or administrative offense related to taxes, charges, social insurance contributions are initiated;
- There is reason to believe that the deferment/installment will be used to conceal taxable cash or other property;
- Deferment conditions were violated in the past



A decision to terminate granted deferment/installment/investment tax credit is issued due to violation of conditions

- Documents as listed in the Russian Tax Code are not submitted

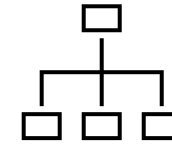




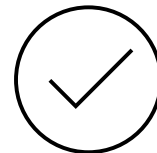
Measures for core organizations



Concessionary loans for working capital financing (<http://government.ru/news/39510/#resh1604>). The interest rate will be subsidized by the state in the amount of the key rate of the Central Bank of Russia. Half of the loan will be secured by a state guarantee



Deferred payment for certain taxes of up to 5 years – upon income decrease



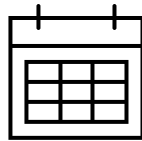
+ **«customized»
measures**



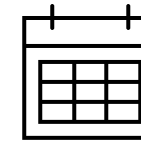
Social insurance contribution deferment

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The deadlines for payment of social insurance contributions are extended for small and medium enterprises (SMEs) from affected industries included in the SME register* (as of March 01, 2020):



Social insurance contributions for
March-May – deadline extension of
6 months



Social insurance contributions for
June-July 2020 – deadline extension of
4 months



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Reduction in social insurance contribution rates

From April 01, 2020, reduced social insurance contribution rates will be applied to SMEs for payments to individuals **exceeding the minimum wage** at the end of each calendar month:

10%

Compulsory pension insurance contribution

5%

Compulsory health insurance contribution

0%

Compulsory social insurance contribution for temporary incapacity to work and maternity



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Regional support measures



Moscow

(Moscow Government Decree No. 405-ПП dated April 15, 2020)

The deadline for corporate property tax and land tax advances for Q1 2020 has been extended to December 31, 2020 for organizations engaged as of March 01, 2020 in retail, catering, tourism, culture, etc.

Full or partial compensation of property tax subject to a number of conditions for the owners of buildings and premises located in Moscow and used for retail, catering and the provision of consumer services, as well as for hotel accommodation

Moscow region

(Article 26.29 Law On Concessional Taxation in the Moscow Region)

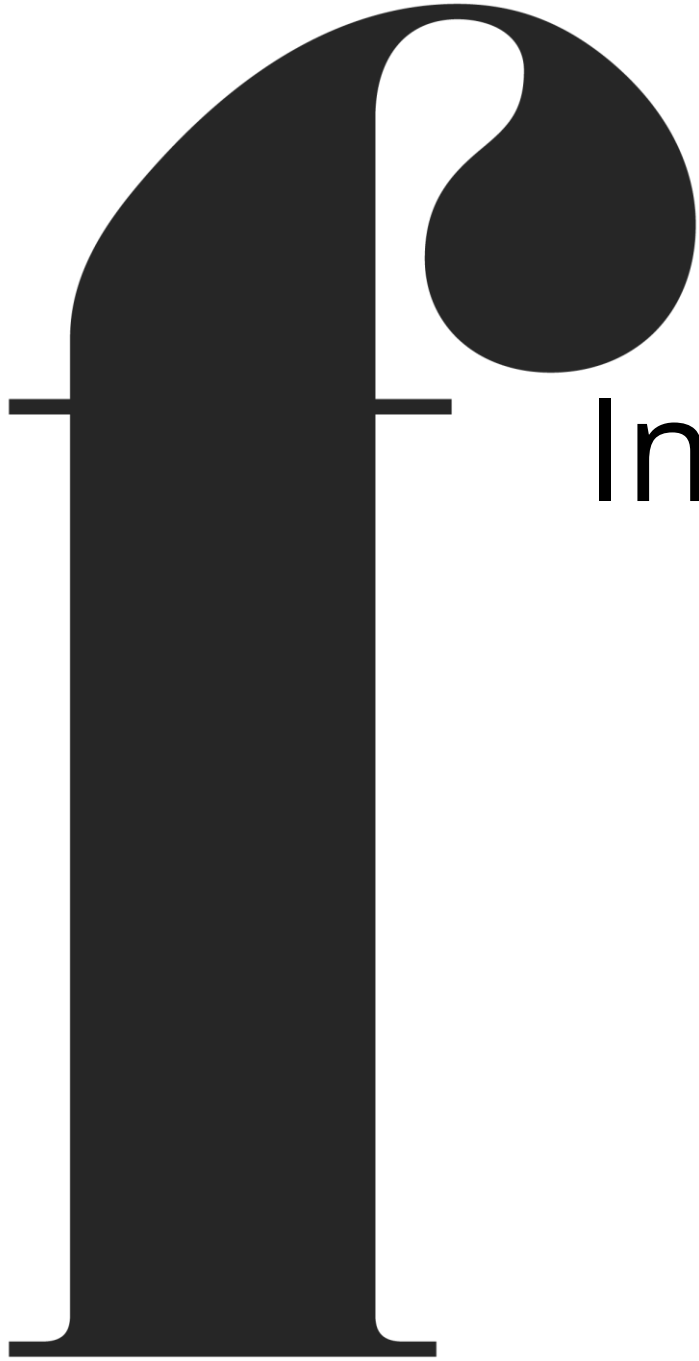
Exemption from payment of property tax for the lockdown period in the Moscow region, i.e. from March 13, 2020 to

St. Petersburg

Planned measures for 2020:

- Reduction in tax rate under the simplified taxation system (from 7% to 5% for taxation on revenues – expenses and from 6% to 3% for taxation on revenues)
- 50% of reduction in corporate property tax for the hotel industry
- Cancellation of the obligation to pay advances for corporate property tax, land and transport taxes for SMEs engaged in certain industries
- Rent exemption and deferment will be granted to tenants of land plots owned by the city



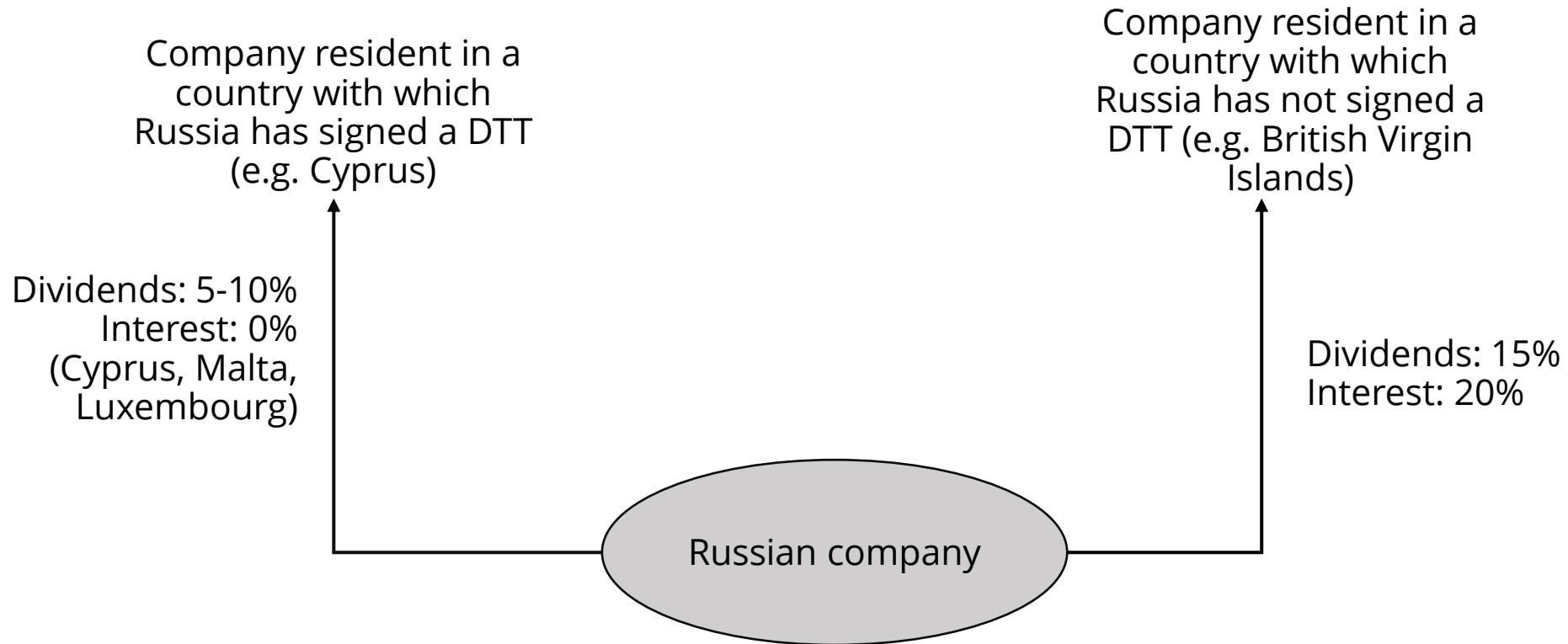


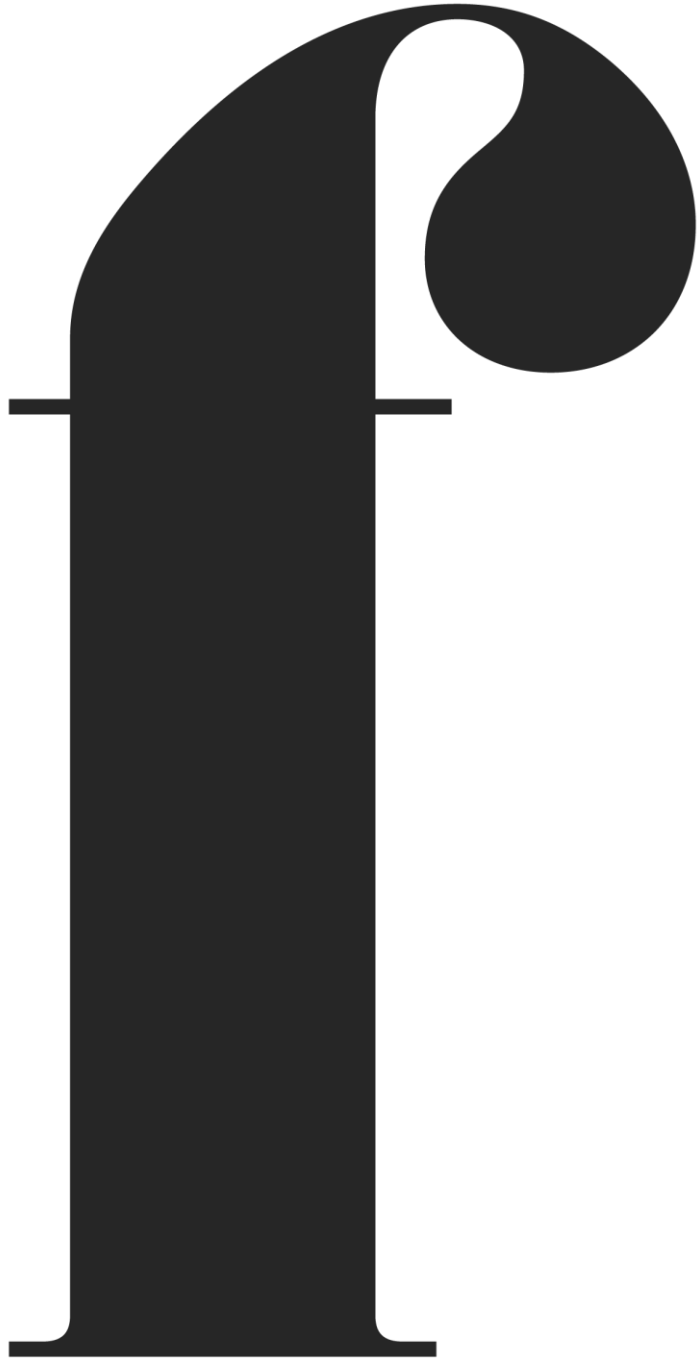
Increase in withholding
tax on dividends and
interest



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Review of Double Taxation Treaties (DTT)





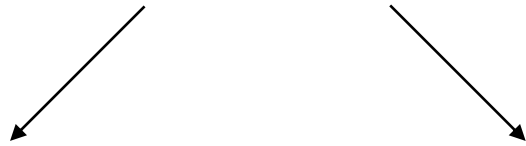
Personnel and labor issues



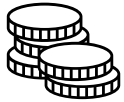
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How to pay work?

Organizations that stop operating during non-working days:



If employees work (e.g. work remotely)



employers pay them their full salary **as usual**

If employees do not work



employers pay them their full salary **as usual**

Organizations that continue operating during non-working days:



Employees are paid **as usual**

Employees may not be compelled to work during non-working days.



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Remote work



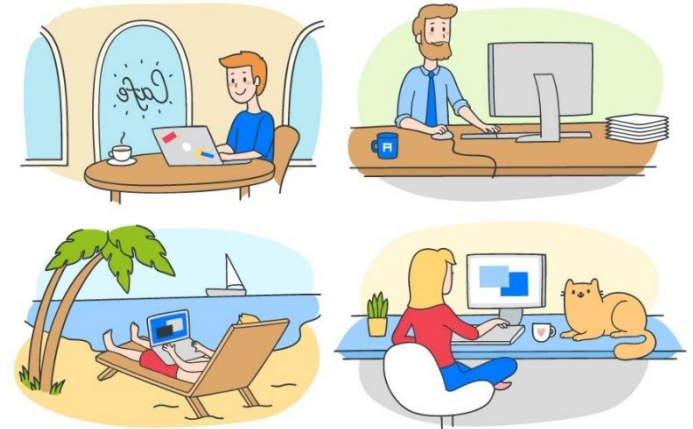
Минтруд
России

Ministry of Labor: *As agreed with their employer, employees may work remotely if their work duties and working conditions permit doing so.*

How to formalize remote work?

- Employees should sign an additional agreement to their employment contract for change of workplace to, for example, work from home. We recommend specifying in the additional agreement a definite period that could be extended/shortened in the future if necessary
- Internal policies should be amended to provide for remote work

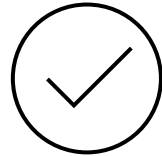
Ministry of Labor: The amendments to be introduced due to the switch to remote work may be made by exchanging electronic documents followed, if necessary, by their subsequent execution in the prescribed manner (i.e. by exchanging original copies)





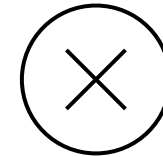
Ways of decreasing labor costs

1. Introduction of standby/downtime



Organizations operating during non-working days

- No restrictions on the introduction of standby/downtime
- A standby/downtime order must be issued and brought to the attention of employees
- Standby/downtime may be declared immediately
- Employees are paid 2/3 of their salary throughout the standby/downtime period



Organizations required not to operate during non-working days

- Standby/downtime could be recognized as unlawful as the presidential decrees providing for non-working days expressly require paying full salaries to employees for the entire duration of the non-working day period, so paying only 2/3 of salaries could formally be viewed as a violation
- Standby/downtime could be recognized as lawful if introduced before March 30 or based on certain circumstances



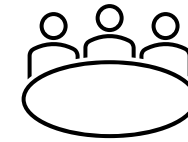
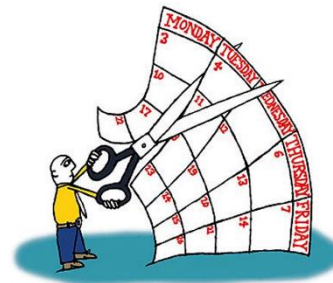
Ways of decreasing labor costs

2. Reduction in working hours



By mutual agreement

- By signing an additional agreement to employment contract (Article 93 Russian Labor Code)
- Salary is paid in proportion to the hours worked by employees



By employers

- Working hours may be reduced unilaterally only upon change in **organizational or technological working conditions** (Article 74 Russian Labor Code)
- Employers must notify their employees in writing **at least 2 months** prior to the upcoming reduction in working hours



Ways of decreasing labor costs

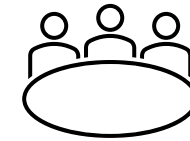
3. Dismissal



Employee resignation
– as per general rules



By mutual agreement of the parties –
as per general rules



By employer:

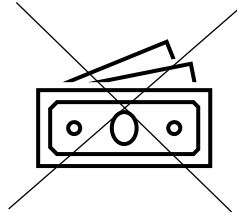
- Organizations operating during non-working days – as per general rules
- Organizations required not to operate during non-working days – dismissals could give rise to risk for employers as employees formally cannot be dismissed during the non-working days provided by presidential decrees





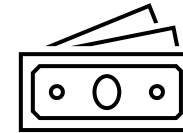
Ways of decreasing labor costs

4. Vacation



Unpaid leave –

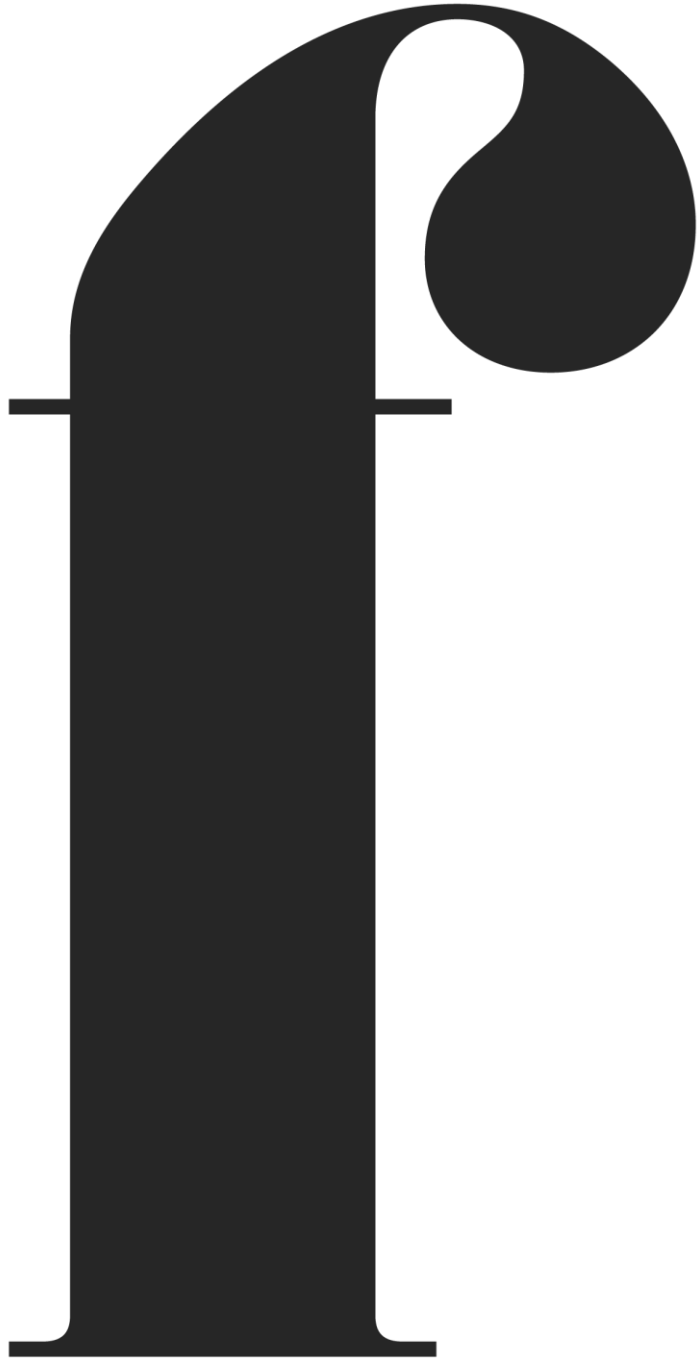
risks of claims from employees who could challenge in the future their “wish” to take unpaid leave



Paid leave –

as per the set vacation schedule or with employee consent





MIGRATION ISSUES

(visas, work permits,
residence permits, etc.)



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Validity term extensions

Presidential Decree No. 274 dated April 18, 2020 has extended the validity terms of visas, work permits, patents, temporary residence permits, residence permits, permission to hire foreign nationals, migration cards or registrations that expire in the period from March 15, 2020 to June 15, 2020 (this period is excluded from the validity term of these documents).

BUT only if the following conditions are met simultaneously:

- Holders of any of the above documents are in Russia; and
- The validity term of any of the above documents expires in the period from March 15, 2020 to June 15, 2020.

Employers may hire the following foreigners from March 15, 2020 to June 15, 2020:

- Visa-exempt foreigners without appropriate patents;
- Foreign nationals who need a visa even if they do not have a valid work permit. However, in this case, employers must have a valid Permission to hire foreign nationals.

**No special rules for highly qualified Specialist (HQS)
Migration authorities work normally and process documents as usual
(with some exceptions)**



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Litigation during the pandemic



Deadlines!

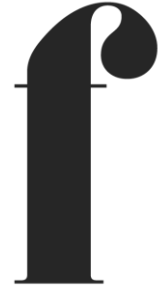
All time periods, including statute of limitations continue running



Most courts continue operating *as usual*



Documents may be filed online



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Thank you for your time!

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