FORTE TAX & LAW

SIGNIFICANT CHANGES MADE TO THE RUSSIAN TAX CODE

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DEAR CLIENTS, BUSINESS PARTNERS, AND FRIENDS,

Published on July 31, 2023, Law No. 389-FZ dated July 31, 2023 (the "Law") has introduced extensive changes to the Russian Tax Code. Forte Tax & Law specialists have played an active role in preparing the Law.

Overall, the changes are aimed at digitalizing the taxation process, as well as adapting taxation to modern realities.

Below you will find a brief overview of the key changes introduced into the tax legislation[1].

Sincerely yours,

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1. Links to the amended articles of the Tax Code are provided.

CHANGES TO THE TAXATION OF INCOME OF A CFC

The Law introduces changes to certain aspects of the taxation of the income of controlled foreign companies (CFC) that is received by both individuals and legal entities.

(1) The changes have allowed excluding the undistributed profits of a CFC from the taxable income of the Russian controlling entity or controlling person if the CFC simultaneously meets the following conditions:

- It is a form of collective investments;
- It is a so-called entity without legal personality (for instance, it could be a fund, partnership, association, trust);
- Its profits are not subject to taxation according to the applicable legislation (personal law);
- Its profits are subject to taxation at the controlling entity upon distribution.

We would like to remind you that, according to the general rule, the undistributed profits of a CFC are to be included in the taxable income of a controlling taxpayer for the purposes of corporate income tax or personal income tax. As a result of these changes, income from investments in so-called tax-transparent structures will be subject to taxation in Russia as income of the controlling taxpayer only at the moment of distribution of such CFC income, whereas previously such income could be included in the tax base of the controlling taxpayer even before distribution, as undistributed CFC profits (Article 25.15(8.1) of the Russian Tax Code).

To exempt the profits of a CFC from taxation, it is necessary to declare that it meets the described conditions when submitting a CFC notification (Article 25.14(6)(1) of the Russian Tax Code).

CHANGES TO THE TAXATION OF INCOME OF A CFC

(2) For individuals who are controlling persons or founders of CFCs, the measure introduced in 2022 as an anti-crisis measure has been extended for the year 2023. Thus, it was envisaged that for the purpose of personal income tax, income in the form of property (except monetary funds) or property rights received from CFCs in 2022 would be exempted from taxation for the controlling person, subject to the following conditions:

- the person receiving income had the status of a controlling person of the CFC as of December 21, 2021;
- the property being transferred belonged to the CFC as of March 1, 2022; and
- the exemption of the received income is declared at the time of submitting the personal income tax declaration.

The method of income acquisition did not matter for the exemption from personal income tax.

The scope of this measure was extended to the year 2023 and supplemented by a provision stating that personal income tax exemption will apply to income in the form of property rights if they represent claims under a contract for the transfer of property/property rights (excluding monetary funds) that were owned by controlled foreign companies (CFCs) as of March 1, 2022 (Article 217(60.2) of the Russian Tax Code).

Thus, controlling persons can reclaim CFC assets (e.g., shares or other securities) by the end of 2023. This can be done either through a transfer (donation) agreement of assets from the CFC to the controlling person or by means such as the liquidation of such a CFC, if its existence has become redundant.

TAXATION OF PERSONAL FUNDS

The Law defines the tax status of personal funds and makes more specific numerous matters related to levying corporate income tax and personal income tax on the transfer and receipt of property from such personal funds.

Personal funds as an instrument of hereditary planning have been available under Russian laws since 2022 when Federal Law No. 287-FZ dated July 1, 2021, came into effect. This instrument is most closely related in its nature to a trust in English law and implies that a founder establishes a separate fund of property in the form of a unitary non-profit organization, which cannot be less than RUB 100 million, and whose purpose is to manage the property transferred to it or inherited by the founder in the interests of third parties (beneficiaries) in accordance with the terms of management.

However, this instrument has not become widespread not least due to the absence of tax regulation for this instrument. The introduction of specific provisions regulating the taxation of activities related to the creation, existence, and distribution of the property of a personal fund may make this instrument more attractive for use.

In particular, it is specified that the property transferred by a personal fund to beneficiaries - individuals, is not subject to VAT (Article 146(2) of the Russian Tax Code).

The income received from a personal fund (1) by beneficiaries after the death of the founder of that fund or (2) by the founder and his close relatives who are tax residents of Russia before the death of the founder will be exempt from personal income tax (Article 217(18.2) of the Russian Tax Code).

As expenses for subsequent resale of securities received from a personal fund, the costs incurred by the founder or the fund for the acquisition of such securities may be accepted, provided that these expenses were not accounted for by the personal fund for tax purposes.

TAXATION OF PERSONAL FUNDS

The periods of property ownership within a personal fund do not interrupt the duration of ownership

Generally, is exempt from personal income tax in relation to income from the sale of property, securities, or equity shares, if they have been owned by the individual for a specific period of time.

For the purpose of personal income tax exemption on income from the sale of securities or shares obtained from the personal fund, the periods of ownership by the founder of the personal fund, both before transferring them to the fund and while they are held within the fund, are included in determining the duration of ownership (Article 217(17.2) of the Russian Tax Code). A similar rule is established for receiving property from the personal fund – in determining the duration of ownership by the founder of the personal fund, periods both before transferring the property to the fund and while it is held within the fund are included (Articles 217(17.1) and 217.1(2) of the Russian Tax Code), Thus, in the case where property or securities were owned by the founder before transferring them to the personal fund, the ownership period for such property/securities is not interrupted during the period they are held within the personal fund.

Where property is received by beneficiaries or the founder from a personal fund, the minimum duration of ownership will be three (3) years for the purposes of personal income tax (Article 217.1(3(1.1.)) of the Russian Tax Code). Therefore, the founder will have the right to sell the property received from a personal fund without paying personal income tax three (3) years after the fund acquired that property.

Determination of the value of property when it is received by the personal fund from the founder

The procedure for accounting the value of property upon its receipt by a personal fund from founders has been defined (Article 277(1.1) of the Russian Tax Code). Thus, the value of the property is equal to the documentary confirmed expenses incurred by the founder for its acquisition (creation). If the founder received property being transferred to the personal fund from a foreign company and such income was exempt from personal income tax, then the value of the property is determined based on the accounting data of the foreign company, but not exceeding the market value of such property.

TAXATION OF PERSONAL FUNDS

Reduced corporate income tax rate for personal funds

The corporate income tax rate for personal funds will be 15% subject to the following conditions (Articles 284(1.18), 284(3)(1.2), and 284.12 of the Russian Tax Code):

(1) more than 90% of a total of income consists in the income types listed in the Russian Tax Code (dividends, interest, distributed profit, income from the sale of securities, equity shares, derivative financial instruments, real estate, rental income, with some exceptions);

(2) the personal fund has submitted, along with a corporate income tax return, a calculation of the proportion of such items of income.

Otherwise, a rate of 20% is applied. Special tax rates are not applicable (Article 284(7) of the Russian Tax Code).

CHANGES TO THE PROCEDURE FOR REGISTRATION AND DE-REGISTRATION OF FOREIGN DIGITAL SERVICE PROVIDERS

Amendments have been made to the procedure for the registration and de-registration of foreign digital service providers.

Registration and de-registration will now be available to entities that provide services directly to individuals and foreign organizations acting as intermediaries (Article 83(4.6) of the Russian Tax Code).

The changes will take effect April 1, 2024.

This provision, as amended, does not imply the possibility of the de-registration of foreign entities that provide digital services to individual entrepreneurs and legal entities that were, under the previous versions of the Russian Tax Code obligated to register. This leads to a situation where these entities may not de-register and are obligated to file zero VAT returns. In preparing the draft law, Forte Tax & Law specialists repeatedly submitted their suggestions for changing this provision, indicating that this situation imposes an excessive administration burden on such entities in a situation where they are no longer obligated to register.

CHANGES TO THE DEFINITION OF A PERMANENT ESTABLISHMENT

The Law has added anti-fragmentation rules for determining a permanent establishment. These rules aim to prevent foreign companies from artificially avoiding the status of a permanent establishment by 'fragmenting' their activities carried out in Russia. In general, these changes align with the provisions of the Multilateral Instrument (MLI) and the Commentary on the OECD Model Convention.

In particular, the new provisions state that exception from permanent establishment status based on the preparatory or auxiliary nature of the activity will not apply in two cases:

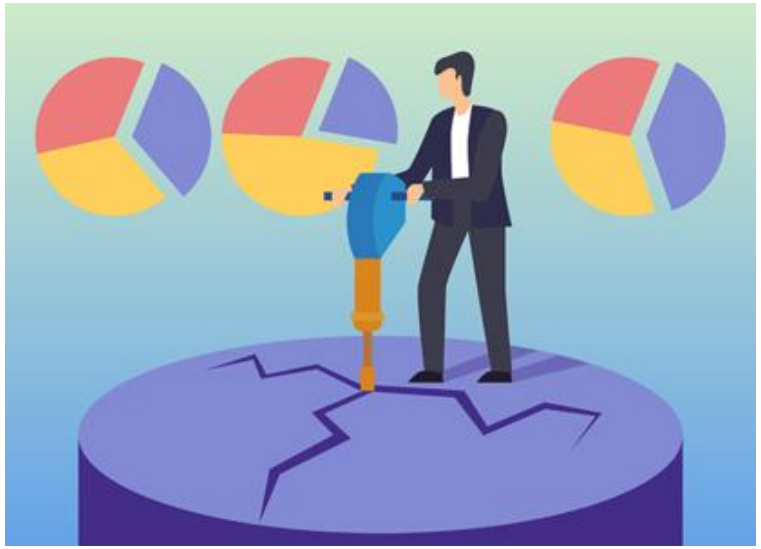
- Where there is a fixed place of business of a foreign entity in Russia, if that entity or a related entity carries on activities that constitute a permanent establishment at that place or at any other place in Russia, and these activities constitute complementary functions that are part of a cohesive business operation. In other words, if a foreign entity or a group artificially splits up a cohesive business operation into several operations, some of which constitute permanent establishments, the other operations related to them through a cohesive business operation will also constitute permanent establishments. The initial version of the draft law allowed for the recognition as a permanent establishment of several operations related through a cohesive business operation even if none of them constituted a permanent establishment. In preparing the draft law, Forte Tax & Law specialists pointed out that such regulation would contradict the provisions of the MLI and of Commentaries on the OECD Model Convention and suggested eliminating this contradiction, in particular, by removing the indication that none of the places of business constitute a permanent establishment. The proposed amendments have been incorporated in the Russian Tax Code. Now, if the activities of entities are part of a cohesive business operation, for a permanent establishment to be recognized “cumulatively”, it is necessary for the activities of at least one of the entities to constitute a permanent establishment by itself.

or...

CHANGES TO THE DEFINITION OF A PERMANENT ESTABLISHMENT

...or

- Where the cumulative activity resulting from the combination of the activities carried on by an entity and related entity at the same place, or by closely related entities at two different places, is not of a preparatory or auxiliary character, provided that they do not constitute complementary functions that are part of a cohesive business operation. In other words, a foreign entity or a group will be recognized as having a permanent establishment where it artificially splits up a cohesive business operation, which is beyond preparatory or auxiliary activities, in several operations, each of which will formally carry on preparatory and auxiliary activities (Article 306(4) of the Russian Tax Code).



PERSONAL INCOME TAX ON PAYMENTS TO REMOTE WORKERS

- The Law has introduced a new rule, whereby income from Russian sources will include remuneration and other payments to employees from Russian companies who perform their employment function remotely from abroad.

This rule will be applicable from January 1, 2024.

Income from employment will be taxed at a 13 % rate, or in the amount of RUB 650 thousand plus 15% of the amount that exceeds RUB 5 million (Article 224(3) of the Russian Tax Code).

We would like to remind you that prior to the changes, such income was not recognized as income from sources in Russia and, accordingly, was not subject to Russian personal income tax.

- Furthermore, the Law stipulates that income from sources in Russia also includes remuneration for related to the provision of rights to use intellectual property results through the Internet, subject to any of the following conditions:

  (a) sources of such income are Russian companies, or
  (b) such remuneration is received in an account at a Russian bank, or
  (c)the taxpayer is a tax resident of Russia.

This provision comes into effect from January 1, 2025.

This income will be taxed at a rate of 13%, or in the amount of RUB 650 thousand plus 15% of the amount that exceeds RUB 5 million (Article 224(3) of the Russian Tax Code).

PERSONAL INCOME TAX ON PAYMENTS TO REMOTE WORKERS

In preparing the draft law, Forte Tax & Law specialists sent their proposals regarding the fact that this regulation would cause a collision with the rule set out in Article 208(1)(3) of the Russian Tax Code that already contains a provision stating that income from sources in Russia includes income derived from the use of copyright or related rights in Russia, regardless of the method of providing such rights (via the Internet or otherwise). Such income, if received by a non-resident, is subject to tax at a rate of 30%. Consequently, income received by a non-resident from the same activities will be taxed at different rates: 13% (or in the amount of RUB 650 thousand plus 15% of the amount that exceeds RUB 5 million), if the rights are granted via the Internet and at 30% otherwise. This collision violates the principle of equality in taxation, because the same economic activity (the granting of copyrights or related rights) will lead to different tax consequences solely based on whether such provision is carried out via the Internet or not.

- It is established that reimbursement of expenses for remote workers related to the use of their own equipment in their work is exempt from personal income tax. These expenses will be exempt from personal income tax in the amount of the expenses actually incurred or in an amount that would not exceed RUB 35 (approximately 0.35 Euros) per working day. The inclusion of this exemption in the Russian Tax Code will make it possible to reduce the probability of disputes arising over whether a payment is of a compensatory nature or not.

- An exemption has also been added from personal income tax on daily allowances paid to those whose work is of an itinerant nature and on allowances for shift work. These payments will be exempt from personal income tax in the amount of not more than RUB 700 (approximately 7 Euros) a day for working in Russia and RUB 2,500 (approximately 25 Euros) a day for working abroad (Articles 217(1) and 264(1(11.1)) of the Russian Tax Code).

EXEMPTION FROM PERSONAL INCOME TAX ON CERTAIN INCOME FROM DEBT FORGIVENESS

The Law has exempted from personal income tax certain income in the form of debt forgiveness.

Generally, income derived from debt forgiveness, including cases where the debt arises from a sale of shares, is subject to personal income tax for the party whose obligation was forgiven.

However, the changes made by the Law provide that if an agreement for the sale of shares in a Russian company was concluded with a foreign individual or legal entity after March 1, 2022, and that individual or legal entity decided to forgive the debt, income in the amount of the debt forgiven in 2023 will not be subject to personal income tax (Article 217(60.3) of the Russian Tax Code).

To qualify for the exemption, there is no requirement for the status of a controlling person of a CFC or any other connection between the debt-forgiving foreign entity/individual and the Russian taxpayer. The jurisdictions in which foreign entities/individuals may be residents are also not limited.

The exemption also applies where the debt owed for shares in Russian companies is forgiven by a foreign entity/individual that received the right of claim from the seller of such shares before December 31, 2023. For instance, if the original parties to the purchase agreement were a foreign legal entity (seller) and a Russian individual (buyer), and subsequently the foreign legal entity assigned the right to the debt claim to another foreign legal entity, which, in turn, decided to forgive the debt, then such income of the Russian individual is also exempt from personal income tax.

Exemption from personal income tax is also provided for income in the form of the waiver of the debt claim right arising from the sale and assignment of shares/participation interests in the capital of a Russian company by a foreign entity to a Russian individual.

CERTAIN MATTERS OF PERSONAL INCOME TAX ON TRANSACTIONS IN SECURITIES AND PROPERTY RIGHTS

(1) A provision has been added whereby personal income tax on dividends credited to the accounts of a depository/broker/trustee managing securities will be withheld and remitted to the budget by such depository/broker/trustee (Article 214(2) of the Russian Tax Code). It should be noted that prior to these changes, individuals who receive such dividends were required to pay personal income tax themselves.

(2) Where Euro bonds are replaced, the tax base will not be determined. Where such replacement bonds are subsequently sold, the expenses incurred to initially acquire the replaced Russian bonds will be deductible (Article 214.1(13) of the Russian Tax Code). This change is necessary so that the replacement of Euro bonds would not impose any additional tax burden on their holders.

(3) A provision has been added whereby the amounts of accumulated coupon income paid upon the acquisition of a security will reduce the income in the form of a coupon received on that security for the first time after its acquisition (Article 241.1(13) of the Russian Tax Code). Where a security is subsequently sold, the coupon previously recognized for tax purposes will not be recognized as an expense. This change will allow the reduction of the tax base for personal income tax earlier, making the acquisition of securities with coupon income more attractive.

(4) The Law establishes the possibility of reducing the tax base upon the sale/exchange/redemption of property rights by the amount of expenses related to their acquisition, instead of obtaining a property tax deduction. Previously, such reduction was allowed only upon the sale of property (Article 220(2)(2) of the Russian Tax Code).

EXEMPTION FROM CORPORATE INCOME TAX UPON RECEIPT OF CERTAIN INCOME

(1) Introduced as an anti-crisis measure in 2022, the right not to include in taxable profit for the corporate income tax purposes the amounts of certain forgiven obligations has been extended to 2023 (Article 251(1)(21.5) of the Russian Tax Code). The new rule is effective from August 31, 2023.

It should be noted that generally, the amounts of forgiven obligations are included in a company's taxable profit.

Following the amendments and until December 31, 2023, the following income from the debt forgiveness shall not be taken into account for corporate income tax:

- From a loan agreement, the lender under which as of March 1, 2022 is a foreign entity/national. Furthermore, the exemption applies if the debt is forgiven by the foreign creditor and the Russian entity (individual), if these Russian persons receive the rights of claim under the loan before December 31, 2023. The rule, inter alia, applies to the interest on such a loan that has been already recognized as expenses for corporate income tax purposes. Accordingly, until the end of 2023, foreign legal entities (or Russian legal entities that receive a right of claim from foreign legal entities) will be able to forgive Russian legal entities their debts without paying corporate income tax.

- under an agreement for the sale of shares/interests in Russian entities that is entered into after March 1, 2022, the seller under which is a foreign entity (foreign national). Furthermore, just as with debt forgiveness, the exemption applies when the debt is forgiven by the foreign seller or a Russian company (individual) that obtained the right to claim under the share purchase agreement by December 31, 2023. This provision was not in the previous version of Article 251(1(21.5)) of the Russian Tax Code. There is no restriction imposed on the jurisdiction of companies that forgive debts. Thus, the Law has introduced a new instrument that will help transfer assets from foreign (including offshore) ownership to Russian ownership. Where shares/interests are subsequently sold, their value will be deemed to be zero (Article 268(1(2.1)) of the Russian Tax Code).

EXEMPTION FROM CORPORATE INCOME TAX UPON RECEIPT OF CERTAIN INCOME

- upon payment for the rights of claim assigned under the aforesaid agreements. Accordingly, if a Russian legal entity is assigned, in return for a fee, the right to claim payment for shares/interests in a Russian entity, and this obligation to pay the fee is then forgiven, this forgiveness will not result in any increase in the tax base for corporate income tax.

- upon payment to a foreign member of a company of the actual value of his interests upon his exit (exclusion) from the membership of that company. Therefore, if a foreign participant decides to exit from a Russian company and decides to forgive the company's debt for payment of the actual value of the share, such forgiveness will not have tax consequences for the company.

(2) Income in the form of substitute bonds received as a result of the replacement of Eurobonds and expenses in the form of the cost of such Eurobonds are not taken into account when determining the tax base for corporate income tax (Articles 251(1)(33.3) and 270(48.34) of the Russian Tax Code). The cost of substitute bonds is recognized as the value of Eurobonds in tax accounting (Article 280(5.1) of the Russian Tax Code).

CERTAIN CHANGES TO THE PROCEDURE FOR LEVYING CORPORATE INCOME TAX

(1) From January 1, 2017, to December 31, 2024, a rule was in effect according to which losses from previous years could be offset against the tax base of the current year not in full, but only partially: up to 50 % of the current tax base. The application of this rule has been extended until the end of 2026 (Article 283(2.1) of the Russian Tax Code).

(2) An anti-crisis rule was introduced in 2022, whereby income from the sale (disposal) of shares/interests in Russian entities that the taxpayer has owned or held another right in rem in them for more than a year, a 0 % rate would apply:

- if the taxpayer was subject to any sanctions in 2022 as of the date on which transactions to sell such shares/interests were closed;
- the duration of their uninterrupted possession by the taxpayer was more than a year as of the date on which such shares/interests were sold.

This rule has been extended to 2023 (Article 284.2(7) of the Russian Tax Code).

(3) The value of property (property right) received (recorded in the accounting records) by the taxpayer without incurring corresponding expenses for its acquisition is determined as income subject to taxation, recognized upon receipt of such property (property rights), taking into account the expenses related to bringing it to a usable state (Article 252(6) of the Russian Tax Code).

(4) A provision has been added whereby completion, equipment, reconstruction, modernization, etc. will alter the initial cost of intangible assets (Article 257(2) of the Russian Tax Code). It should be noted that before being changed, this rule was in effect only with respect to completion, equipment, reconstruction, modernization of fixed assets.

(5) Expenses deductible for the purposes of corporate income tax now include expenses for voluntary property insurance, provided that they are aimed at reimbursing the expenses (losses) that are recognized for the purposes of corporate income tax (Article 263(1)(10) of the Russian Tax Code).

CERTAIN CHANGES TO THE PROCEDURE FOR LEVYING VAT

(1) The Law has extended the right to use a VAT refund application procedure until 2025. Prior to the changes, the right to use a VAT refund application procedure was granted until the end of 2023 (Article 176.1(2)(8) of the Russian Tax Code). Certain changes have been made to the process of claiming a VAT refund under the VAT refund application procedure. These changes are related to the issue of a bank guarantee in electronic form. It should be noted that the issue of a bank guarantee is one of the conditions for the use of the VAT refund application procedure.

(2) Changes have been made to the procedure for determining the tax base for VAT where digital rights are sold (Articles 161(5.3), 164(1)(6.2), 165(8.2), 168(1), and 171(3) of the Russian Tax Code). In particular, where goods are transferred in return for the granting of a digital right, the tax base will be determined as the value of that digital right, but not lower than the value of these goods (Article 154(5.1) of the Russian Tax Code).

(3) The provisions have been adjusted that concern an exemption from taxes of the services of a developer under a shared construction agreement. In particular, an indication has been added that exempt from VAT will be the services of the construction of non-residential premises and parking spaces that are part of multi-apartment residential buildings (Article 149(3)(23.1) of the Russian Tax Code). The exemption will not apply where the services of a developer are provided in the construction of premises intended for temporary residence (without a right to permanent registration).

(4) The limit, within which goods transferred for advertising purposes are exempt from VAT, has been increased from RUB 100 to RUB 300 (approximately from 1 euro to 3 euros) (Article 149(3)(25) of the Russian Tax Code). This change will provide a partial solution to the problem of a natural increase in the price of goods transferred for advertising purposes.

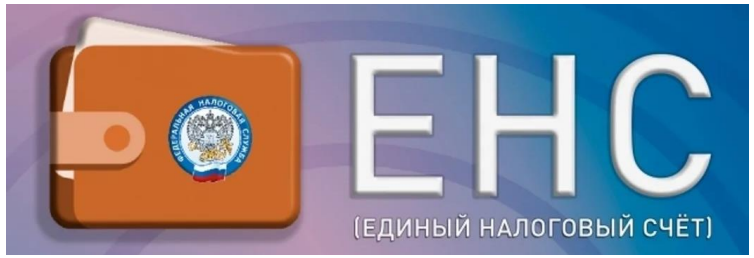
CHANGES TO THE FUNCTIONING OF A UNIFIED TAX ACCOUNT

The Law has made certain changes to the functioning of a unified tax account (UTA).

(1) Until December 31, 2023, it is prohibited to dispose of a positive balance of the UTA in favor of third parties (para. 2 of Article 78(1) of the Russian Tax Code). This means that a tax overpayment can only be used to offset the taxpayer's own obligation to pay a specific tax or to pay taxes on the basis of a decision of tax authorities.

(2) If the amount of tax indicated in the tax return submitted to the tax authority is less than the amount of advance payments, the moment of forming a positive UTA balance has been shifted from the submission of such a declaration to the completion of its desk audit (Article 11.3(5)(5) of the Russian Tax Code). Thus, in cases where advance payments were made in larger amounts than the final amount of tax due, the offset of the overpayment against other taxes can only occur after conducting a desk audit of the submitted declaration.

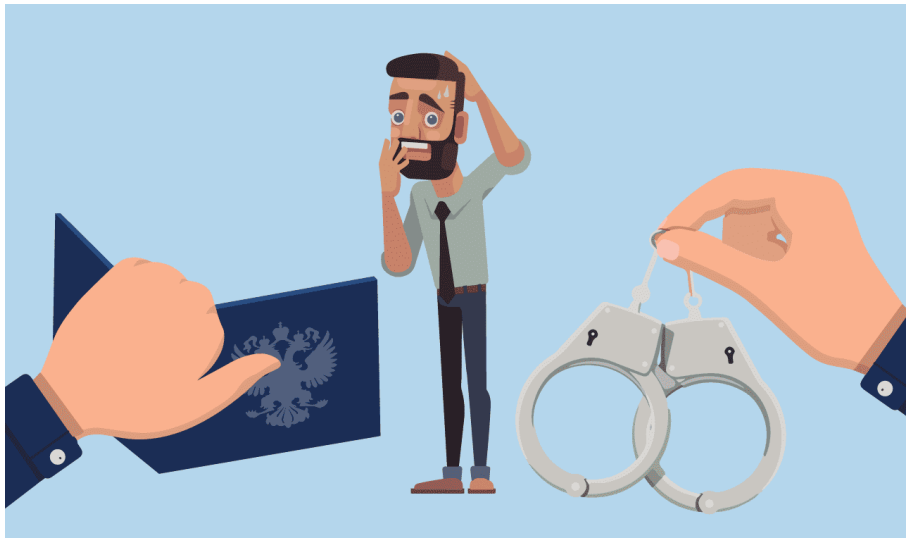
(3) The offset of the amount of a positive UTA balance against a received tax notice will occur on the day of receipt of the notice if a positive balance exists, or on the day of its (balance) formation in the absence of such a balance. If the existing balance is not sufficient to cover the entire amount specified in the tax notice, the offset will occur in the corresponding part (Articles 78(8) and 78(9) of the Russian Tax Code). This means that the amount of tax payable under a tax notice will be automatically reduced by the tax overpayment (the positive balance of a UTA), in full or in part.



CHANGES TO THE ARTICLES ESTABLISHING LIABILITY FOR TAX OFFENSES

(1) Article 119 of the Russian Tax Code which establishes liability for the failure to file a tax return (a calculation of insurance contributions) in time has been amended to include a non-submission of calculations for income paid to foreign organizations and taxes withheld. Thus, a penalty of 5% of the unremitted amount will also be imposed for this offense, for each month from the day set for the submission of the calculation, but not exceeding 30% and not less than 1,000 rubles (approximately 10 euros) (Article 119(1) of the Russian Tax Code). The changes take effect from January 1, 2024.

(2) Article 126.3 of the Russian Tax Code has been added, establishing liability for the provision by individual entrepreneurs and legal entities of inaccurate information for the purposes of individuals obtaining social tax deductions according to a simplified procedure (Article 126.3 of the Russian Tax Code). In particular, it will concern sole proprietors and legal entities that carry on educational and medical activities, insurance companies, non-government pension funds, and sole proprietors and legal entities that carry on sports activities. A fine will be 20% of the amount of tax that has been unlawfully received by the taxpayer.



CERTAIN CHANGES TO THE POWERS OF TAX AUTHORITIES

(1) A separate simplified taxpayer complaint handling procedure will take effect January 1, 2025 (Article 140.1 of the Russian Tax Code). According to this procedure, the taxpayer will submit a complaint in electronic form with the tax authority that has made a disputed decision, indicating the use of the simplified procedure. After that, the tax authority will have seven days to make a decision on such a complaint. Complaints about any decisions made by tax authorities, other than those made on the basis of tax audits and decisions on imposing/refusing to impose tax liability, may be considered according to this procedure. In particular, decisions on the suspension of transactions in bank accounts may be disputed according to this procedure. Therefore, the review process, especially regarding the suspension of account operations, will take less time.

(2) Tax authorities have granted a right to require persons engaged in private practice and classified as major taxpayers to provide their sales and purchase books to the tax authority where they are registered as major taxpayers (Article 23(1)(5) of the Russian Tax Code).

(3) A provision has been added whereby on discovery by tax authorities of an inconsistency between the figures specified in filed notices of assessed amounts of taxes/charges/insurance contributions and the control ratios, such notices will be deemed not to have been filed, in whole or in part (Article 58(9) of the Russian Tax Code). The taxpayer will be informed of the failure to file a notice not later than the day following the day on which a notice was to be filed. This means that if a notice filed on the last day of deadline is deemed not filed, formally, there will be a breach of the time limit to file it, and a fine may be imposed under Article 126(1) of the Russian Tax Code.

CERTAIN CHANGES TO THE POWERS OF TAX AUTHORITIES

(4) A new provision allows the tax authority responsible for debt collection to request documents from the taxpayer regarding their owned property (Article 93.1(2.1) of the Russian Tax Code). Before the changes, only the tax authority that would make a relevant decision was able to do so. We believe that the change of the authority that has the right to request documents is largely technical, but it may help accelerate the debt collection procedure whether the tax authority that makes a decision and the tax authority that collects a debt are different tax authorities.

(5) The tax authority at the place of registration of taxpayer, who initiated mutual agreement procedure has gained the right to request from the parties to a transaction, with respect to which there arises a question that is to be resolved under the mutual agreement procedure, the documents, data, and information necessary for the procedure. Furthermore, the parties are obligated to provide such documents, information, and details (Article 142.9(93.1)(3.1) of the Russian Tax Code. Previously, these rights and obligations were not regulated by the Tax Code of the Russian Federation. It's worth noting that the mutual agreement procedure is a method for resolving complicated matters of cross-border taxation that arise between Russia and a country that has entered into a double taxation treaty (DTT) with Russia. Therefore, the right to initiate the mutual agreement procedure is provided to taxpayers in accordance with the provisions of specific DTT.

(6) The powers of tax authorities as part of tax monitoring have been expanded to include the right to question witnesses and inspect a territory (Article 105.30(4) of the Russian Tax Code). It has also been provided that tax authorities will have the right to disregard a request for substantiated opinion where such a request does not comply with the established form or format (Article 105.30(4.5) of the Russian Tax Code). In addition, the taxpayer has been enabled to withdraw a request for a substantiated opinion of tax authorities (Article 105.30(4.4) of the Russian Tax Code).

OTHER MISCELLANEOUS CHANGES TO THE RUSSIAN TAX CODE

(1) The list of excisable goods eligible for regional investment projects has been expanded. It now includes liquid steel, ethane, liquefied hydrocarbon gas, and single-component crude oil (Article 25.8(1)(2) of the Russian Tax Code). A list of expenses has also been expanded that are deductible in determining the amount of capital investments made by participants in regional investment projects that are included in relevant registers before January 1, 2019. The amount of capital investments also includes the costs of acquisition of depreciated assets for these participants (Article 25.8(3.1) of the Russian Tax Code).

(2) Bank guarantees may now be provided in electronic form, signed with an advanced electronic digital signature (Article 74.1 of the Russian Tax Code).

(3) The period during which banks are required to provide documents regarding clients upon request by the tax authority has been extended from three to five days, with the possibility of additional extending this period if the requested documents cannot be provided within five days (Article 86(2.1) of the Russian Tax Code).

(4) There has been an increase in the rates of excises on some tobacco and alcohol products (Articles 193(1)(4–8), 193(1)(10–16), 193(1)(18–24), 193(1)(26), and 193(1)(28–39) of the Russian Tax Code, etc.).

(5) It has now become possible to obtain a social deduction for education at foreign educational institutions (Article 219(1)(2) of the Russian Tax Code).

(6) In specific cases, adjustments have been made to the amount of state duty (Article 333.33 of the Russian Tax Code), and certain benefits have been introduced with respect to notarial actions (Article 333.38(17) of the Russian Tax Code).

In addition to the abovementioned, the Law contains other numerous changes made to the Russian Tax Code.

The Law comes into force August 3, 2023 (the date of its official publication), but special rules for entry into force apply to many provisions.

We hope that you found this overview useful and interesting. We would be pleased to discuss these legislative changes with you and help you with adaptation to them.

If you have any questions left or you would like to discuss something, please send an email to Anton Kabakov or Nadezhda Danilenko.

Best regards,

The Forte Tax & Law Team

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