



Tax Control

Order of the Federal Tax Service No. MMV-7-2/297@, dated May 10, 2012, on Amendment of FTS Order on Approval of the Concept of Field Tax Inspections Planning System, dated May 30, 2007, No. MM-3-06/333@.

The Order formulates the concept of field tax inspections. In particular, when choosing the objects of such inspections tax authorities should take into account information contained in the complaints and statements of individuals, legal entities, individual entrepreneurs, law enforcement and other controlling authorities regarding payment of off-the-books salaries, failure to sign contracts with employees and similar information.

A taxpayer's failure to respond to a notification from tax authority about discovered inconsistencies in the taxpayer's accounts, and (or) failure to submit to the tax authority required documents, and (or) destruction, damage or loss of such documents serve as a ground for a field tax inspection.

The Order contains the calculation of a tax burden and profitability of sold goods, products, work, services and assets of organizations as per the types of economic activity in percent for 2011. If a tax burden is lower than the industry mean figure or the level of profitability considerably deviates from the average in the given sphere, this may serve as a reason for a field tax inspection.

State Supervision. Consumer Rights Protection

The RF Government's Decree on Approval of the Regulations on the Federal State Supervision in the Field of Consumer Rights Protection, dated May 2, 2012, No. 412.

The federal state supervision in this field is exercised by the officers of Rospotrebnadzor (The Federal Service for Supervision in the Field of Consumer Rights and Human Welfare Protection) and includes organization and carrying out of inspections for checking compliance by manufacturers (contractors, sellers, authorized organizations or authorized individual entrepreneurs, importers) with the requirements of Russia's international treaties and the Law on Consumers Rights Protection; systematic monitoring of fulfillment of mandatory requirements, analysis and forecasting of the state of fulfillment of mandatory requirements, and many other things.

The Decree fixates the powers of supervising officers. For example, supervisors are entitled to request and receive on the basis of motivated written inquiries all information and documents concerning consumer rights protection, have a free access to the corresponding territory, building and premises on the basis of a service certificate and a copy of the warrant,

take samples and specimens of products, draw up statements of administrative offences, file lawsuits seeking protection of consumer rights.

Information on Taxpayers

Order of the Federal Tax Service on Approval of the Procedure for Provision to Users of Information from the Consolidated State Register of Taxpayers, dated February 27, 2012, No. MMV-7-6/111@, has been published.

The Order determines general rules for provision by tax authorities of data from the Consolidated State Register of Taxpayers (CSRT). For example, organizations or individuals may receive information about themselves in full, but only INN (taxpayer's identity number) and CPP (code of the reason for registration) of other taxpayers. Full information about an organization or an individual may be provided to state authorities, law enforcement authorities, courts and some other bodies.

Data from the CSRT are provided on the basis of a written request made in a free form. The request may be submitted personally, through a representative or via mail to any tax authority irrespective of the address of the requesting person or the person whose data are requested. It is also possible to send the request in an electronic form (certified by a reinforced qualified electronic signature). The Order contains the list of documents to be attached to the request. The requested information is to be provided within 5 working days following receipt of the request by tax authorities.

The Order is registered by the Ministry of Justice on April 27, 2012 under No. 23968.

Protection of Competition

Order of the Federal Anti-Monopoly Service on Approval of the FAS Administrative Rules on Consideration of Inquiries Regarding the Need for Approval of Transactions under Article 8(6) of the Federal Law on Foreign Investment in Strategic Enterprises, dated January 20, 2012, No. 23, has been published on the FAS website.

Under the Competition Protection Law, transactions entailing control of the foreign investor or its group of companies over strategic enterprises are subject to prior approval by the FAS. If at the time of negotiation of the transaction the establishment of such control is not evident, the foreign investor or the company or individual belonging to the investor's group of companies is entitled to send the FAS an inquiry regarding the need for prior approval of such transaction. Consideration of such requests is a service rendered by the state.

The Order contains an exhaustive list of documents to be enclosed with the inquiry. The FAS should consider an inquiry within 30 days of its receipt and registration and send a response to the interested person. After that the FAS informs the Governmental Commission for Control Over Foreign Investments in Russia about the inquiry and the response.

The Order also determines an out-of-court procedure for appealing decisions and actions or inaction of the FAS and its officers. An appeal is to be considered within 15 working days of its receipt and registration.

The Order is registered by the Ministry of Justice on May 11, 2012 under No. 24109 and will come into force 10 days after its official publication which, however, has not taken place yet.

Customs

The Federal Customs Service of Russia has published information on the implementation by the FCS of the Decision of the Customs Union Commission, dated December 9, 2011, No. 899.

According to the Decision, mandatory prior notification about goods proposed to be imported to the customs territory of the Customs Union in automobiles is introduced in the territory of the Customs Union from June 17, 2012.

Therefore, all automobile check points will use an automated system of customs clearance and control which makes it possible to receive and use such prior notifications. The notifications are to be sent through the FCS site no later than 2 hours before the proposed importation of any goods being transported by automobiles to the customs territory of the Customs Union.

The Decision specifies certain categories of goods that do not require prior notification. In particular, goods being imported by individuals for personal use, goods being imported for liquidation of the aftermaths of natural disasters, accidents and catastrophes, and certain other goods.

State Registration

Order of the Federal Tax Service on Approval of the Forms of and Requirements to Documents Submitted to a Registering Authority for State Registration of Legal Entities, Individual Entrepreneurs and Farms, dated January 25, 2012, No. MMV-7-6/25@, has been published.

The new forms of documents take into account amended laws, including those concerning registration of limited liability companies. Special attention is paid to how the forms should be filled in. For example, the form of an application for state registration of amendments to the statutory documents of a legal entity (No. R13001) has been changed. Now, due to the statutory requirement of notarization of the applicant's signature, the form contains a block to be filled in by a notary public.

The Order is registered by the Ministry of Justice on May 14, 2012 under No. 24139.

Taxation of Profit of Foreign Organizations – Court Practice

The RF Supreme Arbitration Court has considered a petition for recognition of Section 5.3 of the Methodical Recommendations to Tax Authorities Regarding Application of Certain Provisions of Chapter 25 of the RF Tax Code Concerning Specifics of the Taxation of Profit (Income) of Foreign Organizations as inconsistent with the RF Tax Code and the Double Taxation Treaty between Russia and France of November 26, 1996, and as having no effect to the extent it prevents taxpayers (foreign organizations doing business in Russia through

permanent representations) from acknowledgement of expenses charged by the foreign organization on its permanent representation.

The Supreme Arbitration Court came to the conclusion that it is inadmissible to force foreign organizations doing business in Russia through permanent representations and being taxpayers of the Russian profit tax to regard the date on which they transfer deductible expenses to their representations as a circumstance preventing recording of such expenses in the tax (reporting) period to which they belong, if the information contained in the corresponding notification allows determining the proper tax (reporting) period.

Lawmaking – Protection of Competition

The Federal Antimonopoly Service has published on its site the Draft Federal Law on Amendment of the Protection of Competition Law. The Draft Law proposes to exclude notification about certain transactions (actions) of economic concentration. Such transactions (actions) include:

- Creation of a commercial organization as the result of a merger of commercial organizations if the total value of the assets as per recent balance sheets or the total proceeds from sale of goods during the calendar year preceding the year of the merger exceeds 400 million rubles;
- Creation of a financial organization as the result of a merger of financial organizations if the total value of the assets as per recent balance sheets of the financial organizations which cease to operate after the merger does not exceed the value set by the RF Government;
- Acquisition of shares, rights and (or) property if the total value of the assets as per the recent balance sheet or total receipts from sale of the goods of the person acquiring the shares, rights and (or) property and its group of persons and the person whose shares, rights and (or) property are acquired and its group of persons exceed 400 million rubles in the calendar year preceding the year of the transaction, provided that the total value of the assets as per the recent balance sheet of the person whose shares, rights and (or) property is acquired and its group of persons exceeds 60 million rubles.

Supposedly, if the Draft Law is adopted, it will make it possible to considerably reduce the administrative burden on entrepreneurs and allow antimonopoly authorities to concentrate on major transactions that make a significant influence on competition.

Lawmaking – State and Municipal Purchases

The State Duma received for consideration Draft Federal Law on the Federal Contractual System in the Sphere of Purchase of Goods, Work and Services, No. 68702-6. The Draft Law is aimed at a comprehensive improvement of laws in the sphere of state and municipal purchases and formation of a federal contractual system, as well as approval of the organizational structure of the federal contractual system management.

The Draft Law regulates the relationship connected with forecasting and planning of purchases; monitoring, supervision, control and audit of compliance with statutory requirements for the purpose of ensuring openness and transparency of purchases, selection of suppliers (contractors) for state and municipal needs.

The Draft Law prescribes that purchase plans and contracts audit results be placed on the official internet site; prohibits entering into contracts with the sole supplier if a tender has not taken place; introduces the institution of public control over state purchases and anti-dumping measures, namely establishes the obligation of the customer to produce the calculation of the proposed contract price and its justification, if the prospective contractor offers the price which is at least 25% less than the initial contract price.

The Draft Law provides for the formation of a public committee for control over state purchases with powers as broad as participation of the committee members in tender commissions of customers.

Adoption of the Draft Law would require recognition as state of Federal Law on Placement of Orders for Supply of Goods, Performance of Work, Rendering of Services for State and Municipal Needs, dated July 21, 2005, No. 94-FZ.

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