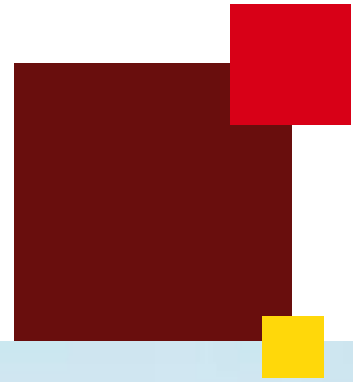




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Legal Overview

The most Important Tax News

19 May '20



§ I. Support of small and medium-size businesses

The State Duma is considering draft law N 953580-7 which would allow for the extension of the deadline for entering of companies in the register of small and medium-size business entities. We remind that measures supporting small and medium-size businesses, announced by the RF Government in April 2020, required that an entity applying for the benefit should be included in the Register of Small and Medium-Size Businesses (RSMB) as of April 1, 2020. However, many enterprises meeting the criteria of the RSMB did not file relevant reports in time and as a result of this have not been included in the said register. The draft law would extend the deadline for filing of company's reports till May 31, 2020 and allow the small and medium-size businesses which failed to file their reports in time to benefit from the support measures.

§ II. Refund of excessively paid insurance contributions

The Government has sent to the State Duma a draft law which is intended to eliminate the uncertainty with respect to the refund of excessively paid insurance contributions. The current statutory regulation does not allow for the refund of excessively paid insurance contributions in case relevant amounts have been credited to personal accounts of insured persons. Previously the RF Constitutional Court held such regulation unlawful with reference to cases where the refund did not violate the rights of insured persons (Ruling of the RF CC dd. October 31, 2019, N 32-П).

Taking into consideration the above position, the RF Government is going to prohibit refund only in cases where the pension has already been awarded for the insured person.

§ III. Disputes over bad-faith suppliers

The Chamber for Commercial Disputes of the Supreme Court of Russian Federation has drawn a reassuring conclusions when considering a bad-faith suppliers case (Case N A42-7695/2917, Zvezdochka SPTB). A taxpayer was denied VAT deduction because its supplier acted in bad faith, i.e. had not paid the VAT into the budget. At the same time, tax authorities did not contest that the transaction between the taxpayer and its supplier was real. The taxpayer produced evidence of its due diligence, i.e. testing of the supplier's ability to meet its obligations. The Supreme Court considered that in such circumstances the denial of VAT deduction had been groundless. This case highlights the importance of fixation by a taxpayer of procedures conducted by it to check whether its contracting party is doing real business. It should be mentioned that the tax audit report was issued before enactment of Art. 54.1 of the RF Tax Code (the concept of "abuse of taxpayer's rights"), and, therefore, the approaches of the Supreme Arbitrazh (Commercial) Court set out in its Ruling N 53 ("relevance of tax benefit") were applied when this dispute was considered.

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