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Taxes

1. Order of the Federal Tax Service (FTS) N ЯК-7-6/488@ of 11 August 2011 "On approval of forms and formats of documents used for tax registration and deregistration of Russian organizations and individuals, including individual entrepreneurs, and procedures for filling in forms and sending by tax authorities to organizations, individuals, including individual entrepreneurs, of a certificate of tax registration with tax authorities and (or) a notice of tax registration with tax authorities (a notice of tax deregistration with tax authorities) in electronic format via telecommunications channels" has been recorded by the RF Ministry of Justice and published.

The following has been approved: modified forms of certificate of tax registration of a Russian organization with the tax authority for the location thereof, notices of tax registration, tax deregistration, and choice of tax authority for tax registration at the location of one of organization's detached subdivisions. Also the form of a request for sending of a certificate of tax registration, a notice of tax registration and deregistration in electronic format have been approved. The procedures for sending by tax authorities of certificate of tax registration, a notice of tax registration and deregistration in electronic format via telecommunications channels have been approved. The FTS Order that had been previously in force has become inoperative.

2. FTS Letter N ЕД-4-3/14566@ of 7 September 2011 "On certain matters concerning transitional period" has been published. Explanations have been given with regard to going into effect of amendments to the VAT levy procedures (Federal Law N 245-ФЗ of 19 July 2011), according to which effective 01 October 2011 the list of grounds for application of the 0% VAT rate has been enlarged and the procedures for confirmation of the right to VAT refund have been amended.

Specifically, new rules (Art. 148 of the RF Tax Code as amended) for determination of the place of works (services) realization are applicable to works (services) performed (rendered) from 1 October 2011 on. A number of amended provisions concerning the place of realization is applicable to works (services) performed (rendered) from 1 January 2011 on. New rules for confirmation of the right to application of the 0% VAT rate are introduced as of 1 October 2011.

Also it is stated, taking into account amendments to the RF Tax Code concerning time limits for submission to tax authorities of a bank guarantee where the declarative procedure for VAT refund is applied and where tax authorities are obligated to send to the bank a written notice of release from obligations under the bank guarantee, that the new rules are applied to submission of a request for application of the declarative procedure for VAT refund with effect from 1 January 2012.

3. FTS Letter N ЕД-4-3/15927@ of 28 September 2011 "On application of an adjustment commercial (*factura*) invoice" has been published. Whereas effective from 1 October 2011 issuance of adjustment commercial invoices in case of a change in value of shipped goods (performed works, rendered services, transferred interest) is allowed, for instance in case of a change in price (tariff) or correction of the quantity (volume) thereof, the FTS has given explanations regarding procedures for execution and issuance by the seller of an adjustment commercial invoice (it is to be issued not later than within 5 calendar days) and regarding the moment from which the said term starts to run (the moment of drawing up of a document for the change in value). Besides, FTS gives examples of such documents: contract, agreement, or another primary document evidencing buyer's consent (the fact that a notice has been given to it).

The form of and procedures for filling in of an adjustment commercial invoice, rules for maintaining records of issued and received commercial invoices and sales and purchases ledgers will be determined by the RF Government. Pending such determination it is recommended to apply the form of and procedures for filling in of an adjustment commercial invoice, developed by the FTS of Russia and exhibited in the annex to its letter. Also explanations have been given with regard to recordal of adjustment commercial invoices in sales and purchases ledgers.

4. Order of the FTS N MMB-7-2/457@ of 21 July 2011 "On amendment of requirements to drawing up of a tax audit report, which requirements were approved by Order of the FTS N CAЭ-3-06/892@ of 25 December 2006" has been recorded by the RF Ministry of Justice and published. A provision has been made for documents evidencing discovered violations to be enclosed with tax audit report. Thus, requirements to drawing up of a tax audit report, approved by the FTS of Russia, have been brought in compliance with the RF Tax Code.

It has also been specified that where the enclosed documents contain information classified as bank, tax, or other legally protected third party secret or personal data, certified excerpts from such documents are to be attached to the report. Further it has been specified that all copies of the report are identical and include all enclosures listed in it. A copy of a report kept on file with the tax authority and all materials relevant to a completed audit are documents intended for official use only.

5. A **draft** Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation "On certain issues arising in course of application by arbitration courts of Part One of the Tax Code of the Russian Federation" has been published. The said clarifications are to supersede clarifications given earlier. Furthermore, new clarifications cover a broad range of relevant issues: discharge of tax liability; application of sanctions; implementation of fiscal control measures; going of resolutions of a tax authority into effect and taking appeal therefrom; tax enforcement, etc.

Corporate

Resolution of the Supreme Arbitration Court (SAC) of the RF N 7889/11 of 6 September 2011 has been published. It expresses legal views with regard to operation and current application by joint-stock and other business companies in course of their activities of a regulatory document – Order of the Ministry of Culture of the Russian Federation N 558 of 25 August 2010 "On approval of "The list of standard managerial archive documents that result from operation of public agencies, local authorities and organizations, specifying relevant retention periods".

The SAC RF was requested to express its views in connection with an action by shareholders for making available to them of information by a company, where shareholders invoked the above referenced Order of the Ministry of Culture as a regulatory document with which the company must comply to the extent retention and, therefore, making available to shareholders, of managerial documents specified in the Order in question was involved.

In the context of its request to the SAC RF the petitioner asked to recognize the Order inoperative as related to imposition by such regulatory document on such stock-holding and other business companies of the obligation to retain documents included in the list enclosed with the Order. The petitioner also mentioned, among other things, that the Order had not been published in full, that the Ministry of Culture had exceeded its powers when issuing it, that the Order was in conflict with provisions of the Law "On archive-keeping in the Russian Federation ", and that it illegally imposed on the JSC the obligation to retain and make available to shareholders on demand of a unreasonably broad list of documents.

The SAC RF refused to recognize the Order inoperative, however it pointed out that the Order, in virtue of its not having been published in full (the list approved by the Order had not been published)

did not have valid legal consequences as a regulatory document that had not come into force and recognized that it was not applicable in full from the date of its publication.

Expatriate Employment

The RF Government has issued Resolution N 732 of 5 September 2011 "On amendment of Regulations for introduction of the form of a visa, procedures and conditions for preparation and issuance, renewal, reissuance in case of loss, and revocation of visas". It has been established that multiple ordinary working visas will be issued to high-skilled expatriates and members of their families.

To specialists entering Russia on invitation, visas will be issued by a Russian diplomatic mission or consulate. To expatriates who are already working in Russia such visas will be issued by territorial offices of the Migration Service at the place of their stay. A visa is issued for the duration of the employment (civil-law) contract validity period, however not exceeding 3 years, with possible renewal for a similar period.

Real Property Cadastre

Order of the RF Ministry of Economic Development N 402 of 17 August 2011 "On amendment of the Procedures for entering in the state real property cadaster of information about previously registered real property, approved by Order of the RF Ministry of Economic Development N 1 of 11 January 2011" has been recorded by the RF Ministry of Justice and published.

The said Order clarifies how information about previously registered real property should be entered in the state real property cadaster. Acts of government (municipal) agencies, affirming results of real property cadastral valuation with regard to information about cadastral value of previously registered real property, are referred to sources of such information. Such acts constitute grounds for entering in the cadaster of information about cadastral value of such property. Also, the necessity for bringing technical and cadastral passports in compliance with the established requirements by technical inventory organizations has been provided for. Besides, it has been specified that information about real property included in the real property cadaster is deemed included in the Consolidated State Register of Capital Structures, and where there are differences, information bearing a later date shall prevail.

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This newsletter is not intended to provide legal advice and/or any other form of legal assistance that may be rendered by attorney-at-law to client. The exclusive purpose of this review is to make aware its recipient of certain recent changes in Russian laws and regulations, and of the development of law application practice. Any use of the information contained herein for particular purposes may require more detailed case-specific explanations. Further information can be obtained via +7 (495) 933 75 67 or office@agp.ru



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