



## Large-scale amendments to the Tax Code

### In brief

On 14 July, Russian President Vladimir Putin signed a [draft law](#) introducing multiple amendments into the Russian Tax Code (RTC). We provided comments on the amendments at our [Telegram channel](#) when they were considered in the first reading. However, the text of the amendments underwent substantial changes in the course of consideration.

The lawmakers redrafted a provision about the tax-free debt forgiveness in 2022, granted benefits to radio-and-electronic companies, changed the VAT payment procedure when selling electronic services, increased the mineral resources extraction tax (MRET) for Gazprom and many other things.

### In detail

#### Corporate Income Tax (CIT)

##### *The forgiveness of debt under loan and borrowing agreements*

In March, the law was adopted to allow a debtor not to recognise income as a result of the debt forgiveness by a foreign lender in 2022. This provision was introduced by adding sub-paragraph 21.5 to paragraph 1 of Article 251 of the RTC. The new draft law amends the wording of the newly introduced provision (sub-paragraph shall be read as follows):

- The benefit will apply only to debts under loan/borrowing agreements. The initial wording covered an assignment of receivables under agreements of any types (although experts voiced different views in this respect). The Russian Ministry of Finance (MinFin) issued a number of clarifications supporting this logic.
- The interest forgiven and earlier recognised as expenses will not qualify for the tax benefit. MinFin's clarifications of the previous wording (which had no reference to interest at all) allowed not to recognise interest in taxable income without any conditions.
- The new provision covers the debt forgiveness also by Russian persons who acquired the debt from foreigners, and such assignment can be made by the end of 2022 and not till 1 March, as it was read in the initial provision.
- The debt forgiven by a foreign person under a respective claim assignment agreement.

The new wording will apply to the legal relationship arisen from the beginning of 2022. Therefore, taxpayers who have already relied on the wordings adopted in March and the MinFin's favourable clarifications should assess their risks.

##### *Writing off debts to foreign members who have withdrawn from the membership*

Nor will income arise when writing off debts related to the payment to a foreign member of OOO of an actual value of their share **upon withdrawal** from the membership in 2022.

##### *Radio-and-electronic industry*

When forming an initial value of **radio-and-electronic products** and intangible assets in the form of computer software and databases, expenses may be accounted for using the multiplier of 1.5, provided that developments relate to the **artificial intelligence** (AI). Taxpayers acquiring licences to such software may account for expenses using the increasing factor, too. To qualify for the application of the benefit, both radio-and-electronic products and computer software should be included in special registers.

The criteria for the application of tax benefits by entities which are engaged in developing items of the electronic component base and radio-and-electronic products will be eased. For example, a share of revenues from the core activity is reduced from 90% down to 70%, and a list of income from the core activity becomes wider. The criterion of the minimum number of staff (7 employees) is removed.

Articles 257, 264, 270, 284 and 286.1 of the RTC have been amended accordingly, and Article 427 of the RTC has been amended with respect to the criteria for the application of reduced rates of social insurance contributions.

#### *Investment tax credit (ITC)*

The amendments have widened the scope of the application of ITC to costs on implementation (installation, testing, adaptation and modification) of computer software and databases, as well as fixed assets from the register of radio-and-electronic products. The amendments specify that amounts accounted for in the application of such ITC shall not be recognized as expenses.

Articles 270 and 286.1 of the RTC have been amended accordingly.

#### *Recognition of income on eurobonds on a cash basis*

It is proposed to apply a cash-basis method in recognising income from repayment of foreign debt securities and income in the form of interest accrued in 2022-2023 on such securities. Interest income will be recognised upon receipt of money, but not later than 31 March 2024. For bank taxpayers, interest not received in due time shall be excluded from the doubtful debt.

Articles 266 and 271 of the RTC have been amended accordingly.

#### *Accounting for expenses in case of a free-of-charge transfer of facilities to the government*

When transferring infrastructure facilities to the government, it will be allowed to qualify as non-operating expenses not only costs on building social infrastructure facilities which are transferred into the state or municipal ownership on a free-of-charge basis, but also **engineering, utility and transport infrastructure facilities**.

Sub-paragraph 19.4 of paragraph 1 of Article 265 of the RTC and sub-paragraph 11 of paragraph are set forth in a new version.

#### *Syndicated loans*

The law amends arrangements for financing participation in loans/borrowings (the amendments are introduced into Articles 251, 266 and 269 of the RTC). No tax will arise upon receipt and in repayment of funds under such agreements. Nor the tax will arise upon termination of creditor's obligations to an external party under the respective agreement if the creditor's obligations have terminated due the termination of borrower's obligations to the creditor and also termination of obligations of the persons who have provided security for the performance of the borrower's obligations. The amendments introduce the qualification of debt as bad under such agreements.

#### *Tax base where property is received from a controlled foreign company (CFC)*

As a follow-up to the benefit introduced by Federal Law No. 67-FZ of 26 March 2022, the amendments specify that where individuals contribute property (property rights) to the share capital (income from the receipt thereof was exempt from taxation under paragraph 60.2 of Article 217 of the RTC), the residual value of such assets shall be determined based on tax records of the foreign entity from which the assets were received, and where **the residual value has not been determined, it shall be deemed to be zero**. This clarification is stipulated by sub-paragraph seven that has been added to paragraph 1 of Article 277 of the RTC.

#### *Foreign exchange differences at international holding companies*

In 2022, a foreign exchange gain that an international holding company (IHC) has as of the date of termination (discharge) of its claim/obligation will be recognised in the amount of no more than a foreign exchange loss from such claim (obligation). To put it simply, in 2022, the profit earned by the IHC from foreign exchange differences will not be subject to tax, but it will be allowed to recognise a loss from foreign exchange differences. The new provision is set forth in paragraph 5 of Article 2 of the Law.

We would like to remind you that effective from 2023, foreign exchange differences will no longer be recognised at IHC for tax purposes.

#### *Genetic technologies*

A number of amendments have been introduced into the Tax Code (including into Articles 251, 270 and 286.1 of the RTC) concerning taxation of participants in the Programme for Genetic Technologies Development.

### **Personal Income Tax (PIT)**

#### *Tax exemption of income from the sale of gold*

Paragraph 92 has been added to Article 217 of the RTC. Income from the disposal of gold bars will be tax exempt for two years (2022 and 2023). By doing so, lawmakers seek to make such investments more attractive to the public.

#### *Change of a broker*

Amendments have been made to paragraph 10 of Article 226.1 of the RTC. The amendments address a transfer of securities and cash held by taxpayers from accounts of one broker to accounts of another broker, along with the transfer of all rights and obligations under a respective brokerage agreement. Under such transfer, the first broker will not withhold the PIT upon transfer, and the second broker will withhold it according to the normal procedure at the end of a tax period, i.e. year. Thus, a taxpayer will not be required to pay the tax earlier as a result of, for example, a forced move from one broker to another.

#### *Tax exemption of income from the sale of shares/ownership interests*

A new sub-paragraph is added to paragraph 17.2 of Article 217 of the RTC. It stipulates that income earned by the taxpayers in respect of whom restrictive measures have been imposed abroad from the disposal of shares/ownership interest in Russian entities in 2022 will not be subject to PIT. In other words, if a sanctioned taxpayer sells its Russian business, income from such sale will not be subject to PIT.

#### *Deduction for children*

Social deductions can be claimed for medical treatment expenses and fees for health and fitness services to children **under the age of 24** if these children (including adopted children) are full-time students. Article 219 of the RTC has been amended accordingly.

## VAT

#### *VAT withholding on the payment for electronic services*

The procedure for paying VAT on the sale of electronic services provided by foreign entities will change. The text suggests that the lawmakers intend to return to the provisions which were effective until 2019 and which provided for the **use of a tax agent mechanism** with respect to **electronic services** purchased by entities and sole proprietors from foreign entities. With respect to electronic services provided to individuals, foreign entities will continue to assess and pay the Russian VAT by themselves. However, the proposed provisions are not fully identical to those previously in force – foreign entities will still be obligated to register with Russian tax authorities.

Article 174. 2 of the RTC has been amended accordingly.

#### *Sale of diamonds*

Similarly to the disposal of precious metals in bars, the sale of polished natural diamonds by banks to individuals will not be subject to VAT, irrespective of whether these polished natural diamonds are kept at banks' vaults, nor will the sale of precious metals in bars by the Central Bank of Russia (CBR) and banks to other persons be subject to VAT, provided that these bars will be kept at one of the following vaults: the State Depository of Valuables, the CBR vault or banks' vaults).

Paragraph 3 of Article 149 of the RTC has been amended accordingly.

#### *Receipt of property from CFC*

A new sub-paragraph is added to paragraph 2 of Article 149 of the RTC. The disposal of property and property rights by a foreign entity (an unincorporated foreign structure) to an individual whose income from the receipt thereof are not subject to PIT under paragraph 60.2 of Article 217 of the RTC will be exempt from taxation.

## Mineral resources extraction tax (MRET)

#### *MRET for Gazprom*

In accordance with amendments introduced into Article 343 of the RTC, the MRET for three autumn months for entities which own facilities of the Unified Gas Supply System will be increased by RUB 416 billion per month.

Crushed stone will be a new type of mineral resources (amendment to Article 337 of the RTC)

Accordingly, sub-paragraph 10 is added to paragraph 2 of Article 337 of the RTC. Currently, the definition of crushed stone as a mineral and imposition of the MRET on it are insufficiently regulated. The introduced amendment will help resolve the current uncertainty and eliminate disputes between taxpayers and tax authorities.

### *MRET deductions*

The amendments introduce tax deductions for the extraction of multi-component compound ores in the Republic of Khakasia and iron ores in Sverdlovsk Region. For new deposits in the Khanty-Mansiysk Autonomous District, amounts of MRET deductions are increased. These changes are intended to provide a pin-point support to certain categories of MRET payers.

The amendments change parameters of the return of (earlier granted) MRET deduction with respect to oil that was earlier granted to Irkutsk Oil Company for a period of 2022-2024 for the purpose of construction of an ethane and LPG processing plant. The time period for the return of the tax deduction is extended from 2027 till the end of 2029. This will serve as an additional support to the taxpayer by deferring the return of earlier provided finance in the form of a tax deduction.

Articles 343.2, 343.7 and 343.8 have been amended accordingly.

### **Extra income tax (EIT)**

The amendments cancel the fixed values of expense limits that were earlier set for periods beginning from 2024 and used to calculate a minimum EIT payable. The values were set several years ago based on certain inflation expectations which no longer correspond to the current reality. It is most likely that new values will be determined with allowance for new inflation figures. This change makes the EIT regime more attractive to taxpayers in the long term. Article 333. 35 of the RTC has been amended accordingly.

## **The takeaway**

The amendments are multiple and cover various aspects of taxation. Taxpayers should assess the impact of the amendments on their businesses and make appropriate decisions.

We would be happy to answer any questions you may have.

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