

A background image of a city skyline at sunset, with several tall skyscrapers. A large, semi-circular graphic element in shades of blue and green is overlaid on the right side of the image.

# Legislative Changes Review

November, 2022

## Main events in November:

- The tax inspection can't refuse in the performance of a reconciliation of settlements
- It is impossible to obtain a certificate of the electronic signature verification key according to a power of attorney
- The Federal Council warned on possible problems due to the introduction of a unified tax payment

# Bookkeeping and Tax Accounting

## 1. The tax inspection can't refuse in the performance of a reconciliation of settlements

*Letter of the FTS of Russia of September 29, 2022 No.AB-4-19/12938@*

### Comments

Article 21 the Tax Code of the Russian Federation (pp.5.1 p.1) establishes the taxpayer's right to conduct a joint reconciliation with the tax inspection regarding calculations on taxes, fees, penalties and fines.

The tax authorities, in turn, are obliged, at the request of the taxpayer, to carry out a joint reconciliation of settlements, and draw up the results of the joint reconciliation in an act (the form was approved by the order of the Federal Taxation Service of Russia of December 16, 2016 No.MMB-7-17/685@).

By the letter No.AB-4-19/12938@, the FTS of Russia reminds that the act of reconciliation of settlements shall be handed over (sent by registered post) or transferred to the applicant in the electronic form by telecommunication channels or through the taxpayer's personal account within the next day after the date of drawing up such an act. At that, the tax inspection does not have the right to refuse to reconcile calculations - the grounds for refusal are not provided by tax legislation.

## 2. It is impossible to obtain a certificate of the electronic signature verification key according to a power of attorney

*Letter of the FTS of Russia of 30.09.2022 No.PA-19-24/220@*

### Comments

The FTS has clarified that the E-Signature Law doesn't provide for the possibility to receive a qualified certificate according to a POA. If, for example, a representative of an individual entrepreneur contacts the certification center, exactly the representative will be indicated as the owner of the certificate.

## 3. The Federal Council warned on possible problems due to the introduction of a unified tax payment

*Information from the official website of the FC*

### Comments

Elena Perminova, the First Deputy Chairman of the Federation Council Committee on Budget and Financial Markets, said that a number of subjects of the Russian Federation and municipalities have already expressed concern about the introduction of the UTP. "Financiers in the regions have concerns that they will not receive timely tax revenues to

local budgets”. In this regard, the senator suggested that the Ministry prepare a methodological manual containing clear explanations of how financial authorities will work locally, and municipalities will interact with the tax inspection. Thus, a methodological manual is expected from the Federal Taxation Service of Russia and the Ministry of Finance, which will describe how taxes are collected and distributed as part of a unified tax payment.

E. Perminova has also expressed the fears of the financiers of the regions that they would not timely receive taxes to local budgets.

The head of the Federation Council Committee on Budget and Financial Markets, Anatoly Artamonov, added that “... a cash gap cannot be allowed for the regions... If earlier there was no need to lend to the cash gap, because there was a regular receipt of this payment to the budgets, now we will do it. This is a significant defective feature of this innovation. It’s necessary to exclude the possible future trouble”.

## 4. The already accredited IT companies shall provide consent to disclose tax secrets

*Resolution of the RF Government of 30.09.2022 No.1729 “On Approval of the Regulation on State Accreditation of Russian Organisations, Carrying out Activities in the Field of IT Technologies”*

### Comments

If an IT company is already accredited, there is no need to re-apply due to the introduction of a new procedure. However, it is necessary to send consent to the disclosure of tax secrets to the Federal Taxation Service.

The new procedure was approved by the Resolution of the Government No.1729 of September 30, 2022 and comes into force from the date of its publication - October 1, 2022, so consent shall be sent before November 1, 2022.

It is necessary to send consent to the FTS to disclose data constituting a tax secret in order to pass an audit for the compliance with the requirements for accredited IT companies.

Compliance will be reviewed annually from 2023 until July 1.

The MinTsifry can also conduct an unscheduled audit.

The consent form was completed by the letter of the FTS of August 29, 2022 No.AB-4-19/11332. The consent shall indicate for which years the company is ready to disclose its data, and the period for which such consent is valid. If no end date is specified, consent is valid until withdrawal. Consent shall be sent by telecommunication channels or through a personal account.

## 5. From 2023, organisations and IEs will pay taxes through a unified tax account

*Letter of the FTS of Russia of October 18, 2022 No.KV-4-1/13949@*

### Comments

The tax authorities reminded to taxpayers, payers of contributions and tax agents on the need to apply from 2023 a unified tax account (hereinafter – the “UTA”) while paying taxes, advance payments on taxes, contributions, penalties, fines, interests (monetary funds will be transferred to the UTA in the form of a unified tax payment (hereinafter – the “UTP”) (p.2 art.1 the Federal Law of July 14, 2022 No.263-FZ)).

The balance of the UTA is the difference between the total amount of monetary funds, transferred or recognized in kind of the UTP, and the monetary value of the total liability. When forming a positive balance, there are not accounted amounts of monetary funds, credited in favor of fulfilment of a corresponding liability of the taxpayer.

A single deadline for submitting tax returns and paying certain taxes is also being introduced: starting from 2023, all tax returns will need to be submitted to the tax authorities no later than the 25th day of the month, and profit tax, VAT, MET, transport tax, corporate property tax, STS, insurance contributions no later than the 28th day of the month.

## 6. Officials of the FTS of Russia have clarified how to calculate currency exchange differences in 2022

*Letter of the FTS of Russia of 07.10.2022 No.SD-4-3/13426@*

*Letter of the Ministry of Finance of Russia of 15.04.2022 No.03-03-06/1/33418*

### Comments

The FTS clarified how incomes and expenses shall be recognized in 2022 in kind of positive and negative exchange differences from the revaluation of claims/liabilities, including claims under a bank deposit agreement, the value of which is denominated in a foreign currency (excluding advances).

Incomes in the form of a positive exchange difference in 2022-2024 for claims/obligations (including under a bank deposit/deposit agreement), the value of which is expressed in a foreign currency (excluding advances), shall be included in the taxable base as of the date of termination/fulfilment of claims/obligations upon revaluation of which a positive exchange rate difference arises. The effect of this rule applies to legal relations that arose from January 1, 2022.

Expenses in the form of a negative exchange difference in 2023 and 2024 for claims/obligations (including under a bank deposit/deposit agreement), the value of which is denominated in a foreign currency (excluding advances), shall be included in the taxable base as of the date of termination/fulfilment of claims/obligations denominated in a foreign

currency upon revaluations of which a negative exchange rate difference arises. This provision will come into force on January 1, 2023.

Officials of the FTS draw attention to the fact that the law does not provide for a reduction in 2022 of the amount of expenses in the form of negative exchange rate differences to positive ones, for which the moment of recognition in incomes has not come (both cumulatively between all claims and obligations, and cumulatively between months within the reporting (tax) period for income tax).

## 7. New form of a 3-NDFL tax return for 2022

*Decree of the FTS of Russia of 29.09.2022 No.ED-7-11/880@ “On Amending Exhibits to the Decree of the FTS of Russia of 15.10.2021 No.ED-7-11/903@ “On Approval of the Form of the Tax Return on Income Tax of Natural Persons (3-NDFL form), Procedure for its Filling, as well as the Format for Submitting the Income Tax Return in the Electronic Form”, registered in the Ministry of Justice of Russia on 27.10.2022 No.70734*

### Comments

In particular, section 2 “Calculation of the tax base and the amount of tax by types of incomes” and a number of exhibits to the tax return form are set out in a new version. Changes have been made to the procedure for filling out the tax return and the format of its submission in the electronic form.

## 8. New form of a tax return on MET from 2023

*Decree of the FTS of Russia of September 20, 2022 No.ED-7-3/854@ “On Approval of the Tax Return Form for the Mineral Extraction Tax, the Procedure for Filling it, as well as the Format for Submitting the Tax Return for the Mineral Extraction Tax in the Electronic Form”, registered in the Ministry of Justice of Russia on October 21, 2022 No.70650*

### Comments

The decree also contains the format of the tax return, submitted in the electronic form, and the procedure for its filling.

The decree of the FTS of Russia of 08.12.2020 No.KC-7-3/887@ was recognized as invalid.

The decree comes into force after two months from the date of its official publication. The tax return shall be submitted for the tax period following the month in which this decree enters into force.

## 9. New form of a 6-NDFL report from 1 Q 2023.

*Decree of the FTS of Russia of September 20, 2022 No.ED-7-11/881@ “On Amending Exhibits to the Decree of the FTS of 15.10.2022 No.ED-7-11/753@”, registered in the Ministry of Justice on 27.10.2022 No.70733*

### Comments



Section 1 “Data on the Tax Agent’s Obligations” was set out in the new version. The format of calculation and procedure for its filling were amended. The form update is connected with transition to the unified tax payment since 2023.

## Payroll processing

### 1. The government postponed the deadlines for paying taxes and submitting reports for mobilized entrepreneurs.

*Resolution of the RF Government of 20.10.2022 No.1874 “On Measures to Support Mobilized Persons”*

#### Comments

The Resolution of the RF Government of 20.10.2022 No.1874 “On Measures to Support Mobilized Persons” provides for the postponement of tax payments and reports submission in relation to mobilized entrepreneurs, as well as organisations where a mobilized citizen is the only participant and the head of the company.

In particular, for the period of military service and until the 28th day inclusive of the third month following the month of the end of the period of partial mobilization or dismissal from military service, the deadlines for paying taxes, fees and insurance contributions, including those fixed on the obligatory pension insurance and medical insurance, are extended, as well as contributions for traumatism. For the tax on professional income, the deadlines for payment have been postponed to the last day (inclusive) of the fourth month after the end of military service.

At that, the postponement of payment deadlines does not apply to:

- PIT paid by an organisation or an individual entrepreneur as a tax agent;
- corporate income tax withheld at the source of income payment;
- state duties and fees for the use of wildlife objects.

The accumulated debt (except for VAT and tax on the automated simplified taxation system) can be repaid in equal installments (1/6) monthly no later than the 28th day of the month following the month in which the postponed period falls.

For the period of military service and until the 25th day inclusive of the third month following the month of the end of the period of partial mobilization or dismissal from military service, the deadline for submitting tax returns, calculations on the form 6-NDFL, calculations on expense reports, accounting and financial statements is extended. This measure does not apply only to VAT tax returns.

The ultimate deadlines for sending a claim for the payment of taxes, fees, insurance contributions, penalties, fines, interests and making a decision on their collection are extended by six months.

In addition, for the period of military service and until the 28th day inclusive of the third month following the month of the end of the period of partial mobilization, making a decision is suspended to conduct (performance of the already scheduled) field (repeated field) tax audits, checks of the completeness of the calculation and payment of taxes in connection with transactions between related parties.

## 2. The MinTsifry has recommended IT companies to submit RSV in advance

*Information of the MinTsifry of Russia of 17.10.2022*

### Comments

Let us kindly remind you that from October 1, 2022, new rules for accreditation of IT companies are in force, including in order to obtain benefits on income tax and insurance contributions.

In its message, the Ministry of Digital Development warned that it is impossible to get into the register of IT companies without confirmation from the FTS that the average salary in the organisation corresponds to the level of the average salary in the region or country. This condition does not apply to copyright holders of programs included in the Register of Domestic Software with an income of more than 1 million roubles and with non-zero income from the sale of their own software from the Register.

The average salary is calculated based on the organisation reports for the previous quarter. Therefore, IT companies applying for accreditation under the new rules in the 4th quarter of 2022 need to synchronize the calculation of insurance contributions for the 3rd quarter of 2022 with the application for accreditation on the Gosuslugi.

In this regard, the Ministry of Digital Development recommends that companies prepare and submit RSV for 3 Q 2022 now, since without data from the report, accreditation cannot be obtained.

## Hr records management

### 1. There were introduced amendments to the Labor Code of the Russian Federation due to the announced mobilization

*Federal Law of 07.10.2022 No.376-FZ “On Amending the Labor Code of the RF”*

*Federal Law of 07.10.2022 No.379-FZ “On Amending Certain Legislative Acts of the RF”*

### Comments

Due to mobilization, a number of changes were introduced to the Labor Code of the Russian Federation.

Thus, article 327.7 was added: “Peculiarities of Ensuring Labor Rights of Employees, Called up for Military Service according to Mobilization or Who Entered Military Service under an Agreement or Concluded a Contract on Voluntary Assistance in the Performance of Tasks, Assigned to the Armed Forces of the Russian Federation”. This article regulates the issue of labor guarantees for these categories of employees, as well as the procedure for their dismissal.

The main provisions of the article do not differ from the provisions that we informed you about earlier in the review.

Please see the main of them below.

1. With employees called up for military service by mobilization (this includes both those called up on the summons, and those who entered military service under a contract and concluded an agreement on voluntary assistance in performing the tasks assigned to the Armed Forces of the Russian Federation), the employment agreement is suspended.

At that, the employee retains his working place (position). The period of suspension is accounted in the seniority, which gives the right to leave, as well as in the insurance period. At the same time, this period is excluded from the calculation of the length of service, which gives the right to early provision of a pension.

To formalize the suspension, the employee shall write an application, and the employer shall issue an appropriate order. The employee’s application is accompanied by a copy of the draft summons for military service for mobilization or a notification from the federal executive body about the conclusion of a contract with the employee for military service or a contract for voluntary assistance in performing the tasks assigned to the Armed Forces of the Russian Federation. The specified notification is provided by the federal executive body with which the employee has concluded the relevant contract.

2. The employer, no later than the day of suspension of the employment agreement, is obliged to pay the employee wages and payments due to him in full for the period of work preceding the suspension of the employment agreement.

For the period of suspension of the employment agreement, the employee retains social and labor guarantees, the right to which he received before the start of the specified period (additional insurance for the employee, non-state pension provision for the employee, improvement of the social and living conditions of the employee and his family members).

3. For the period of suspension of the employment agreement, the employer has the right to conclude a fixed-term employment agreement with another employee for the duration of the performance of the duties of the absent employee.
4. The validity of the employment agreement is renewed on the day the employee returns to work. The employee is obliged to notify the employer about his return to work no later than three working days.



5. An employee, within six months after the renewal of the employment agreement in accordance with this article, has the right to be provided with annual paid leave at any time convenient for him, regardless of the length of service at the employer.
6. Termination at the initiative of the employer of an employment agreement with an employee during the period of suspension of the employment agreement is not allowed, except for the following cases:
  - liquidation of an organisation or termination of activity by an individual entrepreneur;
  - expiration of the term of the employment agreement within the specified period, if it was concluded for a specific period.
7. If, after three months from the date of the end of military service under mobilization (contract), the employee does not return to work, the employer has the right to dismiss him on the grounds set forth by p.13.1 part 1 art.81 the Labor Code of the Russian Federation.

The employer shall notify the federal executive body with which these agreements were concluded about the end of military service under a contract or under an agreement on voluntary assistance.

The Federal Law No.376-FZ applies to relations that arose from September 21, 2021. Additions have been also made to the already existing articles of the Labor Code of the Russian Federation.

Thus, according to the amendments made to article 179 the Labor Code of the Russian Federation, an employee with a child under the age of 18 has the preferential right to remain at work during the reduction, if the other parent was called up for military service on mobilization, including under a contract.

Amendments were also made to article 259 the Labor Code of the Russian Federation “Guarantees for pregnant women and persons with family responsibilities within sending to business trips, involvement to overtime work, night work, weekends and non-working state holidays”. It is possible to involve to work at the specified time, as well as to send on a business trip, a parent who has a child under the age of 14, and the second parent is doing military service on mobilization (contract), only with his written consent.

According to the Federal Law No.379-FZ of October 7, 2022, the SZV-TD report shall now be submitted to the Pension Fund of the Russian Federation in the event of suspension of an employment agreement due to mobilization and its renewal. The deadline for submitting the report is no later than the next working day of issuing the relevant order.

The SZV-TD report shall be submitted to the PFR for those employees whose employment agreements have been suspended since September 21, 2022.

However, despite the above requirements, the PFR has not yet updated the SZV-TD report form, and the issue is under consideration now.

It shall be reminded that according to the Draft (ID 01/02/09-22/00131764, Draft Resolution “On Amendments to the Resolution of the Board of the Pension Fund of the Russian Federation of December 25, 2019 No.730p”), the above events are planned to be designated by the following codes:

SUSPENSION	Suspension of a concluded employment agreement, in which the working place is reserved for the employee, according to article 351 Labor Code of the Russian Federation
RENEWAL	Renewal of a previously concluded employment agreement, in which the working place was reserved for the employee, according to article 351 Labor Code of the Russian Federation

Due to the existing uncertainty, we would recommend you to contact the territorial subdivision of the PFR where you are registered to clarify the issue of submitting the SZV-TD report on mobilized employees until the relevant changes are officially published and the possibility of sending the report in xml format by the PFR is realized.

Please be reminded that in connection with conscription for military service on mobilization (contract), it is planned to make changes to the rules for filling out the SZV-STAZH (ID 01/02/09-22/00131767).

We monitor changes in the projects and will inform you in the next review when the relevant amendments are officially adopted.

Furthermore, according to the said Federal Law of 07.10.2022 No.379-FZ, citizens who signed a contract for military service or voluntary assistance to the Armed Forces of the Russian Federation from February 24 to September 21, 2022 and were dismissed during this period received an advantage in hiring for their previous position. The guarantee is valid for 3 months after the end of the contract or the completion of military service for mobilization.

If it is impossible to provide a position, another job should be offered that is not contraindicated for health reasons.

## 2. The procedure for calculating average wage to compensate for a period of incapacity for work has changed for employees undergoing military service for mobilization

*Federal Law of 07.10.2022 No.379-FZ “On Amending Certain Legislative Acts of the Russian Federation”*

### Comments

Please note that according to the amendments introduced by the Federal Law No.379-FZ of October 7, 2022 to the Federal Law No.255-FZ of December 29, 2006 “On Compulsory Social Insurance in Case of Temporary Disability and in Connection with Maternity”, the algorithm for calculating the average wages to pay for a period of temporary disability for employees called up for military service in connection with mobilization has been changed.

In accordance with the amendments made to part 3 article 14 the Federal Law of December 29, 2006 No.255-FZ, the average daily wage for calculating temporary disability allowances are determined by dividing the amount of accrued earnings for the period specified in part 1 article 14 by 730 minus calendar days falling on the period of suspension of the employment agreement pursuant to article 351.7 the Labor Code of the Russian Federation or suspension of the civil service in accordance with article 53.1 the Federal Law of July 27, 2004 No.79-FZ "On the State Civil Service in the Russian Federation".

In other words, when calculating average wage it's necessary to deduct from 730 days the period in calendar days that occurred at the time of suspension of the employment agreement in connection with conscription for military service for mobilization.

Do not forget to change the algorithm for calculating average wage in your accounting systems in accordance with the rules described above. Please note that changes in the calculation of average wage relate to those cases of temporary disability that will occur in 2023, since this year the calculation is based on data for 2020-2021.

For customers who are provided with the relevant services in the accounting systems of SberSolutions, the change in the calculation algorithm will be done by IT specialists of SberSolutions.

### 3. Payment of temporary disability to citizens, who concluded a civil agreement

*Federal Law of 14.07.2022 No.237-FZ “On Amending Certain Legislative Acts of the Russian Federation”*

*Federal Law of 29.12.2006 No.255-FZ “On the Obligatory Social Insurance in Case of Temporary Disability and Due to Maternity”*

*Draft Resolution of the RF Government “On Amending the Regulation on Peculiarities for Calculating Temporary Disability Allowance, Maternity Allowance, Monthly Child Care Allowance to Citizens, Subject to the Obligatory Social Insurance in Case of Temporary Disability and Due to Maternity”, ID 01/01/10-22/00132346*

#### Comments

According to the amendments, introduced by the Federal Law of 14.07.2022 No.237-FZ to the Federal Law of 29.12.2006 No.255-FZ “On the Obligatory Social Insurance in Case of Temporary Disability and Due to Maternity”, from January 1, 2023 citizens, employed under a civil agreement, shall be subject to the obligatory social insurance in case of temporary disability and due to maternity.

Insurance coverage for this type of insurance will be available to citizens who perform works or provide services under civil agreements, copyright agreements, as well as authors of works receiving payments under agreements on the alienation of the exclusive right to works of science, literature, art, publishing license agreements, licensing agreements on granting the right to use a work of science, literature, art.

This means that from the next year, the above-mentioned citizens will also be entitled to temporary disability and maternity allowances, as well as employees carrying out activities under employment agreements.

The right for the allowance arises on the condition that the amount of insurance contributions accrued by employers from payments in their favor, including in the scope of labor relations, for the last calendar year, in the aggregate amount is not less than the cost of the insurance year. The cost of the insurance year in 2022 is 4833,72 RUB (MROT (as of January 1, 2022) x 2.9% x 12 months).

In connection with the adopted changes, a Draft Resolution of the Government of the Russian Federation was developed, which defines the procedure for calculating temporary disability, maternity and monthly child care allowances for the specified citizens (Draft Resolution of the RF Government “On Amending the Regulation on Peculiarities for Calculating Temporary Disability Allowance, Maternity Allowance, Monthly Child Care Allowance to Citizens, Subject to the Obligatory Social Insurance in Case of Temporary Disability and Due to Maternity”, ID 01/01/10-22/00132346).

According to the Draft Resolution, the following procedure for paying temporary disability and maternity allowances is planned:

- if a citizen works under civil agreements for several employers, temporary disability, maternity and monthly child care allowances shall be assigned and paid thereto by the insurer on one of the insurants, at the choice of the insured person;
- if a citizen simultaneously works under an employment agreement and civil agreements for several employers, temporary disability and maternity allowances shall be assigned and paid thereto on the insurant, with whom an employment agreement is concluded, and on one of the insurant, with whom a civil agreement is concluded, whereas the monthly child care allowance shall be paid on one of the insurant at the choice of the citizen.

### **3. There were introduced amendments to the SZV-TD and SZV-STAZH reports**

*Resolution of the Board of the Pension Fund of the Russian Federation No.217p of October 13, 2022 “On Amendments to the Resolution of the Board of the Pension Fund of the Russian Federation No.730p of December 25, 2019” (registered on 28.10.2022 No.70739)*

*Resolution of the Board of the Pension Fund of the Russian Federation No.216p of October 13, 2022 “On Amendments to the Resolution of the Board of the Pension Fund of the Russian Federation No. 507p of December 6, 2018” (registered on 28.10.2022 No.70740)*

## Comments

In connection with the announcement of partial mobilization in Russia and the suspension of the employment agreement for the period of military service in connection with mobilization, changes were made to the reports SZV-TD and SZV-STAZH (ODV-1, SZV-KORR, SZV-ISKH).

Thus, the Resolution of the Pension Fund of the Russian Federation of October 13, 2022 No.217p amended the Resolution of the Board of the Pension Fund of the Russian Federation of December 25, 2019 No.730-P.

It shall be reminded that according to the Federal Law No.379-FZ of October 7, 2022, the SZV-TD report shall be now submitted to the PFR in the event of suspension of an employment agreement due to mobilization and its renewal. The deadline for submitting the report is no later than the next working day of issuing the relevant order.

The aforesaid events shall be designated by the following codes:

SUSPENSION	Suspension of a concluded employment agreement, in which the working place is reserved for the employee, according to article 351 Labor Code of the Russian Federation
RENEWAL	Renewal of a previously concluded employment agreement, in which the working place was reserved for the employee, according to article 351 Labor Code of the Russian Federation

The procedure for filling the report according to the above codes is specified in the Exhibit to the Resolution of the Pension Fund of the Russian Federation of October 13, 2022 No.217-P.

The Resolution of the Pension Fund of the Russian Federation of October 13, 2022 No.216p amended the procedure for generating the report SZV-STAZH (ODV-1, SZV-KORR, SZV-ISKH), to reflect the period of conscription for military service in connection with mobilization, a new code "VOENSL" was introduced. It shall be indicated in column 11 "Additional Data" for the periods of service during which the employee retained a working place for the duration of military service for mobilization.

Besides that, other changes have been made to the procedure for filling the SZV-STAZH report (ODV-1, SZV-KORR, SZV-ISKH) (Exhibit to Resolution No.216-P of the Pension Fund of the Russian Federation of October 13, 2022).

In accordance with the amendments to the law on pensions, the period of suspension of an employment agreement in connection with mobilization or the conclusion of a contract for military service is included in the length of service for an insurance pension from 24.02.2022.



Therefore, the code "VOENSL" is applied from February 24, 2022 for the periods of military service during which the employee retains his working place.

1. Please note that the SZV-TD report shall be submitted to the PFR, including for those employees whose employment agreements have been suspended since September 21, 2022. The PFR did not specify the exact deadline, but we recommend sending the report as soon as possible to avoid the risk of claims from the PFR.
2. Please be also reminded on the need to make changes to your accounting systems in the order of generating the report SZV-TD and SZV-STAZH (ODV-1, SZV-KORR, SZV-ISKH).

For customers, who are provided with the relevant services in the accounting systems of SberSolutions, the procedure for generating the indicated forms of reports will be updated by the IT specialists of SberSolutions.

## Business support measures

### 1. The FTS of Russia has told how to pay taxes and submit tax returns within mobilization

*Letter of the FTS of 28.09.2022 No.AB-4-19/12835@*

#### Comments

The Federal Taxation Service of Russia answered the questions of entrepreneurs about how to pay contributions to the budget and submit tax returns by the mobilized persons, how to deal with taxes as a self-employed person, and what a business should do in case of debts and bankruptcy.

#### **How to pay taxes, contributions and submit tax returns?**

Any person, including relatives and friends, can do this for a mobilized person. In the payment order, it's necessary to indicate INN of the entrepreneur. The order itself can be issued on the website of the FTS of Russia, indicating the payment for a third party.

At that, the fixed insurance contributions are not paid, because mobilization is equated to military service. Calculation of insurance contributions can be sent through a representative according to a power of attorney, certified by a notary or by the commander of a military unit. In the same way, it's possible to submit the 6-NDFL form. The power of attorney from the already mobilized head of the organisation can be certified according to the procedure, described in clause 2 article 185.1 the Civil Code of the Russian Federation.

#### **How to reconcile the made payments?**

A representative of the entrepreneur shall personally apply to the FTS and receive a certificate on the status of settlements and payment documents. In case of disagreement with the amount of the debt, he can issue an appeal. In order to obtain this information from the tax inspection, it's necessary to receive a power of attorney from the commander of the military unit and send it by post to an authorized person.

### What to do with debt and bankruptcy cases?

By law, the arbitral court suspends proceedings if the defendant is serving in the army. The court is not also entitled to accept the final judicial acts on the case, for example, on declaring as a bankrupt and terminating the proceedings.

## 2. By the decree of the Ministry of Digital Development, a list of types of activities in the field of information technology has been established

*Decree of the Ministry of Digital Development of 08.10.2022 No.766 "On the List of Types of Activities in the Field of IT"*

### Comments

According to the new rules for accreditation of IT companies, the share of incomes from activities in the field of information technology should be more than 30% of all incomes of the organisation, based on the results of the previous year (except for start-ups, the period of activity of which is less than 3 years and the income for the entire period of existence is less than 1 million roubles) (pp."v", p.4 the Regulation on State Accreditation of Russian Organisations Operating in the Field of Information Technologies, approved by the Decree of the Government of the Russian Federation of September 30, 2022 No.1729.)

The Ministry of Digital Development has approved a list of activities that relate to activities in the field of IT.

The list includes 36 types of activities, including the following ones:

- design, as well as provision of consulting and expert services, in relation to computer programs) or databases;
- implementation of computer programs, databases (including their updates and changes);
- activities for the creation, sale and (or) publication of computer games and (or) video games;
- provision of certification center services;
- implementation of activities of the operator of fiscal data;
- providing the consumer with the opportunity in the Internet using their own computer programs, websites, databases to purchase goods remotely by concluding a contract for the sale and delivery of the relevant goods;
- provision of services (performance of works) for registration of domain names

### 3. According to the Ministry of Digital Development, a new form of IT companies accreditation is available on the Gosuslugi.ru

*Information of the Ministry of Digital Development of 11.10.2022 “New Form of IT Companies Accreditation is Available on the Gosuslugi.ru” (published on the official website <https://digital.gov.ru/ru>)*

#### Comments

The service for accreditation of IT companies has been updated taking into account the new rules introduced by the Regulation on state accreditation of Russian organisations operating in the field of information technology, approved by the Decree of the Government of the Russian Federation of September 30, 2022 No.1729.

Basic requirements for obtaining accreditation:

- the main type of the company activity shall comply with one of the required OKVED (the list is in the form on the Gosuslugi.ru);
- wage of employees shall not be lower than the average salary for the region or the country. This rule does not apply to companies with an income of more than 1 million roubles, whose products are in the register of domestic software;
- more than 30% of all company incomes shall be derived from IT activities. The exception is startups that are less than three years and which income for the entire period of existence is less than 1 million roubles;
- information about activities in the field of IT should be posted on the official website of the company;
- consent to the disclosure of data constituting a tax secret shall be submitted to the FTS.

The procedure for submitting an application for accreditation and a list of attached data was specified. The application will be considered within 15 working days.

### 4. Two laws on the support for mobilized entrepreneurs

*Federal Law No.404-FZ of October 20, 2022 “On Amendments to the Federal Law “On Mobilization Training and Mobilization in the Russian Federation”*

*Federal Law No.406-FZ of October 20, 2022 “On Amendments to Certain Legislative Acts of the Russian Federation”*

#### Comments

Mobilized individual entrepreneurs, founders (participants) of organisations, as well as exercising the powers of the sole executive body, can resolve administrative issues related to the further conduct of business within 5 working days.

Such citizens are not subject to the restrictions and prohibitions established by the Law on the Status of Military Personnel regarding the entrepreneurial activities. Individual entrepreneurs and legal entities can transfer their business to trust management or keep its registration unchanged for the duration of the service.

The Federal Law No.406 introduced amendments to the laws on mortgage, mortgage securities, credit histories, protection of citizens' rights when returning overdue debts, the Central Bank, the particularities of the performance of obligations on loans by mobilized persons, participants in military operations, members of their families.

Participants in a military operation receive a deferment on credits for the period of participation in it plus 30 days. It is indicated that for the missing persons, the delay is extended either until the court decision on recognizing the borrower as missing, or until the court declares the borrower dead. For mobilized persons, the deferment will also be extended for the period of treatment for an injury (wound, concussion) or illness received due to participation in a military operation.

Credit holidays are provided for SMEs, where one citizen is the sole owner and CEO of the company. For registration, it's necessary to apply with the appropriate request to the creditor and confirm activities by accounting reports for the past year. This can be done at any time during the term of the credit agreement, but no later than December 31, 2023. The credit holiday period is equal to the period of participation in the military operation plus 3 months.

The norms of Laws No.404 and No.406 come into force from the day of publication, with the exception of certain norms for which a different period is established. Transitional provisions are set forth for the Law No.406.

## 5. Mobilized persons received a deferral for the payment of taxes, fees and insurance contributions

*Resolution of the RF Government of 20.10.2022 No.1874 "On Support Measures for Mobilized Persons"*

### Comments

Citizens called up for military service within the scope of partial mobilization are provided with a deferment on payment of taxes, fees and insurance contributions, whereas the deadlines for submitting tax returns and reports on cash flow through the accounts are extended.

The decision extends to entrepreneurs who are both managers and sole founders of their companies. The deferment will be valid not only for the entire period of military service, but also for several months after its completion.

Thus, for payment of taxes and insurance contributions the deferment will be calculated from the date of military service until the 28th day of the third month after the end of military service, inclusive.

In order to submit tax returns, the deferment will be calculated from the date of termination of military service to the 25th day (inclusive) of the third month after the date of termination of military service.

For professional income tax payments, the deferment will be calculated from the date of termination of military service to the last day (inclusive) of the fourth month after the date of termination of military service.

It will be possible to pay the accumulated debt by installments. The size of the first payment will be one sixth of the total debt, and then it will be possible to pay it off by equal monthly installments.

The decree enters into force from the day of publication.

## 6. The Ministry of Finance of Russia explained the features of applying tax benefits by IT companies

*Letter of the Tax Policy Department of the Ministry of Finance of Russia of 18.08.2022 No.03-15-06/80750*

### Comments

The Ministry of Finance of Russia specified the features of the application of a reduced rate on profit tax and reduced rates of insurance contributions by an organisation carrying out activities in the field of IT.

The norms of tax legislation define two conditions, the fulfilment of which entitles companies to apply a zero rate on profit tax and reduced rates of insurance contributions (7,6%). Thus, the organisation shall have state accreditation in the field of IT and, according to the results of the reporting period (tax - for profit tax, calculation – for insurance contributions), incomes from core activities shall be at least 70% (clause 1.15 article 284, clause 5 article 427 the Tax Code).

At that, the Ministry of Finance of Russia draws attention to the fact that, regardless of the fulfilment of the above conditions, preferential rates cannot be applied by organisations created as a result of reorganization (other than transformation) or reorganized in the form of accession to them by another legal entity or separation of one or several legal entities from its structure after July 1, 2022. The benefit does not also apply to organisations (including credit ones) in which the Russian Federation directly or indirectly participates, and the share of such participation is at least 50%..

## 7. The features of conscription for military service for mobilization of entrepreneurs have been established

*Federal Law No.404-FZ of October 20, 2022 “On Amendments to the Federal Law “On Mobilization Training and Mobilization in the Russian Federation”*

### Comments

The law established a special period of 5 working days for citizens who are individual entrepreneurs, founders (participants) of organisations, as well as exercising the powers of the sole executive body, who are called up for military service for mobilization. This period is



provided to resolve administrative issues related to the further implementation of entrepreneurial activities.

Such citizens are not subject to restrictions and prohibitions established by the Federal Law "On the Status of Military Personnel" regarding entrepreneurial activities. In addition, these persons, called up for military service on mobilization, may decide to carry out entrepreneurial activities through authorized persons.

The Federal Law comes into force from the day of its official publication (20.10.2022). At that, the effect of the Law applies to persons called up for military service on mobilization from September 21, 2022.

## **8. Rules for credit holidays have been established for SMEs whose sole participant, acting as the sole executive body, has been mobilized**

*Federal Law No.406-FZ of October 20, 2022 "On Amendments to Certain Legislative Acts of the Russian Federation"*

### **Comments**

The law provides SMEs with the right to apply to a creditor with a request for a grace period on terms similar to the terms of credit holidays for mobilized natural persons and individual entrepreneurs.

This right is provided only to LLCs, consisting of one participant, who is called up for military service for mobilization in the Armed Forces of the Russian Federation and which, in accordance with the information contained in the Unified State Register of Legal Entities, is at the same time the only person with the powers of the sole executive body of the company, in the period from September 21, 2022 until the day of conscription for military service for mobilization in the Armed Forces of the Russian Federation.

During the grace period, the borrower has the right not to make payments under the contract. At the same time, the right to credit holidays can be exercised by the borrower at any time during the term of the credit agreement (loan agreement), but no later than December 31, 2023.

The term of credit holidays will be the entire period of military service of the sole member of the company, increased by 90 days. The specified period may be extended for the time the mobilized person is in hospitals, other medical organisations for treatment, and if a member of the company is recognized as missing - also for the period until the court decision on recognizing the member of the company as missing is canceled or until it is declared by the court as deceased.

Mobilized natural persons - bankrupts, in respect of whom the procedure for the sale of property has been introduced, have been provided with the right to independently open bank accounts and manage the payments received thereby for military personnel.

Besides that, the Law clarifies the procedure for granting credit holidays to all participants of the SVO. In particular, the Government of the Russian Federation has the right to limit the maximum amount of a credit (loan) to be written off, if a military person - an individual entrepreneur has died or received a group I disability.

The Federal Law comes into force on October 20, 2022, with the exception of provisions for which a different date for their entry into force is provided.

## **9. Rules for providing deferred payments under federal property lease agreements in connection with partial mobilization have been approved**

*Decree of the Government of the Russian Federation of October 15, 2022 No.3046-r "On Provision of a Deferral of Rent under Federal Property Lease Agreements in Connection with Partial Mobilization"*

### **Comments**

The deferment is provided to tenants who are natural persons, including individual entrepreneurs, as well as legal entities in which the same natural person is the sole founder (participant) of the legal entity and its head, called up for military service for mobilization in the Armed Forces of the Russian Federation or performing military service under a contract, or who have entered into a contract on voluntary assistance in the performance of tasks assigned to the Armed Forces of the Russian Federation.

These persons are given the opportunity to terminate the lease agreements without the application of penalties.

There are conditions for provided a deferment and termination of lease agreements.

## **10. The FTS suspends the initiation and conduction of audits of applying cash register equipment with respect to mobilized persons**

*Letter of the FTS of Russia of 26.10.2022 No.AB-4-20/14410@ "On Suspension of Audits on Applying CRE with Respect to Mobilized Persons"*

### **Comments**

Carrying out control (supervisory) measures for compliance with the legislation on the application of cash register equipment is suspended for the period of passing military service by the corresponding mobilized persons and until the 28th day inclusive of the 3rd month following the month of the end of the period of partial mobilization or dismissal from military service.

## 11. The Bank of Russia provided clarifications on the application of the provisions of the Law on credit holidays for persons called up for military service

*Letter of the Bank of Russia of 21.10.2022 No.IN-03-59/126 “On the Execution of Credit Holidays for Mobilized and Participants of the SVO”*

### Comments

In connection with the adoption of the Federal Law No.377-FZ of 07.10.2022, the following issues are clarified, in particular: the definition of persons to whom the provisions of the Law apply; the rights of borrowers to apply to the lender with a request for a grace period; a list of documents submitted to a credit organisation to confirm the fact of mobilization, and so on.

## 12. For the mobilized citizens who did not pay tax by December 01, 2022, have postponed the deadline for paying taxes on property. Upon discharge from military service, they will be sent new tax notices.

*Letter of the FTS of Russia of 24.10.2022 No.BS-4-21/14257@ “On the Implementation of the Resolution of the RF Government of 20.10.2022 No.1874 “On Support Measures for Mobilized Persons” (in terms of property taxation)*

### Comments

The new payment deadline is until the 28th day inclusive of the 3rd month following the month of dismissal of the mobilized person from military service or the end of the period of partial mobilization

## 13. The government approved a deferral of tax payments for mobilized citizens

*Resolution of the RF Government of 20.10.2022 No.1874 “On Support Measures for Mobilized Persons”*

### Comments

Citizens called up for military service within the scope of partial mobilization are provided with a deferment on payment of taxes, fees and insurance contributions, and the deadlines for submitting tax returns and reports on cash flow through the accounts are extended.

In addition, in particular, tax control measures are suspended (with some exceptions), and tax sanctions are not applied under a number of articles of the Tax Code of the Russian Federation.

## 14. The Bank of Russia informs: mobilized citizens will be able to refuse from OSAGO ahead of schedule and refund a part of the cost of the policy for the unused period

*Information of the Bank of Russia of 25.10.2022 "Mobilized citizens will be able to early refuse from OSAGO and refund a part of costs"*

### Comments

A mobilized person shall personally apply with an application to the insurance company or through the company website. An authorized person can also terminate the OSAGO policy for a mobilized citizen.

## 15. A promotional page has been launched on the website of the Federal Taxation Service of Russia, which contains information on the procedure for paying taxes and submitting reports by mobilized citizens

*Information of the FTS of Russia of 27.10.2022 "You can find out about all measures of tax support for mobilized people on the new promotional page"*

### Comments

During the period of military service and until the end of the third month after its completion, a number of measures are in force, providing, in particular, for the following: rescheduling the deadlines for paying taxes, fees, insurance contributions and reporting; a moratorium on control measures was introduced; audits of compliance with currency legislation are suspended; the deadlines for submitting reports on the movement and transfers of funds and other financial assets on accounts (deposits) in financial market organisations outside the Russian Federation are shifted, etc.

## 16. The list of restrictive measures against sanctioned natural persons and legal entities has been specified

*Resolution of the Government of the Russian Federation of October 18, 2022 No.1850 "On Amendments to the Resolution of the Government of the Russian Federation of November 1, 2018 No.1300"*

### Comments

The Resolution of the RF Government of 01.11.2018 No.1300 established a list of persons subject to special economic measures.

The adopted resolution additionally establishes as such measures a ban on transactions involving the importation into the Russian Federation of goods, the manufacturer, seller or sender of which is a sanctioned person (with the exception of goods imported by natural persons for personal use).

The specified prohibitions are applied if the persons implementing special economic measures have information that foreign economic and (or) financial transactions are carried out by sanctioned persons or in favor of sanctioned persons.

## 17. A draft law was introduced to the State Duma on prolonging for 2023 measures to reduce negative consequences of unfriendly actions of foreign states and international organisations

*Draft Federal Law No.222860-8 "On Amending Certain Legislative Acts of the Russian Federation"*

### Comments

In particular, for the next year it is offered to extend the rules relating to:

- establishing restrictions on the occurrence of grounds for cross-defaults, as well as introducing special rules for the placement of Russian bonds for the purpose of redeeming the relevant foreign bonds;
- reorganization of credit institutions subject to sanctions;
- the ability to demand from a tenant from an unfriendly state that is a trade and/or public catering organisation, whose rent is set as a share of turnover, that has suspended (terminated) the use of the building, structure, premises in them, the land plot on which the building is located, construction, as a result of which the amount of rent has significantly decreased, paying rent in the amount of the average monthly fee for 2021, or unilaterally refuse to perform the lease agreement;
- simplification of permitting, qualifying and licensing procedures regulating the peculiarities of the legal regime in the implementation of public procurement, as well as in the field of insurance activities in the Russian Federation.

## Currency control

### 1. Additional restrictions have been established on payments to non-residents and additional control has been introduced over transactions with stocks and shares of financial organisations, if the party of the transaction is a person from an unfriendly foreign state

*Decree of the President of the Russian Federation of October 15, 2022 No.737 "On Certain Issues of Implementation (Execution) of Certain Types of Transactions (Operations)"*

### Comments

The Decree establishes (p.1 the Decree) that transactions entailing directly or indirectly the establishment, change or termination of the rights to own, use or dispose of more than 1 percent of stocks, shares (deposits) that make up the authorized capital of a Russian credit,



insurance organisation, a non-state pension fund, a microfinance company or a management company of a joint-stock investment fund, mutual fund, or more than 1 percent of the votes attributable to such stocks, shares (contributions) are made on the basis of a permit issued by the Government Commission for Control over Foreign Investments in the Russian Federation.

The restriction applies if at least one of the parties (beneficiary) of these transactions are foreign persons associated with foreign states that commit unfriendly actions against the Russian Federation (including if such foreign persons have the citizenship of these states, the place of their registration, the place of primary jurisdiction of their economic activities or the place of their primary profit from their activities are these states), or persons who are under the control of these foreign persons, regardless of the place of their registration or the place of their primary conduction of economic activities.

Clause 2 the Decree establishes exceptions to this rule.

Additional restrictions on payments to non-residents have also been introduced. Thus, payments by residents of funds in connection with a decrease in the authorized capital of legal entities - residents, liquidation of legal entities - residents, within the framework of the procedures applied in the bankruptcy case of legal entities - residents, to persons of foreign states committing unfriendly actions, are carried out in accordance with clauses 2 - 9 the Decree of the President of the Russian Federation of March 5, 2022 No.95 "On the temporary procedure for fulfilling obligations to certain foreign creditors" (p.3 the Decree).

This requirement does not apply to transactions with stocks, shares (deposits) constituting the authorized capital of credit organisations, included in the list approved by the President of the Russian Federation in accordance with pp."d" p.2 the Decree No.520 of 05.08.2022. The Decree entered into force on October 15, 2022.

## **2. The Federal Taxation Service ordered the tax authorities, in the absence of aggravating circumstances, to impose an administrative fine in the minimum amount or to confirm in the decision the proportionality of the fine to the committed violation**

*Decree of the President of the Russian Federation of October 15, 2022 No.737 "On Certain Issues of Implementation (Execution) of Certain Types of Transactions (Operations)"*

### **Comments**

The FTS of Russia gave binding instructions for the tax authorities to justify the application of a fine for violation of currency legislation in an amount exceeding the minimum amount established by article 15.25 Code of Administrative Offenses of the Russian Federation.

Thus, when imposing an administrative fine in an amount exceeding the minimum amount, the decision on the case of an administrative offense or the decision to terminate the

execution of the decision on the imposition of an administrative penalty shall contain the following:

- whether an indication of the presence of aggravating circumstances, specified by p.1 art.4.3 the CAO of the RF,
- or reasoned conclusions about the compliance of the imposed administrative fine with the general principles of imposing an administrative penalty, ensuring its proportionality to the committed offense.

## Migration rules

### 1. The requirements to the presence of negative PCR tests for foreign citizens arriving in the Russian Federation have been canceled

*Resolution of the Chief State Sanitary Doctor of the Russian Federation of 17.10.2022 No.22 "On Amendments to the Resolution of the Chief State Sanitary Doctor of the Russian Federation of 18.03.2020 No.7 "On Ensuring the Isolation Regime in Order to Prevent the Spread of COVID-2019", registered in the Ministry of Justice of Russia on 20.10.2022 No.7062*

#### Comments

Foreign citizens and stateless persons are no longer required to submit a negative PCR test when boarding an aircraft carrying out international air transportation to a destination on the territory of the Russian Federation, and when crossing the state border of the Russian Federation.

Moreover, the requirement to conduct a PCR test for unvaccinated and non-coronavirus citizens of the Russian Federation returning to Russia has been excluded.

The obligation of employers has also been canceled, including checking the availability of medical documents confirming a negative PCR test result when foreign citizens and stateless persons are involved in labor activities.

The organisation of random testing (according to epidemiological indications - continuous testing from countries where the epidemiological situation has worsened) for COVID-19 entering the Russian Federation is carried out at checkpoints across the state border of the Russian Federation, and not just at airports.

The new rules came into force on October 21, 2022.

## 2. Amendments have been made to the procedure for making a decision on the extension or reduction of the period of temporary stay of a foreign citizen or a stateless person in the Russian Federation for foreign students

*Order of the Ministry of Internal Affairs of Russia of 12.10.2022 No.749 "On Amendments to the Procedure for Making a Decision on Extending or Reducing the Period of Temporary Stay of a Foreign Citizen or a Stateless Person in the Russian Federation, approved by the Order of the Ministry of Internal Affairs of Russia of November 22, 2021 No.926", registered in the Ministry of Justice of Russia on 28.10.2022 No.70737*

### Comments

Changes to the procedure for making a decision on the extension or reduction of the period of temporary stay of a foreign citizen or a stateless person in the Russian Federation were made in connection with the adoption of the Federal Law of July 14, 2022 No.357-FZ, which establishes for foreign students studying in the Russian Federation a simplified mechanism for obtaining a temporary residence permit, as well as features for extending the period of temporary stay in the Russian Federation for minor children of a foreign citizen who works on the basis of a patent.

The changes came into force on November 8, 2022.

## 3. From 01.01.2023, a new form of a mark will be applied in the document proving the identity of a foreign citizen or a stateless person and recognized by the Russian Federation in this capacity, on permission for temporary residence in the Russian Federation for the purpose of obtaining education

*Order of the Ministry of Internal Affairs of Russia of 03.10.2022 No.729 "On approval of the form of a mark in a document proving the identity of a foreign citizen or a stateless person and recognized by the Russian Federation in this capacity, on a temporary residence permit in the Russian Federation for the purpose of obtaining education", registered in the Ministry of Justice of Russia on 24.10.2022 No.70661*

### Comments

The form was approved in accordance with the Federal Law No.357-FZ of July 14, 2022 "On Amendments to the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation" and Certain Legislative Acts of the Russian Federation".

# Civil law

## 1. There was introduced a draft law on the extension of validity of qualified certificates of an electronic signature

*Draft Federal Law No.216878-8 “On Amending Certain Legislative Acts of the Russian Federation”*

### Comments

The current legislation limits the validity period of qualified electronic signature certificates: if they have a validity period after December 31, 2022, such certificates are valid until December 31, 2022.

The draft law suggests extending the validity of certificates until August 31, 2023.

## 2. There was approved a list of Russian banks with respect to which there's a ban on transactions with stocks and shares in their authorized capitals

*Decree of the RF President of 26.10.2022 No.357-rp “On Approval of the List of Russian Credit Organisations, with Respect to Which There's a Ban on Transactions (Operations) with Stocks, Shares, Constituting Their Authorized Capitals”*

### Comments

Previously, a ban was introduced until December 31, 2022 to make transactions (operations) with stocks, shares (deposits) constituting the authorized capital of Russian credit organisations, the list of which is approved by the President of the Russian Federation, provided that these securities, shares (deposits), rights and obligations belong to foreign persons associated with unfriendly foreign states (p.1 pp.”d” p.2 the Decree of the President of the Russian Federation of 05.08.2022 No.520 “On the application of special economic measures in the financial and fuel and energy sectors in connection with unfriendly actions of some foreign states and international organisations”).

By this decree, the President of the Russian Federation approved a list of such credit organisations, which includes 45 positions. The list includes the following: JSC “Bank Credit Suisse (Moscow)”; AO “COMMERZBANK (EURASIJA)” (Moscow); AO CB “Citibank” (Moscow); AO “UniCredit Bank” (Moscow); LLC “Deutsche Bank”; CB “J.P. Morgan Bank International” (LLC) (Moscow); AO “Raiffeisenbank” (Moscow); AO “Toyota Bank” (Moscow) and others.

The decree came into force on October 26, 2022.

### 3. The list of restrictive measures with respect to natural persons and legal entities subject to sanctions has been expanded

*Resolution of the RF Government of 18.10.2022 No.1850 "On Amendments to the Resolution of the RF Government of November 1, 2018 No.1300"*

#### Comments

The Resolution of the RF Government of 01.11.2018 No.1300 established a list of persons subject to special economic measures.

The new document specifies the list of such measures. Taking into account the changes in relation to sanctioned persons, the following measures are introduced:

- blocking (freezing) of non-cash funds, non-certificated securities and property located on the territory of the Russian Federation and owned by sanctioned persons, as well as non-cash funds, the payer or the recipient of which are sanctioned persons;
- a ban on the transfer of funds (withdrawal of capital) outside the territory of the Russian Federation;
- a ban on transactions involving the importation into the Russian Federation of goods, the manufacturer, seller or sender of which are sanctioned persons (with the exception of goods imported by natural persons for personal use).

The specified prohibitions are applied if the persons implementing special economic measures have information that foreign economic and (or) financial transactions are carried out by sanctioned persons or in favor of sanctioned persons.

The resolution came into force on October 21, 2022.

### 4. The Bank of Russia clarified the procedure for provided credit holidays for mobilized and contract employees

*Letter of the Bank of Russia of 21.10.2022 No.IN-03-59/126 "On the Execution of Credit Holidays for Mobilized and Participants of the SVO"*

#### Comments

The Central Bank of the Russian Federation clarified the procedure for provided credit holidays in connection with the adoption of the Federal Law of October 7, 2022 No.377-FZ. The letter contains, in particular, the following clarifications:

- mobilized individual entrepreneurs may require the provision of credit holidays not only for consumer, but also for business credits (loans). At the same time, these provisions also apply to individual entrepreneurs who have entered into a contract on voluntary assistance to the Armed Forces of the Russian Federation;
- provisions on credit holidays apply not only to banks, but also to microfinance business organisations (MFIs), regardless of the form of ownership of such organisations;



- any person may apply for a grace period on a credit (loan) upon submission of documents drawn up in accordance with requirements of the legislation of the Russian Federation confirming the authority to act on behalf and in the interests of the borrower, including a simple written power of attorney;
- the borrower has the right to demand the establishment of a grace period from 21.09.2022, but not earlier than the date of mobilization or the start of participation in a special military operation of a military person, regardless of the date of filing the relevant request (but not later than 31.12.2023), including if the creditor had previously refused the borrower in granting a grace period or the grace period was recognized as non-established.
- the Central Bank of the Russian Federation notes that it is unacceptable to refuse to exercise the borrower's right to a grace period in connection with the borrower's application using mobile radiotelephone communications, regardless of whether such a method of interaction is specified by the credit agreement (loan agreement).

## Arbitration law

### 1. The Constitutional Court of Russia indicated that if the court canceled the fine for errors in reporting on pension insurance in relation to the organisation, in order to recover the fine from the official, the pension body is obliged to provide the court with special justifications

*Resolution of the Constitutional Court of the Russian Federation of October 20, 2022 No.45-P "On the case of checking the constitutionality of article 15.33.2 the Code of Administrative Offenses of the Russian Federation in connection with the complaints of a citizen I.I. Panteleeva"*

#### Comments

##### Background

In her complaints, the applicant disputes the constitutionality of article 15.33.2 the Code of Administrative Offenses of the Russian Federation, which establishes a fine for officials responsible for violations within reports submission to the PFR. The company, in which the applicant works, submitted reports with the "initial" type according to the forms SZV-M and SZV-STAZH within the established deadlines, and then, in violation of the deadline, on its own initiative submitted reports with the "additional" type.

##### Position of courts

The arbitration court did not see any signs of an offense in this situation and refused the PFR to recover financial sanctions.

However, the court of general jurisdiction exacted from the applicant, who was the official responsible for reports submission to the PFR, a fine under article 15.33.2 the Code of Administrative Offenses of the Russian Federation for violation of the reporting procedure to the PFR, indicating that the conclusions of the arbitration court on the absence of grounds for a fine in relation to a legal entity do not relieve the official from liability for the same action.

### **Position of the Constitutional Court**

The Constitutional Court of the Russian Federation recognized article 15.33.2 the Code of Administrative Offenses of the Russian Federation in the wording that was in force before the entry into force of the Federal Law of April 1, 2020 No.90-FZ "On Amendments to the Code of the Russian Federation on Administrative Offenses", as well as part 1 in the current wording not contradicting the Constitution of the Russian Federation, since, by fixing the grounds for administrative responsibility for the acts provided by it in the form of failure to submit within the period established by the legislation of the Russian Federation on individual (personalized) registration in the system of obligatory pension insurance, or refusal to submit to the bodies of the Pension Fund of the Russian Federation duly executed data (documents) necessary for maintaining individual (personalized) accounting in the system of obligatory pension insurance, as well as the provision of such data in an incomplete or distorted form, these norms, in their constitutional and legal sense, suggest that if in the judicial act that has entered into force the actions (inaction) of the organisation - insurant, due to the actions (inaction) of its official, have not been qualified as an offense, if the existence of grounds for holding such an organisation liable for its actions (inaction) is refuted, the law enforcement authorities are obliged, if there are reasons, to specifically justify the possibility of applying these rules - taking into account the indicated circumstance - in relation to such an official.

At that, even having established the existence of grounds for bringing an official of the organisation-insurant to administrative responsibility, the courts are not deprived of the opportunity, due to the insignificance of the administrative offense committed thereby (article 2.9 the Code of Administrative Offenses of the Russian Federation), to release this official from liability and limit it to a verbal remark.

## Comments on this issue prepared by:



Svetlana Proshkina, Karina Esakova, Olga Olshevskaya and  
Veronika Tikhonravova

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