






Legislative Changes Review

July, 2021

Main events in July:

-  On Approval the Regulation on the National System of Goods Traceability
-  The Ministry of Finance has announced large-scale changes in the legislation regarding audit activity
-  There was clarified a procedure for introducing the FNC Register of orders on cancellation of powers of attorney, issued in a simple written form

Bookkeeping and Tax Accounting

1. The Central Bank of the Russian Federation increased the key rate since July 26, 2021

Information of the Bank of Russia of 23.07.2021

Comments

Since July 26, 2021 the Central Bank of the Russian Federation has increased the key rate by 1 percentage point.

It turns out that from 26 July the key rate is 6.5% per annum.

We would like to remind you that in accordance with the instruction of the Central Bank of the Russian Federation of 11.12.15 No.3894-U, the refinancing rate is equal to the key rate and it is changed simultaneously therewith.

Please note that the refinancing rate is included into the formulas, used to calculate the following:

- interests on refund of excessively collected tax;
- the amount of penalties for the untimely payment of taxes;
- compensation for the untimely payment of wages, etc.

It also depends on the size of the refinancing rate whether a natural person has a material benefit from saving on interests for the use of borrowed funds.

2. There was published a package of amendments to the Tax Code of the Russian Federation

The Federal Law of 02.07.2021 No.305-FZ "On Amendments to Part One and Part Two the Tax Code of the Russian Federation and Certain Legislative Acts of the Russian Federation"

Comments

The Federal Law No.305-FZ of 02.07.2021 "On Amendments to Part One and Part Two the Tax Code of the Russian Federation and Certain Legislative Acts of the Russian Federation" (hereinafter – the "Law No.305-FZ") introduced significant changes to the current RF tax legislation. In particular, the changes under consideration affected the deadlines of payment of the property tax of organizations, VAT on catering services, excise taxes, transfer of losses, accounting of "coronavirus" expenses for the simplified taxation system and payment of taxes by organizations of culture.

3. On Approval the Regulation on the National System of Goods Traceability

The Resolution of the RF Government of 01.07.2021 No.1108 “On Approval the Regulation on the National System of Goods Traceability”

The Resolution of the RF Government of 01.07.2021 No.1109 “On Approval the Criteria, Applicable within Selection of Certain Types of Goods for the Inclusion into the List of Goods, Subject to Traceability”

The Resolution of the RF Government of 01.07.2021 No.1110 “On Approval the List of Goods, Subject to Traceability”

Comments

Since July 1, 2021, a goods traceability system has been introduced in Russia. Until this date, the traceability of goods was carried out in the form of an experiment.

In order to create a legal basis for the functioning of the system, the Government has approved a number of regulatory acts.

The Resolution No.1108 regulates the creation and maintenance of the national system of traceability of goods (NSPT) and it establishes as follows:

- the conditions under which traceability is carried out in relation to the goods named in the corresponding list of the Government of the Russian Federation (including import into the territory of the RF (with the exception of goods placed under the customs procedure of customs transit), as well as goods that were detained by the customs authorities and not demanded within the established deadlines);
- a list of cases in which the traceability of goods is terminated;
- a list of goods to which the Regulation does not apply.

The Resolution No.1109 approved the criteria for the selection of goods subject to traceability, which provide for the following:

- in relation to goods, measures of non-tariff or technical regulation, sanitary, veterinary and sanitary, and quarantine phytosanitary measures are established in accordance with the law of the Eurasian Economic Union and (or) the legislation of the Russian Federation;
- certain types of goods that are not subject to accounting in the existing state information systems that ensure the traceability of goods.

The Resolution No.1110 approved a list of goods subject to traceability, with indication of codes in accordance with the EAEU Commodity Nomenclature for Foreign Economic Activity and codes in accordance with the All-Russian Classifier of Products by Types of Economic Activity (OKPD 2). It also provides a unit of measure, used in order to implement the traceability of goods, and there're indicated deadlines for the beginning of traceability of specific types of goods.

4. The Ministry of Finance has announced large-scale changes in the legislation regarding audit activity

Information Message of the Ministry of Finance of Russia of 06.07.2021 No.IS-audit-46/1 "New in the Audit Legislation: Facts and Comments"

Information Message of the Ministry of Finance of Russia of 07.07.2021 No.IS-audit-46/2

Comments

The Ministry of Finance of the Russian Federation highlighted the main changes that were introduced by the Federal Law No.359-FZ of July 2, 2021 to the Law on Audit Activity, in particular:

- there were clarified some concepts and their definitions;
- there were corrected foundations of the legal framework for regulating audit activity: the content of the legislation on audit activity has been expanded;
- the changes affected the control over the activities of audit organizations: the Council for Audit Activity was abolished, and at the same time the regulatory powers of the self-regulated organization of auditors were expanded;
- the possibility of conducting a statutory audit exclusively by audit organizations was established (it is prohibited to conduct a statutory audit by individual auditors);
- the requirements for the minimum number of auditors in an audit firm have been clarified: the presence of at least three auditors in the firm, and such auditors shall be employees of the audit firm at their main place of work;
- new obligations of audit organizations were introduced (including the obligation to appoint audit managers), the rights and obligations of audited persons were adjusted;
- the list of cases of mandatory audit has been supplemented: the organization is the issuer of equity securities, which is obliged to disclose information in accordance with the Federal Law "On the Securities Market".

The federal law will come into force on January 1, 2022, with the exception of certain provisions.

Human Resources

1. Cancellation of double testing for COVID-19 upon arrival from abroad for certain categories of citizens

The Resolution of the Chief State Sanitary Doctor of the RF of 02.07.2021 No.17

Comments

The following citizens do not need to be tested for coronavirus after arriving from abroad:

- vaccinated within the last 12 months;
- those who were ill within the last 6 months.

The rest of the Russians shall take the test once within 3 calendar days after arrival. Until results are obtained, self-isolation is required.

Data about the study by the PCR method, vaccination and past disease shall be posted on the Gosuslugi.ru.

From July 10, 2021, citizens of Belarus, Kazakhstan, Armenia, Kyrgyzstan and Tajikistan, upon

entering into the Russian Federation, shall confirm the absence of infection using the application "Traveling without COVID-19". From September 1, 2021, citizens of Azerbaijan, Moldova, Uzbekistan and Turkmenistan will similarly submit the test result.

Now, in this order, citizens of the EAEU from Armenia, Belarus and Kyrgyzstan can fly to Russia.

Civil Law

1. Obligations and enforcement measures have been established for foreign IT companies operating in the Russian segment of the Internet

The Federal Law of 01.07.2021 No.236-FZ "On Activity of Foreign Persons in the Information and Telecommunication Network Internet on the RF Territory"

Comments

A law has been adopted which regulates the activities of foreign legal entities, foreign organizations that are not legal entities, foreign citizens, stateless persons (hereinafter – a “foreign person”) in the Internet on the territory of the Russian Federation (hereinafter – the “Law”).

A foreign person carrying out activities in the Internet on the territory of the Russian Federation means a foreign person carrying out any activity not prohibited on the territory of the Russian Federation, performed on the condition that the foreign person is the owner of the Internet site and (or) a website page in the Internet and (or) information system and (or) programs for electronic computers, access to which during the day is provided for more than 500,000 users located on the territory of the Russian Federation, as well as under one of the following conditions (p.1 art.4 the Law):

- on the information resource of a foreign person information is provided and (or) distributed in the state language of the Russian Federation, state languages of the republics within the Russian Federation or other languages of the peoples of the RF;
- advertising is distributed on a foreign resource of a foreign person aimed at attracting the attention of consumers located on the RF territory;
- a foreign person processes data on the users, located on the territory of the Russian Federation;
- a foreign person receives funds from Russian natural persons and legal entities.

Besides that, the provisions of the Law also apply to hosting providers, operators of advertising systems and organizers of the dissemination of information in the Internet (p.2 art.4 the Law).

For work in the RF the specified foreign persons are obliged to (art.5 the Law):

- post on the information resource an electronic form for sending applications from Russian citizens and organizations;
- register a personal account on the official website of Roskomnadzor;
- create a branch, open a representative office or establish a Russian legal entity (this provision applies from 01.01.2022).

A branch or a representative office of a foreign person, carrying out activity in the Internet on the territory of the Russian Federation, or a Russian legal entity established thereby, shall ensure the following (art.7 the Law):

- acceptance and consideration of appeals of Russian citizens, organizations to a foreign person operating in the Internet on the territory of the Russian Federation, the execution of court decisions, decisions (requirements) of the state bodies of the RF, adopted in relation to such a foreign person;

- representing the interests of the specified foreign person in the courts;
- taking measures on the territory of the Russian Federation to restrict access to information and (or) delete information, disseminated in violation of the legislation of the RF on the information resource of a foreign entity.

In the event that a foreign person fails to comply with the provisions of the Law, one or several of the following coercive measures may be applied against the violator (art.9 the Law):

- informing users of the information resource of a foreign person about a violation of the legislation of the Russian Federation by the foreign person;
- a ban on the distribution of advertisements of a foreign person, carrying out activity in the Internet on the territory of the Russian Federation, and (or) his information resource as an object of advertising;
- a ban on the distribution of advertisements on the information resource of a foreign entity;
- limiting the transfer of funds and acceptance of payments from natural persons and legal entities in favor of a foreign person, carrying out activity in the Internet on the territory of the Russian Federation;
- a ban on search results;
- a ban on the collection and cross-border transfer of personal data;
- partial restriction of access to the information resource of a foreign person;
- complete restriction of access to the information resource of a foreign person.

The law came into force on 01.07.2021, with the exception of provisions for which other terms of their entry into force are established (the creation of a branch will become obligatory from 01.01.2022).

2. There was strengthened control over foreign structures without formation of a legal entity, carrying out their activities on the territory of the Russian Federation

The Federal Law of 28.06.2021 No.233-FZ "On Amendments to the Federal Law "On Counteracting the Legalization (Laundering) of Criminally Obtained Incomes and Financing of Terrorism"

Comments

New terms will appear in the Law on counteracting the laundering of criminally obtained incomes:

- a trustee (manager) of a foreign structure without forming a legal entity – a natural person or a legal entity which, in accordance with the legislation of a foreign state (territory), on the basis of an agreement or personal law of a foreign structure without forming a legal entity, has the right to carry out funds management activities or other property, aimed at generating income (profit) in the interests of participants (shareholders, trustees or other persons) or other beneficiaries of such a foreign structure without forming a legal entity;
- a protector – a natural person or a legal entity which, in accordance with the legislation of a foreign state (territory), on the basis of an agreement or personal law of a foreign structure without forming a legal entity, is empowered to exercise control over the actions of a trustee (manager) of a foreign structure without forming a legal entity or participates in its activities.

At the same time, clients will be obliged to provide organizations, carrying out transactions with monetary funds or other property, with information about their status as a trustee (manager) of a

foreign structure without forming a legal entity or a protector.

And the requirements for identifying the client (his representative) or beneficiary, beneficial owners, establishing other information about the client, applying measures to freeze (blocking) funds or other property, organizing internal control, recording, storing information, accepting and servicing public officials, may apply to trustees (managers) of a foreign structure without forming a legal entity.

Besides that,

- a legal entity is obliged to update information on its beneficial owners and documentarily fix the received information in the event of data change;
- provisions on the obligations of a legal entity to disclose information on its beneficial owners apply to foreign legal entities and foreign structures without establishing a legal entity, carrying out activity in the Russian Federation.

The changes came into force from 09.07.2021.

3. There was determined a procedure for road transportation regarding appliance of electronic transport documents

The Federal Law of 02.07.2021 No.336-FZ "On Amendments to Article 31 the Federal Law "On Roads and Road Activities in the Russian Federation and on Amendments to Certain Legislative Acts of the Russian Federation" and the Federal Law "Charter of Road Transport and Urban Land Electric Transport"

Comments

Electronic transport documents include an electronic waybill, an electronic purchase order, an electronic accompanying register.

The information system of electronic transportation documents is an information system that ensures the exchange of electronic transportation documents and data, contained therein, between the participants of information interaction, as well as the direction by operators of information systems of electronic transportation documents of such documents and data, contained therein, to the state information system of electronic shipping documents.

The participants of the information interaction are the consignor, carrier, consignee, freighter, charter provider who have entered into an agreement with the operator of the information system of electronic transportation documents on the electronic circulation of transportation documents.

The exchange of electronic transportation documents and data contained therein between participants of information interaction, as well as sending of such documents and data contained therein to the state information system of electronic transportation documents is carried out through the use of information systems of electronic transportation documents. The procedure for the exchange of such documents and data contained therein, and the procedure for sending such documents and data, are established by the Government of the Russian Federation.

Technical requirements for information systems of electronic transportation documents are established by the RF Government.

The changes came into force from 02.07.2021.

4. There was clarified a procedure for introducing the FNC Register of orders on cancellation of powers of attorney, issued in a simple written form

Information of the FNC of 08.07.2021 "July 2021 began with new competencies of notaries"

Comments

In order to publish data on the revocation of a power of attorney in the new register, the principals will have to send a corresponding order to the Federal Notary Chamber through the Internet portal of the FNC, having previously signed the order by an encrypted qualified electronic signature.

As a confirmation of the placement of this information in the register, the principal will receive an electronic notification.

Access to data in the register of orders to revoke powers of attorney is supposed to be free and without charge. It is possible to obtain an extract from the specified register from any notary. Such an extract can be issued both in paper form and in electronic format signed by an encrypted qualified electronic signature of a notary.

It is also informed that a draft law is under consideration by the State Duma, according to which it will be possible to cancel the power of attorney remotely by sending the relevant data online to the notary.

Currency Control

1. Cancellation of mandatory repatriation of revenue for non-resource non-energy exports

The Federal Law of 28.06.2021 No.223-FZ "On Amending the Federal Law "On Currency Regulation and Currency Control"

Comments

According to the introduced amendments, the requirements for mandatory repatriation of revenue are not applied to foreign trade agreements (contracts) concluded between residents and non-residents, the amount of obligations under which is determined in a foreign currency and (or) the terms of which provide for payment in a foreign currency (p.8 art.19 the Law "On Currency Regulation", as amended).

At the same time, the rule on the cancellation of the repatriation requirement will not apply to foreign trade agreements (contracts) concluded between residents and non-residents, providing for the transfer of goods, the amount of obligations for which is determined in a foreign currency and (or) the terms of which provide for payment in a foreign currency, and classified in accordance with the EAEU Commodity Nomenclature for Foreign Economic Activity in the items related to commodity exports.

It is possible to credit the export foreign exchange earnings to exporters' accounts opened in the banks outside the territory of the Russian Federation.

There were set forth authorities of the Bank of Russia to determine the procedure for submission by residents, who are a party of a foreign trade agreement (contract), providing for the transfer of goods to non-residents, performance of works for them, provision of services, transfer of information and results of intellectual activity, including exclusive rights, information to the Central

Bank of the RF on the receipt of funds due in accordance with the terms of foreign trade agreements (contracts), or on other performance or termination of obligations of non-residents under foreign trade agreements (contracts) in cases and ways that are permitted by the legislation of the Russian Federation, as well as on assets and liabilities, nominated and (or) payable by such residents in a foreign currency in favor of non-residents.

The list of residents obliged to submit the above information will be posted on the official website of the Bank of Russia.

The changes came into force from 01.07.2021.

2. The procedure for settlements has been determined when purchasing exhibition samples of jewelry from a legal entity – resident

The Federal Law of 28.06.2021 No.224-FZ “On Amending the Federal Law “On Currency Regulation and Currency Control”

Comments

According to the general rule, the legal entities – residents, those are participants of international exhibitions, held in a state or territory that are members of the OECD or the FATF, can make without using bank accounts in the authorized banks cash payments with non-residents and natural persons for purchased from such legal entities – residents exhibition samples of jewelry at the place of the international exhibition performance. At that, the specified sold exhibition samples shall be classified by goods items 7113, 7114, 7116 – 7118 the FEACN.

The received cash funds shall be imported into the Russian Federation at the end of the exhibition period (but no later than 30 working days from the date of payment) and then credited to a bank account in an authorized bank of a legal entity - resident that is a participant in the exhibition, no later than 7 working days from the date of import.

It is also provided that when crediting the specified cash funds to a bank account in an authorized bank the legal entities shall submit to the bank information on declarations for the goods.

Certain responsibilities are assigned to the authorized banks as agents of foreign exchange control.

The changes will come into effect on January 1, 2022.

Customs Law

1. There were approved categories of goods, with respect to which shall not apply incomplete customs declaring and periodic customs declaring, specified by the Customs Code of the EAEU

The Resolution of the RF Government of 30.06.2021 No.1075 “On Approval the Categories of Goods, with Respect to Which Shall Not Apply Incomplete Customs Declaring and Periodic Customs Declaring, specified by the Customs Code of the EAEU”

Comments

This list includes: cereals, products of the milling industry, oil seeds and fruits, fats and oils, wood and wood products, ferrous metals, copper and products from it, nickel and products from it, aluminum and products from it. The resolution comes into force 30 days after the day of its official publication.

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