






Legislative Changes Review

March, 2021

Main events in March:

-  The Federal Tax Service is developing a service for electronic receipts storage
-  The Ministry of Finance has clarified the procedure for determining the tax status of a natural person for PIT purposes
-  There was adopted a law, aimed at improving the procedure for making foreign investments to separate business entities of strategic importance

Bookkeeping and Tax Accounting

1. The Federal Tax Service is developing a service for electronic receipts storage

Information of the FTS of Russia

Comments

The Federal Tax Service of Russia is developing a special service for storing electronic receipts. This will allow a user to have complete information about his purchases in one place and submit receipts for the return of goods or warranty service, as well as, if they wish to participate in various loyalty programs, receive cashbacks, bonuses and etc.

Paper receipts have several disadvantages. It's difficult to store them for potential return of goods as they fade quickly. Many countries are also gradually phasing out the paper version of a receipt in favor of the electronic one, as it is cheaper (a paper receipt costs from 10 to 20 kopecks). In addition, electronic receipts are more environmentally friendly, as their paper counterparts are printed on thermal paper using special chemicals. Europe has adopted a program of refusal from thermal paper use.

Electronic receipts will be delivered to the storage place only on the buyer's wish. For this purpose it's necessary to provide email address or phone number to the seller. The buyer can also scan QR-code of a paper (non-personified) receipt by a mobile application of the FTS of Russia "Receipts Checking", which is tied to his mobile phone, and place the receipt to the storage. At that, the buyer can always refuse from an electronic receipt and obtain a paper version which will come to the information system of the FTS of Russia without indication of the phone number or email address. The FTS of Russia doesn't link cash receipts with transactions on the card. Even if the buyer pays for the goods by a card and gets a paper receipt, no information on the purchase will come to the storage.

2. From 01.01.2022, the tax rate at the source of incomes under an agreement with Luxembourg will increase up to 15%

A message of the Ministry of Finance "Luxembourg has ratified a protocol on the amendment of the tax agreement with Russia"

Comments

Luxembourg has completed the domestic procedures required for the entry into force of the Protocol on Amendments to the Double Taxation Agreement with Russia, which was signed in Moscow on November 6, 2020.

The RF received a notification on the completion of all ratification procedures for the document. Thus, the protocol will enter into force on March 5, 2021 and its provisions will apply from January 1, 2022.

The protocol provides for the increase of the tax rate up to 15% at the source of incomes in the form of dividends and interests, with some exceptions for institutional investments, as well as public companies.

3. Luxembourg has ratified a protocol on amending the tax agreement with Russia

Information of the Ministry of Finance of Russia

Comments

The Ministry of Finance informed that Russia had received a notification on the completion by partners of domestic ratification procedures regarding the protocol.

Formally, the document entered into force on March 5, 2021. However, the new version of the DTT will start working on January 1, 2022. Only then it will be necessary to withhold tax at a rate of 15% when paying dividends and interests from Russia, with some exceptions for institutional investments and public companies.

4. The tax authorities of Russia and Great Britain have jointly prepared a synthesized document on the application of the OECD Multilateral Convention to the provisions of the Russian-British Convention for the avoidance of double taxation

"Synthesized Document. Multilateral Convention on the Implementation of Measures Relating to Tax Treaties to Counter Erosion of the Tax Base and the Removal of Profits from Taxation and the Convention between the Government of the Russian Federation and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation with respect to taxes on incomes and the increase in property value"

Comments

The provisions of a significant number of bilateral treaties for the avoidance of double taxation should be applied taking into account the Multilateral Convention on the Implementation of Measures Relating to Tax Treaties in order to counter the erosion of the tax base and the withdrawal of profits from taxation, signed by the Russian Federation and the United Kingdom of Great Britain (hereinafter - the "UK") on 7 June 2017 (hereinafter - the "Multilateral Convention").

The competent authorities of Russia and Great Britain have developed a document that is a summarized text for the application of the Convention between the Government of the RF and the Government of the UK for the avoidance of double taxation with respect to taxes on incomes and increase of property value, signed on February 15, 1994 (hereinafter - the bilateral "Convention"), as amended by the Multilateral Convention.

It's necessary to account that provisions of the Multilateral Convention are valid in the RF with respect to the bilateral Convention within the following deadlines:

- For taxes, withheld from the source, since 1 January 2021;
- For other taxes for the tax periods, starting from or after 1 January 2021.

5. The tax authorities of India and Russia have prepared a synthesized document on the application of the OECD Multilateral Convention to the bilateral Agreement on the avoidance of double taxation

"Synthesized document. Multilateral Convention on the Implementation of Measures Relating to Tax Agreements in order to counter the erosion of the tax base and the removal of profits from taxation and the Agreement between the Government of the Russian Federation and the Government of the Republic of India on the avoidance of double taxation with respect to taxes on income"

Comments

The provisions of a significant number of bilateral treaties for the avoidance of double taxation should be applied subject to the Multilateral Convention on the Implementation of Measures relating to tax treaties in order to counter the erosion of the tax base and the withdrawal of profits from taxation, signed by the Russian Federation and the Republic of India ("India") on June 7, 2017 (hereinafter - the "Multilateral Convention").

The competent authorities of Russia and India have developed a document that is a summarized text for the application of the Agreement between the Government of the Russian Federation and the Republic of India for the avoidance of double taxation with respect to taxes on incomes, signed on March 25, 1997 (hereinafter - the "Agreement"), as amended by the Multilateral Convention.

Please note that in Russia the provisions of the Multilateral Convention are valid in relation to the Agreement, taking into account the following terms:

- in relation to taxes, withheld at the source on the amounts paid or credited to non-residents, if the event giving rise to such taxes occurs on or after 01.01.2021, i.e. on the first day of the next calendar year, starting 30 days after the date of receipt (i.e. 30.04.2020) by the depositary of the last notification of the Russian Federation with the proviso described in p.7 art.35 (entry into force) that it has completed its internal procedures for the entry into force of the provisions of the Multilateral Convention in relation to the Agreement;
- with respect to any other taxes levied by the Russian Federation in relation to taxes taken regarding the tax periods beginning on 01.01.2021 or after this date, i.e. the taxable period, beginning upon the expiry of six calendar months from 30 days after the date of receipt by the depositary (i.e. 30.04.2020) of the last notification of the Russian Federation on the proviso, described in p.7 art.35, that it has completed its internal procedures for the entry into force of the provisions of the Multilateral Convention in relation to the Agreement.

Payroll processing

1. The Ministry of Finance has clarified the procedure for determining the tax status of a natural person for PIT purposes

The Letter of the Ministry of Finance of the RF of 24 February 2021 No.03-04-06/12621

Comments

Thus, according to article 57 Labor Code of the RF the place of work is an obligatory term for inclusion into an employment agreement.

Sub-clause 6 clause 3 article 208 Tax Code of the RF sets forth that remuneration for the performance of labor and other duties, performed works, provided services, carrying out an action out of the RF for tax purposes shall relate to incomes, received from the sources out of the RF.

Therefore, if an employment agreement provides for determining the place of the employee's work as the working place in a foreign state, the remuneration for the fulfillment of labor duties out of the RF on such an agreement relates to incomes from sources out of the RF.

If an employee of the organization - the recipient of the specified incomes is recognized as a tax resident of the Russian Federation in accordance with article 207 the Code, the natural persons - tax residents of the RF who receive incomes from sources located outside the RF, shall individually perform calculation, declaring and payment of PIT upon the expiry of the tax period.

Incomes of an employee of an organization, not recognized as a tax resident of the Russian Federation according to art.207 the Code, received from sources outside the RF, subject to the provisions of art.209 the Code, are not subject to personal income tax in the Russian Federation.

The list of documents confirming the actual presence of natural persons both on the territory of the Russian Federation and abroad is not established by the Code.

Confirmation of the actual location of a natural person outside the Russian Federation can be performed on the basis of any documents, drawn up in accordance with the established procedure, allowing to establish the number of days of his actual staying outside the Russian Federation.

Civil Law

1. The FTS has informed on the simplification of the procedure for the accreditation of foreign branches and representative offices since August 2021

Information of the Federal Tax Service of Russia "How will the accreditation procedure for foreign branches and representative offices change from August 2021" (published on the website <https://www.nalog.ru>)

Comments

The Federal Law No.27-FZ of 24.02.2021 has introduced amendments to the Federal Law of 09.07.1999 No.160-FZ "On Foreign Investments in the RF" (hereinafter – the Law No.160-FZ). The amendments will come into force from 24.08.2021.

The accreditation period for foreign branches and representative offices will be reduced from 25 to 15 working days from the date of submission of documents to the accrediting authorities. The exception is representative offices of foreign legal entities working in the field of civil aviation.

A procedure for suspension of accreditation is also introduced to eliminate technical errors in the submitted documents. This will reduce the number of accreditation rejections and their subsequent appeals.

There was adjusted the list of grounds for making a decision by the accrediting authorities to refuse accreditation. So, it may be refused if a disqualified person is appointed as the head of a foreign branch or a representative office, as well as if a branch or a representative office is opened by a foreign company that has arrears in penalties, fines or interests. The accrediting authority received the right to refuse accreditation to foreign branches and representative offices those are not subject to Law No.160-FZ.

Besides that, there were regulated the grounds for a refusal while entering changes and terminating accreditation of foreign branches and representative offices.

2. There was adopted a law, aimed at improving the procedure for making foreign investments to separate business entities of strategic importance

The Federal Law of 09.03.2021 No.40-FZ "On Amendments to the Federal Law "On the Procedure for Making Foreign Investments to Business Companies of Strategic Importance for Ensuring the Defense of the Country and Security of the State"

Comments

A number of changes have been made in relation to business entities for which activities that are of strategic importance for ensuring the country defense and state security are not the main ones, and are associated with the provision of water supply (wastewater disposal) services, performance of works using pathogens of infectious diseases:

- Removal of the ban on transactions involving the establishment of control by an organization, being under the control of a foreign state, over the specified companies or organizations those are not of strategic importance, which control these strategic companies. These transactions are subject to mandatory preliminary approval by the government commission in accordance with the established procedure.
- There was introduced a simplified procedure for making a decision on preliminary approval of a transaction (or approval of the establishment of control) made by a foreign investor, subject to its compliance with the established requirements. Within a simplified procedure, the decision is made by the FAS, taking into account the conclusions of the Ministry of Defense and the FSB on the absence of a threat to the country defense and state security, as well as Rospotrebnadzor, the Ministry of Economic Development and the Ministry of Construction.

3. The lists of standards necessary to comply with and fulfill the requirements of the technical regulations of the Customs Union "On the safety of machinery and equipment" (TR CU 010/2011) have been updated

The Decision of the Board of the Eurasian Economic Commission of 09.03.2021 No.28

Comments

There were approved the lists of international and regional (interstate) standards, and in their absence, national (state) standards, in the result of which appliance on a voluntary basis there's ensured compliance with the requirements of the technical regulations of the Customs Union "On the safety of machinery and equipment" (TR CU 010/2011), as well as containing the rules and methods of research (testing) and measurements, including the rules for the selection of the necessary samples.

Clause 2 the Decision of the Customs Union Commission of October 18, 2011 No.823 "On the adoption of the technical regulation of the Customs Union "On the safety of machinery and equipment" is also recognized as invalid.

The decision comes into force upon the expiration of 180 calendar days from the date of its official publication.

4. The key rate of the Bank of Russia was increased up to 4,5% per annum

Information of the Bank of Russia of 19.03.2021 "The Bank of Russia has made a decision to increase the key rate by 25 basis points up to 4,5% per annum"

Comments

The new key rate is effective from March 22, 2021, as far as meetings of the Board of Directors of the Bank of Russia on monetary policy are held on Fridays, and in case of taking a decision on the key rate change, the updated key rate becomes effective since Monday next week (the Letter of the Bank of Russia of 19.07.2017 No.20-OE/15938).

5. Regular international flights between Russia and Germany, Venezuela, Syria, Tajikistan, Uzbekistan and Sri Lanka are resumed

"The government resumes flights between Russia and Germany, Venezuela, Syria, Tajikistan, Uzbekistan and Sri Lanka" (information published on the official website of the Government of the Russian Federation <http://government.ru/>)

Comments

A decision was made to resume, on a reciprocal basis, from April 1, 2021, regular international flights with Venezuela (Moscow - Caracas), Syria (Moscow - Damascus), Tajikistan (Moscow - Dushanbe), Uzbekistan (Moscow - Tashkent) and Sri Lanka (Moscow - Colombo). Also, from April 1, upon agreement with the aviation authorities of Germany on a reciprocal basis, regular flights will be resumed on the routes Frankfurt am Main - Moscow - Frankfurt am Main, Frankfurt am Main - St. Petersburg - Frankfurt am Main, Moscow - Berlin - Moscow and Moscow - Frankfurt am Main - Moscow.

The operational headquarters has also decided to resume from 1 April flights to foreign countries from the international airports of Barnaul, Belgorod, Volgograd, Voronezh, Kaluga, Krasnodar, Lipetsk, Nalchik, Orenburg, Saratov, Sochi, Tyumen and Yuzhno-Sakhalinsk, taking into account the Government decree of March 16, 2020 No.635-r and the need to comply with sanitary and epidemiological requirements.

Foreign citizens shall have a negative test for coronavirus, made by the PCR method, no earlier than 72 hours before the flight to Russia, and comply with other sanitary and epidemiological measures established in the Russian Federation.

Russian citizens must pass a PCR test upon arrival to Russia within 72 hours.

6. From 01.07.2021 administrative liability will be introduced for the sale of certain types of technically complex goods in violation of the mandatory requirements for the pre-installation of Russian software

The Federal Law of 24.03.2021 No.54-FZ "On Amending Article 14.8 the Code of Administrative Offences of the RF"

Comments

The sale of certain types of technically complex goods in violation of the requirement to ensure the pre-installation of software, the countries of origin of which are the Russian Federation or other

member states of the Eurasian Economic Union, will result in the imposition of a fine: on the officials – at the amount of 30 000 to 50 000 RUB; for legal entities - from 50 000 to 200 000 RUB.

The changes will take effect on July 1, 2021.

7. The regulation on the peculiarities of stamping an apostille in electronic form, on submitting requests for stamping it, on providing remote access to data on stamped apostilles was approved

The Decree of the RF Government of 20.03.2021 No.436 “On approval the regulation on peculiarities of handling with a request on an apostille stamping and sending requests, specified by art.9 the Federal Law “On apostille stamping on the Russian official documents, subject to export outside the RF territory”, in the electronic form and (or) with the use of information and telecommunication channels, maintaining a register of apostilles in the electronic form, ensuring remote access to data on stamped apostilles”

Comments

The approved Regulation will enter into force on July 1, 2022. Requests for an electronic apostille on Russian official documents to be exported outside the territory of the Russian Federation can be sent through the federal state information system "Unified portal of state and municipal services (functions)" according to the form approved by the Ministry of Justice of the Russian Federation.

The apostille will be stamped in electronic form by creating an electronic version of the apostille with a two-dimensional bar code.

A two-dimensional bar code containing in the encoded form the address of a page in the information and telecommunications network "Internet" with the entries on the stamped apostille in the apostille register in the electronic form will provide remote access to data on the stamped apostilles.

Migration rules

1. There was adjusted the procedure for foreign citizens entry to the RF for treatment purposes

The Decree of the RF Government of 23.03.2021 No.737-r “On amending the decree of the RF Government of 16.03.2020 No.635-r”

Comments

By the decree of the Government of the Russian Federation of March 16, 2020 No.635-r, temporary restrictions were established on the entry of foreign citizens and stateless persons into the territory of the Russian Federation, except for specially established cases. One of the permitted cases is entry into the Russian Federation for treatment purposes.

The decree of the Government changes the procedure for confirming the purpose of entry. Taking into account the changes, entry for the purposes of treatment will be allowed for foreign citizens and stateless persons, data about which was sent by a medical organisation in accordance with the algorithm for filing applications for entry into the Russian Federation of foreign citizens, including for the purpose of obtaining medical services, approved by the operational headquarters for the

prevention of import and the spread of a new coronavirus infection on the territory of the Russian Federation, using the federal state information system "Unified portal of state and municipal services (functions)" to the departmental segment of the Ministry of the Russian Federation of the state system of migration and accounting registration, as well as the production, execution and control of circulation of identity documents, for subsequent referral to the departmental segment of the FSB of Russia of the specified state system.

The changes came into effect on March 23, 2021.

2. Foreign students, postgraduates, residents, students of preparatory faculties are allowed to return to Russia to continue their studies

The Decree of the Government of the Russian Federation of 03.16.2021 No.639-r "On Amending the Decrees of the Government of the Russian Federation of 03.16.2020 No.635-r and 03.27.2020 No.763-r"

Information of the Ministry of Education and Science of Russia of 20.03.2021 "Foreign students from epidemiologically prosperous countries are allowed to return to Russia" (published on the website <https://minobrnauki.gov.ru>)

Comments

It was set forth that the previously introduced restrictions do not apply to persons entering the Russian Federation for the purpose of studying in educational institutions of higher education and professional educational organizations specified in the lists formed by these educational organizations in accordance with the algorithm for organizing work in relation to foreign students, approved by the operational headquarters for the prevention of the import and spread of a new coronavirus infection on the territory of the Russian Federation.

These lists should be sent by educational organizations through the federal state information system "Unified portal of state and municipal services (functions)" to the departmental segment of the Ministry of the Russian Federation of the state system of migration and accounting registration, as well as the production, execution and control of the circulation of identity documents for subsequent referrals to the departmental segment of the FSB of Russia of the specified state system.

The changes came into force on March 16, 2021.

Foreign citizens of only those countries recommended by Rospotrebnadzor as a country with a safe epidemiological situation will be able to enter to Russia for training. Currently, such countries are Abkhazia, Azerbaijan, Armenia, Belarus, Vietnam, Greece, Egypt, India, Kazakhstan, Qatar, Kyrgyzstan, Cuba, Maldives, United Arab Emirates, Seychelles, Serbia, Singapore, Tanzania, Turkey, Finland, Switzerland, Ethiopia, South Korea, South Ossetia, Japan.

The list of states that are open for foreign students to enter to Russia, regularly updated by Rospotrebnadzor, will be communicated by universities to students, including through personal accounts on university websites, as well as through official pages on social networks and messengers.

Before arriving to Russia, foreign students shall notify the university by email at least 10 days in advance of the date of entry into the Russian Federation. After sending the letter, information on entry will be delivered to email address.

No earlier than 3 calendar days before arriving to Russia the student shall take a COVID-19 test using the PCR method and, if the result is negative, receive the corresponding document in the Russian or English language in his country.

Within 72 hours after entering the territory of Russia, foreign students shall pass a second PCR

test. Before receiving the test results, they shall comply with the self-isolation regime at the place of residence. During the period of isolation, training takes place online. Foreign students are not allowed to study full-time without a second test.

Comments on this issue prepared by:



**Galina Kruglova and
Veronika Tikhonravova**
Accounting and tax accounting



Veronika Tikhonravova
Civil Law, Migration rules,



Karina Esakova
Payroll processing

SberSolutions is the first company to have introduced business process outsourcing in Russia and the CIS.

We have been working with private and public organizations in various industries for 25 years. Throughout that time, SberSolutions has gained a unique experience that allows us to offer our clients an optimal range of services, high-tech products and innovative solutions. Our services help businesses grow.

SberSolutions partner with world-leading outsourcing companies.

We are part of Sber Ecosystem.

If you have any questions or concerns, please contact: info@sber-solutions.ru

*SBER Solutions was set up on the basis of on Intercomp Group which was founded in 1994.