SBER SOLUTIONS

Legislative Changes Review

October, 2020

Main events in October:

- The FTS has prepared a pilot project on cameral audits within VAT recovery: the period was reduced up to a month
- There were approved two new accounting standards – “Fixed Assets” and “Capital Investments”
- The Central Bank hasn’t again changed the key rate. It remained on the same level – 4,25%
- On employees’ transfer to a remote regime of work
- The law has adjusted the powers of the Government of the Russian Federation and the Ministry of Internal Affairs of Russia regarding issuance of permits for temporary residence in the Russian Federation to foreigners

Tax accounting

1. The Ministry of Finance and the Federal Tax Service have reminded on the taxpayer's liability to inform about unregistered transport vehicles

The Letter of the Ministry of Finance and the FTS of 28 September 2020 No.BS-4-21/15757@

Comments:

The FTS has clarified the procedure for the taxation of unregistered transport vehicles of an organisation.

According to part 1 article 357 Tax Code of the RF the taxpayers are the persons on whom the transport vehicles were registered, recognised as an object of taxation, unless otherwise provided by art.357 RF TC.

The tax authorities are informed about the registered vehicles by the authorities which register the vehicles, specified in art.85 RF TC without the participation of the vehicle owners.

The Code does not provide for the recognition by the tax authority as tax payers of persons for whom, according to the data of the authorized bodies, vehicles are not registered.

It should be borne in mind that since 2021, clause 4 and 5 article 363 the Tax Code of the Russian Federation will come into force, in accordance with which the tax authorities will send messages to taxpayers regarding the amounts of tax calculated thereby.

The tax authorities paid attention to the obligation of the taxpayer to send a message to the tax authorities about the existence of vehicles recognized as objects of taxation in case of failure to receive a message on the calculated tax (the ground - clause 2.2 art.23 RF TC).

The message may not be submitted if the organisation has submitted an application to the tax authority for a tax benefit in respect of the relevant taxable object.

2. The Ministry of Finance supposes to set forth a 5% rate on dividends in the Russian offshores only for public companies

Information of the Ministry of Finance of Russia (https://minfin.gov.ru/ru/press-center/?id_4=37203-stats-sekretar-zamministra_finansov_aleksei_sazanov_prinyal_uchastie_v_diskussii_o_perspektivakh_razvitiya_sar)

Comments:

The Ministry of Finance considers that from 2021 there should be a more favorable tax regime than in foreign offshores on the islands Russky and Oktyabrsky. For this purpose the international agreements with a number of countries are being revised now, for example, with Cyprus (we wrote about it in the review of 14.09.2020). The tax rate for the payment of dividends in Cyprus has been increased up to 15% (unless any exceptions are set forth).

The authorities are considering proposals to increase the attractiveness of Russian offshore companies, although they are not planning a 5% rate on dividends for non-public companies.

3. Russia and Malta have signed a protocol on the increase of the tax rate up to 15% at the source of income in the form of dividends and interests

Information of the Ministry of Finance of Russia "Russia and Malta have signed a protocol on the change of a tax agreement between the countries" (published on the website https://minfin.gov.ru)

Comments:

Similarly to the previously signed Protocol with Cyprus, the Protocol provides for a list of exceptions, in accordance with which a preferential treatment will apply to incomes in the form of dividends and interests. The exceptions are provided for institutional investments, as well as for public companies with at least 15% shares in a free circulation and holding at least 15% of the capital of the company which pays the specified dividends within the year. For such incomes a 5% tax rate was set forth.

As it was previously informed the changes won't affect the interest incomes payable on Eurobonds, bonded loans of Russian companies, as well as on loans, provided by foreign banks.

If the ratification of the protocol on amending the agreement on the avoidance of double taxation is completed by the end of 2020, the new provisions will apply from 01.01.2021.

4. The Ministry of Finance has introduced a draft law to the Government on a possibility to pay tax from incomes of a controlled foreign company in a fixed amount of 5 million roubles with such incomes declaring

Information of the Ministry of Finance of Russia of 01.10.2020 "The Ministry of Finance has introduced amendments to the Tax Code on the fixed amount of tax from incomes of a controlled foreign company at the rate of 5 million roubles" (published on the website https://minfin.gov.ru)

Comments:

The amendments proposed by the Ministry of Finance to the Tax Code of the Russian Federation provide Russian citizens with an opportunity to annually pay tax in a fixed amount of 5 million roubles from incomes in the form of profit of controlled foreign companies (CFCs) without declaring such incomes.

"It is assumed that the annual fixed payment will be paid for all CFCs of a natural person, and not for each company separately - figuratively speaking, this is a subscription for CFC holders at a very favorable price. At the same time, there will be no need to calculate and declare the profit of CFCs, which will reduce the administrative burden on their owners, noted the Minister of Finance A.G. Siluanov".

The opportunity to pay tax annually in a fixed amount will be provided to all natural persons who voluntarily disclosed information about the CFC and promptly notified the tax authorities on the transition to the new payment regime.

In the event of transition to the payment of tax at a fixed rate, CFC owners will have to apply this regime for at least 5 years. This will ensure consistency in the application of the proposed preferential treatment. An exception will be made for those who transfer to such a payment procedure already in 2020 and 2021. For them, the mandatory minimum period for applying this procedure will be reduced up to 3 years.

The amendments to the Tax Code of the Russian Federation were prepared on the instruction of the President of the Russian Federation following the address to citizens of 23 June 2020.

5. The FTS has prepared a pilot project on cameral audits within VAT recovery: the period was reduced up to a month

The Letter of the FTS of 06.10.2020 No.ED-20-15/129@

Comments:

On the official website the Federal Tax Service has published information about the start of a new pilot project on reduction of time for performing a cameral audit on VAT up to a month.

According to the tax authorities, this decision was made in the result of joint work with the business. The tax authorities work has become more efficient thanks to the automated control system ASK VAT-2. The Modern Big Data technologies, used by the Federal Tax Service, provide an opportunity to ensure comfortable conditions for tax administration to faithful taxpayers by reducing the period of VAT cameral audits.

The criteria for allowing a taxpayer to participate in the pilot project are listed in the letter. Thus, for example, one of the conditions is the allocation of the taxpayer in accordance with the data of the PP "VAT Control" to a low, medium or indefinite level of risk (for individual entrepreneurs). The tax authorities will also evaluate its suppliers, whose VAT-invoices serve as the basis for VAT deduction.

The territorial tax authorities will start applying the new procedure with respect to VAT tax returns submitted after 01.10.2020 for tax periods, starting from 3 Q 2020.

6. The Government of the Russian Federation has approved the draft protocol on amending the Agreement on the avoidance of double taxation with Luxembourg, in which the rates on incomes in the form of interests and dividends were increased up to 15%, whereas it has instructed the Ministry of Finance to negotiate and sign the Protocol

The Decree of the Government of the Russian Federation of 06.10.2020 No.2570-r "On Signing the Protocol on Amendments to the Agreement between the Russian Federation and the Grand Duchy of Luxembourg on the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Incomes and Property" of June 28, 1993

Comments:

In the draft protocol on amendments to the Agreement between the Russian Federation and the Grand Duchy of Luxembourg on the avoidance of double taxation and the prevention of tax evasion with respect to taxes on incomes and property of June 28, 1993 (hereinafter - the Agreement), approved by the Government and preliminary worked out with the Luxembourg side, it is planned to introduce the following provisions:

- as a general rule, incomes in the form of interests and dividends shall be taxed according to the legislation of the source of payment, but the rate should not exceed 15% (i.e. when a Russian company pays incomes to a Luxembourg company, the rate of 15%, effective in the RF, will apply);
- a preferential rate of 5% in respect of incomes in the form of dividends and interests will apply at the source of payment only for institutional investments, as well as for public companies, at least 15% of which shares are in free circulation and owning at least 15% of the company's capital, paying the specified incomes during the year. In addition, the exceptions shall apply to the interest incomes of such companies, paid on bank loans, on circulating Eurobond loans, as well as on debt obligations to governments, central banks, pension funds and insurance companies of the countries participating in the agreement.

The date of these changes entry into force will be finally determined after completion of the

negotiation process between the Russian and the Luxembourg parties and signing of the Protocol on the amendments.

7. A natural person – non-resident of Russia may not reduce the cost of a share for expenses while withdrawing from the company

The Letter of the Ministry of Finance of Russia 02.10.2020 No.03-04-06/86502

Comments:

The Ministry of Finance has paid attention to the fact that article 226 Tax Code of the RF doesn't provide a possibility for a tax agent to account expenses of a taxpayer – natural person for purchasing shares in the authorized capital of a LLC with respect to its incomes, received within withdraw from the company. Therefore, the organisation shall withhold PIT from the complete payment on the rate of 30%.

8. There were approved two new accounting standards – "Fixed Assets" and "Capital Investments"

The Decree of the Ministry of Finance of 17.09.2020 N 204n

Comments:

After numerous discussions and revisions of the project the Ministry of Finance has approved the Federal Accounting Standard (FSBU) 6/2020 "Fixed Assets". At the same time, the new FSBU 26/2020 "Capital Investments" has been also approved.

The appliance of the standards is obligatory starting from the submission of accounting (financial) statements for 2022. Therefore, from 01.01.2022 the previous RAS 6/01 will cease to be in effect. Early appliance of new standards is allowed, provided that you will specify thereon in the accounting policy for 2021.

In the scope of the news review we'll highlight the most important changes, introduced by the new standards.

In the new FSBU "Fixed Assets":

- There is no limitation on the value of assets which can be accounted in the scope of inventories. Consequently, now taxpayers can set a general tax-based limit on the value of assets which may not be allocated to depreciable property;
- FSBU 6/2020 doesn't contain a specific list of expenses which form the cost of a fixed asset. Therefore, the cost of fixed assets can include all expenses incurred in connection with the acquisition;
- It is necessary to determine in the accounting policy how to measure the fixed assets after the object acceptance in the accounting: on the initial or the revalued cost (for each group of fixed assets);
- According to FSBU 6/2020 the line method and the method of reducing the balance are applicable to fixed assets, the useful life of which is determined by the period when the use of the object brings economic benefits to the organisation. For those fixed assets, the service life of which is determined on the basis of the quantity of products or volume of work, depreciation should be accrued pro rata this quantity or volume;
- In FSBU 6/2020 the start and end points of depreciation accrual were adjusted - now this is also an element of the accounting policy of the organisation.

Therefore, by 2022 you need to prepare and decide on the choice of options for accounting of fixed assets.

The new FSBU 26/2020 establishes the accounting procedure for capital investments. There was no such a standard before.

The standard defines the requirements for the formation of data on capital investments in the accounting. Capital investments are the costs of acquiring, creating, improving or restoring fixed assets: construction costs, radical land improvement, preparation of project documentation, commissioning and testing. The standard does not apply to work performed for other persons or while creating an asset for sale.

9. The IFRS 16 “Rent” was amended due to the spread of the coronavirus

The Decree of the Ministry of Finance of 05.10.2020 N 226n

Comments:

The Ministry of Finance has approved amendments to the IFRS 16 “Rent”: they relay to rental cessions, connected with the COVID-19.

Thus, for example, it was specified under what conditions the lessee may not analyze whether the cession is the amendment of the contract, and also determines what information it shall disclose if made such a decision.

These amendments shall apply to annual reporting periods starting from 1 June 2020 and later. Preschedule applying is possible with respect to financial statements which were not authorized for issue as of 28 May 2020.

Payroll

1. The PFR has updated the procedure for filling the forms of personified accounting: SZV-STAZH, ODV-1, SZV-KORR and SZV-ISH

The Resolution of the PFR of 02.09.2020 No.612p
The document commencement - 13.10.2020

Comments:

The PFR has updated the procedure for filling the forms SZV-STAZH, ODV-1, SZV-KORR and SZV-ISH, as well as the format for their electronic submission. Let us kindly remind you that these forms were approved by the Resolution of the Board of the PFR of December 6, 2018 No.507p.

In fact, there are two innovations:

1. There appeared codes of a category of an insured person for employees of small and medium-sized businesses, as well as organisations, included into the register of socially focused non-profit companies (p.1.3 the amendments);
2. There was introduced a new code “VIRUS” for filling the column 10 in SZV-STAZH. It shall be specified with respect to medical specialists who provide assistance to patients with coronavirus or suspected coronavirus (pp.1.1 and 1.2 the amendments).

Please note: there was created a request CHG-13296 for entering changes to the forms SZV-STAZH, ODV-1, SZV-KORR and SZV-ISH in DP. The amendments of forms in 1C shall be included in the nearest release. Follow the emailing of the Support Management and Client Platforms Development.

2. Reduction of the contribution tariff on traumatism – annual monitoring

Comments:

If the traumatism indicators in the organisation are below the industry average (determined by the FSS), then you can get a discount of up to 40% to the tariff for the next year. This right is set forth by p.7 the Rules for establishing discounts and markups for the insurants to insurance tariffs on the obligatory social insurance against production accidents and occupational diseases, approved by the Resolution of the RF Government of 30 May 2012 No.524.

The discount rate is established by the Social Insurance Fund of the Russian Federation. The discount rate is set forth as a percentage to the insurance tariff in accordance with the Methodology for calculating discounts and markups (approved by the Decree of the Ministry of Labor and Social Protection of the Russian Federation of 01.08.2012 No.39n). The maximum rate of discount may not exceed 40% (p.1 art.22 the Federal Law No.125-FZ, p.2 the Rules for Discounts and Markups Establishing).

The discount rate may be influenced by the following (p.1 art.22 Law No.125-FZ, p.5 the Rules for Discounts and Markups Establishing):

- Results of a special assessment of labor terms;
- Results of an obligatory medical checkup of employees;
- Amount of expenses on insurance coverage, in particular payment of allowances due to production accidents.

In order to receive discount an organisation shall submit an application to the FSS before 1 November. In this year – no later than 2 November (1 November is Sunday). The application form was approved by the Administrative Regulation, determined by the Decree of the FSS of 25.04.2019 No.231.

3. There was published a law on mitigation of a prohibition to return overpayment of insurance contributions

The Federal Law of 01.10.2020 No.312-FZ
The document commencement – 01.01.2021

Comments:

Recently, in our digest of 21.09.2020 we informed on the draft of this Federal Law. The Law was published and it will come into force from 01.01.2021.

Let us kindly remind you that in the end of 2019 the Constitutional Court of the RF has considered as unconstitutional an absolute prohibition to return overpayment allocated to individual accounts. In this regard the lawmakers have approved changes which introduce the amendments to the RF Tax Code. Now, pursuant to p.6.1 art.78 RF TC there's a prohibition to return overpayment of contributions, if the amounts have been already allocated to individual accounts of the insured persons. This circumstance essentially excluded a possibility to return the overpaid insurance contributions to their payer – employer.

The amendments to the RF TC, accounted in the Federal Law of 01.10.2020 No.312-FZ, are aimed for adjusting a prohibition to return the overpaid contributions in case when the amounts have been already allocated to individual accounts of the insured persons. The insurants will be able to recover any overpayment. The exception will be the amount, accounted on the individual part of the tariff on the individual account of the insured person, to whom an insurance pension has been already assigned as of the moment of submitting an application on refund.

The amendments will come into effect from 1 January 2021. However, even now the prohibition isn't actually in effect in virtue of the resolution of the Constitutional Court of the RF.

4. The tax authorities have updated 3-NDFL form

The Decree of the FTS of Russia of 28.08.2020 No.ED-7-11/615@

Comments:

The Federal Tax Service has approved a new form 3-NDFL, the procedure for its filling and an electronic format. They shall apply starting from the tax return submission for 2020. There aren't many changes. Along with technical corrections (new barcodes), there are also significant ones. They're listed below:

- Section 1 has a new sub-section. It is needed for individual entrepreneurs, notaries, lawyers and etc. In this sub-section it is necessary to enter, for example, information about the amount of tax or advance payments. And in the calculation to Appendix 3, they will need to indicate data for calculating such payments;
- In Appendix 4 to section 2, where non-taxable incomes are indicated, a new line has appeared. It is necessary to enter the amount of material assistance provided by the educational organisation to students, graduate students, etc.;
- There was introduced an appendix to section 1. This is an application on refund or offset of overpayment.

5. The Ministry of Finance has updated the rules for filling payment orders on funds transfer to the budget

The Decree of the Ministry of Finance of Russia of 14.09.2020 No.199n
The document commencement - 01.01.2021
A part of amendments will come into force from 01.07.2021 and 01.10.2021

Comments:

There were published amendments to the Rules for the execution of payment orders on funds transfer to the budget system. It shall be noted that when preparing POs it's necessary to be governed by the Rules, approved by the Decree of the Ministry of Finance of 12 November 2013 No.107n "On Approval of the Rules for Indicating Information in Payment Orders Details on Monetary Funds Transfer for Making Payments to the Budget System of the RF". The aforesaid amendments will come into force from 1 January 2021, however a part of innovations will become effective later – since July and October 2021.

From 1 July 2021 the rules for checking the unique identifier of accrual and the rules for the formation of a unique transaction number will come into effect (specified in the Exhibit No.6 to the Decree No.107H "Rules for Checking the UIA" and in the Exhibit No.7 "Rules for Forming a Unique Assigned Number of Transaction").

From 1 October 2021 it will become easier to fill the payment detail 106 while paying taxes and other payments, administrated by the tax authorities. For example, there won't be an option to pay debt on demand.

"TP" – debt payment of the request of the tax authorities on payment of taxes (levies, insurance contributions).

"ZD" value will be indicated instead of it, now it is used only within voluntary repayment of debt.

6. There was approved a schedule for days off transfer in 2021

The Resolution of the RF Government of 10.10.2020 No.1648

Comments:

- The longest weekend will be traditionally at the beginning of the year – from 1 to 10 January.
- There will be 4 days off in a row in November – from 4 to 7 November.
- There will be 3 days off:

- from 21 to 23 February (Saturday, 20 February will be a working day);

- from 6 to 8 March;

- from 1 to 3 May and from 8 to 10 May;

- from 12 to 14 June.

- 31 December will be a weekend as well.

SberSolutions will update the production calendar in the accounting systems, used for the services provision.

7. There're prepared amendments to the Tax Code regarding preliminary informing of taxpayers on accounts blocking

Information of the Ministry of Finance of Russia of 13.10.2020

Comments:

The Ministry of Finance has prepared amendments to the Tax Code on the preliminary notification of taxpayers, tax agents and payers of insurance contributions about the upcoming suspension of transactions on bank accounts due to failure to submit a tax return or the calculation of personal income tax and insurance contributions. The tax inspection shall inform the organisation and individual entrepreneurs on the upcoming blocking 14 days in advance. Now the controllers do not have such a duty.

It is also proposed to increase in two times, from 10 to 20 days, the period for the submission of the specified tax returns or calculations, after which, in case of non-payment, the tax authorities will block the accounts.

Now, if a taxpayer (tax agent, payer of insurance contributions) hasn't fulfilled its obligation to submit the relevant documents, the tax authority has the right to suspend transactions on its bank account without warning, which causes a lot of inconvenience to business and creates serious risks. The laws don't provide a warning regarding this measure.

It should be emphasized that at the same time, there have been established rules for the fastest possible unblocking of accounts after elimination of violations. After making a decision to cancel the blocking, the tax inspection shall notify the bank thereon no later than within one day. If the abovementioned deadlines are violated, or in case of illegal suspension of transactions, the inspection shall pay interests for the days of illegal blocking of accounts.

The Ministry of Finance expects that the amendments will stimulate taxpayers to be disciplined. In addition, blockings due to random violations will be reduced.

8. The Treasury accounts will be changed since 1 January 2021. The IFTS requires taxpayers to be careful within POs filling since January 2021

The Letter of the FTS of Russia of 08.10.2020 No.KCH-4-8/16504@
The document commencement - 01.01.2021

Comments:

From the beginning of 2021 the bank accounts of the Treasury in the subdivisions of the Central Bank payment processing network will be changed. In this regard, the Federal Tax Service instructed the inspections to inform taxpayers on how to correctly fill in the details of treasury accounts in payment orders for the transfer of taxes. The bank account number of the beneficiary refers to the obligatory payment details. Such a bank account number is a part of the unified treasury account (EKS), which is indicated in field 15 of the payment order.

The tax authorities have compiled a spreadsheet (Exhibit to the letter of the FTS of Russia of 08.10.2020 No.KCH-4-08/16504@), wherein the following items are specified per each territorial authority of the Treasury:

- BIC;
- Beneficiary bank name;
- Account number in the EKS;
- Beneficiary account number (number of the treasury account);
- Number of the current bank account of the Treasury authority.

The FTS has paid attention that before the end of April 2021 both the current and new accounts will be valid, although only new accounts will be valid since 1 May.

At practice this means checking, obligatory adjustment of payment orders details for taxes and contributions payment since 1 January 2021. Please pay attention to this and perform the required actions before the beginning of the new tax period.

9. The Central Bank hasn't again changed the key rate. It remained on the same level – 4,25%

Information of the Bank of Russia of 23.10.2020

Comments:

The Bank of Russia has remained the key rate on the level of 4,25%.

Please note that since 2016 the refinancing rate was equated to the key rate. The key rate (refinancing rate) shall apply, including within the calculation of:

- Compensation for the delay in salary and other payments execution to employees (art.236 RF Labor Code);
- Material benefit of an employee from saving interests (art.212 RF Tax Code);
- Penalty for taxes non-payment (art.75 RF Tax Code);
- Interests for the delay with taxes recovery (art.78 RF Tax Code);
- Interests for unlawful blocking or untimely unblocking of an account (art.75 RF Tax Code).

The Central Bank of the RF will return to the question on the key rate on 18 December. Some analytics believe that the regulator will decrease the rate up to 4%.

HR recordkeeping

Moscow

1. On employees' transfer to a remote regime of work

The Decree of the Mayor of Moscow of 1 October 2020 No.96-UM

Comments:

The employers, carrying out activity on the territory of Moscow, shall ensure the following from 5 to 28 October 2020 inclusive:

1. Transfer of employees (contractors under civil agreements) to a remote regime of work:

- No less than 30% of employees;
- All employees among citizens over 65 years old, as well as citizens with diseases, the list of which is determined by the Moscow City Health Department, with the exception of citizens whose presence at the working place is critically important for ensuring the functioning of organisations, individual entrepreneurs. At that, this requirement does not apply to organisations of the military-industrial complex, aircraft construction, organisations that are a part of the state corporation for space activities "Roskosmos", organisations that are a part of the state atomic energy corporation "Rosatom", organisations that carry out work under a state defense order, as well as organisations of the electronic and technical industry, supporting the activities of these organisations, healthcare organisations and other organisations determined by the Headquarter for measures to prevent the importation and spread of the infection caused by the 2019-nCoV coronavirus in Moscow.

2. Making decisions on establishing the quantity of employees (contractors under civil agreements):

- Subject to transfer to a remote regime of work;
- Non-subject to a remote regime of work due to the need of their direct participation in the ensuring continuous technological and other processes, necessary for such organisations and individual entrepreneurs functioning.

3. Submission of data in the electronic form on the quantity of employees (contractors under civil agreements) with respect to those there were made decisions, specified in p.2 the Decree (without personal data), including on the types of carrying out activity and the place of its performance (with indication of a corresponding code of the address from the Federal Information Address System) to the email address: organization_size@mos.ru on the form according to the Exhibit 4 to the Decree of the Mayor of Moscow No.12-UM.

Please pay attention to the nuances when drawing up a report.

When filling the report form, the address is indicated only in relation to employees who are NOT transferred to a remote regime of work, i.e. it is necessary to indicate the legal address of the company or another actual address where employees continue working. For example, for separate subdivisions the actual address won't be the legal address of the organisation, but the address of the location of the subdivision.

There's no need to enter addresses of remote employees, since in the employment agreements on remote work there is no reference to a specific address (today an employee can work at home, tomorrow, for example, in a cottage) and the city is indicated as the place of work.

If the company has no separate subdivisions in Moscow and the legal address coincides with the actual one, then enter the legal address in field 11.

4. Taking measures aimed at minimizing the full-time presence of employees (contractors) at the working places.

SberSolutions specialists would recommend the following:

1. Determine the employees whose presence at the working place is critically important for ensuring the functioning of the organisation;
2. Issue an order on establishing the quantity of employees, not subject to transfer to remote regime;
3. Determine the employees over 65 years old, and those who have diseases which list is determined by the Moscow City Health Department;
4. Issue an order on establishing the quantity of employees (at least 30% from the total staff quantity, including employees over 65 years old and those who have diseases), subject to transfer to remote regime;
5. Transfer all employees over 65 years old and those who have diseases, except for the employees whose presence at the working place is critically important for ensuring the organisation functioning, and the employees, determined for transfer according to the order to remote regime.

2. About extending vacations

The Decree of the Mayor of Moscow of 29 September 2020 No.93-UM

Comments:

From 5 to 18 October 2020 inclusive, for students of educational organisations providing primary general, basic general, secondary general education, additional education, sports training, the functions and powers of the founder of which are carried out by the executive authorities of Moscow, vacations were established.

Regions

1. On employees' transfer to a remote regime of work

The Moscow region

Comments:

From September 28, 2020, the employers are recommended to transfer the maximum number of employees (contractors under civil agreements) to remote work in order to minimize the full-time presence of employees at their working places, including, in priority order, citizens over 65 years old, as well as citizens with diseases specified in the exhibit to this resolution (pp.6 p.19 the Resolution of the Governor of the Moscow region of 12.03.2020 No.108-PG (hereinafter referred to as the Resolution) as amended by the Resolution of the Governor of the Moscow region of 25.09.2020 No.420-PG).

The Volgograd region

Comments:

From September 30, 2020, the employers, carrying out activity on the territory of the Volgograd region, are recommended to make a decision on establishing the quantity of employees (p.4.14 the Resolution of the Governor of the Volgograd region of 15.03.2020 No.179):

- Subject to transfer to a remote regime of work.
- Non-subject to transfer to a remote regime of work due to the need of their direct participation in ensuring continuous technological and other processes, necessary to ensure the functioning of such organisations and individual entrepreneurs.

- In addition, the employers are advised to take measures aimed at minimizing the full-time presence of employees at the working places and it is recommended to ensure that laboratory tests are carried out in relation to the employees for the presence of a new coronavirus infection COVID-19 in the organisations admitted to conducting such studies in accordance with the legislation of the Russian Federation (p.4.15 and 4.16 of the Resolution, as amended).

The Kirov region

Comments:

From September 30, 2020, the employers, carrying out activity on the territory of the Kirov region, shall obligatory transfer citizens over 65 years old and those citizens who have diseases, the list of which is determined by the Ministry of Health of the Kirov region, with their consent to a remote regime of work or provide them with annual paid leave (p.1.11.7 the Resolution of the Government of the Kirov region of 25.03.2020 No.122-P, as amended).

Federal Level

1. Punishment for incorrect storage of documents will be toughened - the law was adopted in the third reading

The Draft Federal Law No.759112-7 "On Amending the Article 13.20 CAO of the RF"

Comments:

The State Duma has approved new sanctions for non-compliance with rules of storage, completing, accounting and use of archive documents. A warning or a fine will be imposed on the violators, whereas for the officials it will be a fine from 3 000 to 5 000 RUB, for organisations – from 5 000 to 10 000 RUB.

Now organisations are not punished for such violations, and the officials may be imposed with a warning or a fine of 300 to 500 RUB.

SberSolutions specialists would recommend complying with the established rules for storage, completing, accounting and use of archive documents.

2. There was approved a procedure for the submission of an electronic notification on a foreigner departure

The Decree of the Ministry of Internal Affairs of Russia of 14.09.2020 No.641 "On approval the form of notification on departure of a foreign citizen or a stateless person from the place of staying, the list of data contained in this notification, the requirements for its registration, the procedure for its sending to the migration registration authority, including in the electronic form, as well as the storage period for a copy of the said notification in a multifunctional center for the provision of state and municipal services or the organisation of federal postal services" (Registered in the Ministry of Justice of Russia on September 30, 2020 No.60132)

Comments:

A new form, rules and a procedure for filing a notification on the departure of a foreigner from the place of staying have been published. The document took effect on October 12.

Let's kindly remind you that it is possible to notify the Ministry of Internal Affairs on the arrival and departure of foreigners (stateless persons) from September 7, 2020 in the electronic form.

The list of data, contained in the notification on the departure of a foreign citizen and a stateless person from the place of staying remained unchanged.

The form of notification hasn't been much changed. It is distinguished from the previous form by the absence of samples of writing letters and numbers.

An employer can submit a notification on departure in the electronic form through the federal state information system "Unified Portal of State and Municipal Services".

Moreover, if the hosting party is an organisation, the notification shall be signed by an encrypted qualified digital signature.

If a notification on departure is received in the electronic form through the Unified portal, the applicant, no later than the working day, following the day of such a notification receipt by the migration subdivision, shall be provided with information on the notification acceptance, signed by an encrypted qualified digital signature of the authorized official of the migration subdivision.

3. On the website of the Mayor and Government of Moscow a service has been launched for the submission of data on employees, transferred to remote work

Comments:

According to the Decree of the Mayor of Moscow of 06.10.2020 No.97-UM the employers in Moscow shall report from 12 October 2020 every Monday on employees who are transferred to remote work and on employees who are not subject to transfer to remote work.

There has been launched a service, with the help of which employers in Moscow will have to submit the relevant data.

The service can be found by selecting the "Business Organisation" tab and then "Business Help". It is also in the "Popular" section.

What an employer needs to do:

- log in to the catalogue for business
- fill in the report form, attach the report and click the "Submit request" button

After downloading the file, a green check mark and a button "Download results file" will appear on the screen. If the information was loaded incorrectly, the system will inform thereon.

The history and status of sending can be viewed in the downloading log of the lists of employees at remote work.

Recommendation: if you are experiencing difficulties in working with the portal related to failure in the availability of the service, record technical failures for further disputing of the fine for an untimely submitted report if it is imposed. Follow the current recommendations of the mayor's office on the link: https://www.mos.ru/otvet-ekonomika-i-biznes/kak-podat-svedeniya-o-kolichestve-sotrudnikov-rabotayuschih-i-nerabotayuschih-v-period-dei-stviya-rezhima-povyshennoi-gotovnosti/

4. The Federation Council has approved the idea on increasing fines for errors in documents storage

The Draft Federal Law No.759112-7 "On Amending the Article 13.20 the CAO of the RF"

Comments:

Sanctions for violation of the rules of storage, completing, accounting or use of archive documents may be toughened.

It is planned that the amount of fine for the abovementioned violations will be:

- for citizens - from 1 000 to 3 000 RUB;
- for the officials - from 3 000 to 5 000 RUB;
- for legal entities - from 5 000 to 10 000 RUB.

In accordance with article 13.20 the Code of Administrative Offenses of the Russian Federation, the amount of fine for the abovementioned violations is:

- for citizens - from 100 to 300 RUB;
- for the officials - from 300 to 500 RUB.

So far no liability for such violations is set forth for legal entities.

Recommendation: Check how the storage and completing of documents is organized in your company, whether these processes comply with the requirements of the Federal Law of October 22, 2004 No.125-FZ "On Archival Affairs in the Russian Federation".

5. The period of notification on transition to electronic employment record books expires

The Resolution of the RF Government of 19.06.2020 No.887 "On the specifics of the legal regulation of labor relations and other relations directly connected therewith in 2020"

Comments:

By the government decree of 19.06.2020 No.887 the term for notifying employees about changes in labor laws, connected with formation of data on labor activity in the electronic form, as well as about the employee's right, by submitting an appropriate written application to the employer, to make a choice between continuing to maintain by the employer an employment record book in a paper form or providing him with information about the labor activity (in accordance with art.66.1 Labor Code of the RF) was extended until October 31, 2020.

It is necessary to notify employees in writing by delivering the Notice in person or in the ways that are set forth in the employer's local regulatory act.

The employer shall obligatory inform each employee with whom an employment agreement is concluded, including part-timers. It's not necessary to notify the persons, working under a civil agreement.

Methodologists' advice:

- Enter the relevant changes to local regulatory acts;
- Prepare documents for an employee: a notification and an application (on transition to electronic employment record book and on continuation of maintaining an employment record book in a paper format);
- Notify the employee against signature until 31 October 2020: provide the documents (notification and application) to the employee personally or send documents by the way, specified in the local regulatory acts (e.g. by email or registered post with acknowledgment on receipt);

- Specify for the employees, working remotely, in a covering letter, how and when they shall inform the employer on receipt of the notification and templates of applications (for example, by a response email or by sending a scan-copy of a signed notification);
- Control that each employee confirmed the receipt of a notification and templates of applications.

6. Electronic documents flow: from 1 October 2020 all participants of the experiment will be able to perform electronic documents flow on the “Work in Russia” portal

Information of the Ministry of Labor and Social Protection of 01.10.2020

Comments:

Maintenance of electronic documents flow on the portal “Work in Russia” has become available to all participants of the experiment on electronic HR records management. From October 1, at the end of the pilot period, all participants of the experiment will be able to perform electronic HR records management on the portal.

The department informed that now 129 employers are participating in the experiment on maintaining electronic HR records management, whereas 18 of them are using the capabilities of the “Work in Russia” portal in a trial mode. In the course of the experiment the employers have already made their proposals for improving the work of electronic HR records management on the basis of the “Work in Russia” portal.

The following improvements have been specified:

- development of standard documents templates for their use by the employers,
- the function of automatic filling of personal data of the applicant when forming an electronic employment agreement from his profile on Gosuslugi, downloading of documents using the PDF format.

Methodologists’ advice:

If you want to take part in the experiment, you shall send an appropriate application to the Ministry of Labor of Russia until December 1, 2020 (the recommended template is given in the Exhibit No.1 to the Regulation, approved by the Decree of the Ministry of Labor of May 14, 2020 No.240n "On approval the regulation on the procedure for conducting the experiment on the use of electronic documents related to work").

By itself sending of an application to the Ministry of Labor does not mean the beginning of the employer's participation in the experiment, since for this the employer shall be included into the list, approved by the Ministry of Labor.

If a decision is made not to include the employer to the participants of the experiment, the Ministry shall notify the employer on the taken decision in writing no later than three working days from the date of this decision making, indicating the reasons.

7. Adjustment of the rules of submitting data on employees, transferred to a remote regime of work

The Decree of the Mayor of Moscow of 15.10.2020 No.101-UM "On Amending the Decree of the Mayor of Moscow of 8 June 2020 NO.68-UM"

Comments:

The Moscow authorities have adjusted the rules for the submission of data on employees, working remotely.

The following provisions have been changed:

- In the absence of changes in the provided data on employees (contractors under civil agreements), the weekly submission of such information is not required. In case of changing the previously submitted data on employees (contractors under civil agreements), the data shall be updated on the day of the relevant decision making;
- You also need to submit data on employees (including contractors under civil agreements) who interchange remote work and office work, and who also work on a shift basis. The employer shall ensure that no more than 70 percent of employees (contractors) were simultaneously at the working place;
- It is possible to include into 30% of employees who were transferred to a remote regime of work, the citizens over 65 years old and employees, having diseases, the list of which is determined by the Moscow City Health Department.

8. New sanctions for wrong storage of documents

The Federal Law of 15.10.2020 No.341-FZ "On Amending Article 13.20 CAO RF"
It will come into force on 26.10.2020

Comments:

New sanctions for non-compliance with the rules of storage, completing, accounting and use of archive documents became effective since 26 October 2020.

A violation may entail a warning or a fine. The amount of fine for the abovementioned violation is:

• for citizens - from 1 000 to 3 000 RUB;

• for the officials - from 3 000 to 5 000 RUB;

• for legal entities - from 5 000 to 10 000 RUB.

Recommendation: Check how the storage and completing of documents is organized in your company, whether these processes comply with the requirements of the Federal Law of October 22, 2004 No.125-FZ "On Archival Affairs in the Russian Federation".

Migration rules

1. The Government has set forth the rate of a consular fee for issuing a single electronic visa in the form of an electronic document

The Resolution of the RF Government of 05.10.2020 No.1601
"On amending the rate of consular fees, taken by the officials for the performance of consular actions"

Comments:

The consular fee for issuing a single electronic visa in the form of an electronic document will be 40 USD. A single electronic visa in the form of an electronic document for children under 6 years old is issued free of charge.

The new rules will come into force on January 1, 2021.

2. The government has approved the list of foreign countries whose citizens are issued a single electronic visa

The Decree of the Government of the Russian Federation of 06.10.2020 No.2571-r "On the list of foreign countries whose citizens are issued a single electronic visa"

Comments:

In July 2020, the Federal Law of 15.08.1996 No.114-FZ "On the procedure for departure from the Russian Federation and arrival to the Russian Federation" (hereinafter - the Law) was amended on the procedure for issuing a single electronic visa, which gives the right to enter to the RF and stay in the RF on a guest or business visit, as a tourist, as well as to participate in scientific, cultural, social-political, economic, sports events and to carry out appropriate relations and contacts (art.25.16-1 the Law).

By the Decree of the Government, the list of foreign countries whose citizens shall be provided with a single electronic visa was approved. The list includes 52 countries. Among them, for example, Austria, Belgium, Germany, Greece, Denmark, Ireland, Spain, Italy, Cyprus, China (including Taiwan), the Netherlands, Norway, Poland, Turkey, Finland, France, Sweden, Japan.

From February 4, 2021, the certain acts of the Government of the Russian Federation were recognized as invalid, including the Decree of the Government of the Russian Federation of 14.04.2017 No.692-r "On approval the list of foreign countries whose citizens upon arrival to the Russian Federation through the checkpoints of the free port of Vladivostok are issued ordinary one-time business, tourist and humanitarian visas in the form of an electronic document".

The Decree came into force since 06.10.2020, but it will apply after the approval of other regulatory documents, necessary for the introduction of electronic visas. Thus, for example, the Procedure for issuing a single electronic visa should be established by the Government of the Russian Federation (art. 25.16-1 the Law).

3. The president has changed the list of documents, submitted by foreigners when applying for Russian citizenship in a simplified procedure

The Decree of the President of the Russian Federation of 05.10.2020 No.606 "On Amendments to the Regulation on the Procedure for Considering Issues of Citizenship of the Russian Federation, approved by the Decree of the President of the Russian Federation of November 14, 2002 No.1325"

Comments:

The decree was adopted in order to implement the provisions of the Federal Law of 13.07.2020 No.209-FZ "On Amendments to the Federal Law" On Citizenship of the Russian Federation"

and the Federal Law “On State Fingerprint Registration in the Russian Federation”. If the applicant for citizenship has a capable son or daughter who has reached the age of 18 and who is a citizen of the Russian Federation, there is no need to confirm the applicant's disability.

The decree came into force on October 12, 2020.

4. The law has adjusted the powers of the Government of the Russian Federation and the Ministry of Internal Affairs of Russia regarding issuance of permits for temporary residence in the Russian Federation to foreigners

The Federal Law of 15.10.2020 No.329-FZ "On Amendments to Article 6 and 6.1 the Federal Law “On the Legal Status of Foreign Citizens in the Russian Federation"

Comments:

The law has set forth that the Government will approve the rules for determining, adjusting and redistributing between the subjects of the Russian Federation of quotas for the issuance of permits for temporary residence in the Russian Federation to foreign citizens and stateless persons, the establishment and use of its reserve, the procedure for the distribution of the specified quota by the relevant commissions formed in the subjects of the RF.

The powers of the Ministry of Internal Affairs of Russia include the approval of the procedure for issuing a temporary residence permit, an application form for issuing a temporary residence permit, the procedure for submitting it, including in electronic form using public information and telecommunication networks, including the Internet, the portal Gosuslugi, the list of documents submitted simultaneously with the specified application, the form and description of a mark in the document proving the identity of a foreign citizen, on the temporary residence permit, the form and description of the form of the document on the temporary residence permit.

The law comes into force 90 days after the day of its official publication (published on the Official Internet portal of legal information http://www.pravo.gov.ru - 15.10.2020).

5. The Ministry of Internal Affairs has approved a new form of notification on the departure of foreigners from the place of staying and a new procedure for its sending to the migration registration authority

The Decree of the Ministry of Internal Affairs of Russia of 14.09.2020 No.641
"On the approval of the notification form on the departure of a foreign citizen or a stateless person from the place of staying, the list of data, contained in the said notification, the requirements for its registration, the procedure for sending it to the migration registration authority, including in the electronic form, as well as the storage period for a copy of the specified notification in the multifunctional center for the provision of state and municipal services or the organization of federal postal services" (hereinafter - the Decree)
Registered in the Ministry of Justice of Russia on September 30, 2020 No.60132

Comments:

From 12.10.2020 a new form of a notification on departure of a foreign citizen or a person without citizenship from the place of staying will apply (Exhibit No.1 to the Decree).

Besides that, the following documents were also amended:

- A list of data, contained in the notification on departure of a foreign citizen or a person without citizenship from the place of staying (Exhibit No.2 to the Decree);
- Requirements to the execution of a notification on departure of a foreign citizen or a person without citizenship from the place of staying (Exhibit No.3 to the Decree);

- The procedure for sending to the migration authority a notification on departure of a foreign citizen or a person without citizenship from the place of staying, including in the electronic form, as well the storage period for a copy of the specified notification in the multifunctional center for the provision of state and municipal services or the organization of federal postal services (Exhibit No.4 to the Decree, hereinafter – the Procedure).

The notification on departure can be directly sent by the receiving party to the migration subdivision - in person or in the electronic form using the federal state information system "Unified portal of state and municipal services (functions)" or through the multifunctional center for the provision of state and municipal services, or by post (p.4 the Procedure).

At the same time, some organisations (institutions) can notify the migration authorities about the departure of a foreign citizen from the place of staying using the means of communication included in the telecommunication network, in the manner set forth by the Rules for the transfer of data about arrival at the place of staying and departure from the place of staying of foreign citizens and stateless persons using the means of communication that are part of the telecommunication network (approved by the Decree of the Government of the Russian Federation of May 10, 2010 No.310).

The organisations that have such a right include (p.2 the Procedure):

- hotels and other organisations providing hotel services,
- sanatoriums, rest houses, hostels, children's health camps, tourist centers, camping;
- medical organisations providing medical care in stationary conditions,
- social service organisations that provide social services in a stationary form, including to persons without a fixed abode,
- institutions, executing criminal or administrative punishment.

A similar Decree of the Ministry of Internal Affairs of Russia of 18.03.2019 No.142 was recognized as invalid.

6. The Ministry of Internal Affairs of Russia instructed to extend visas and temporary residence permits until 15.12.2020 to foreign citizens in connection with restrictive measures

The Letter of the Ministry of Internal Affairs of Russia of 15.09.2020 No.1/10382 "On the question of temporary staying of foreign citizens and stateless persons in the Russian Federation"

Comments:

Due to the continuing action of temporary restrictions on the entry into the Russian Federation of foreign citizens and stateless persons (hereinafter - foreign citizens), the registration and issuance of visas and invitations, as well as traffic through road, rail, pedestrian, river and mixed checkpoints across the state border of the Russian Federation, and also in connection with quarantine measures introduced by foreign states, the Ministry of Internal Affairs of the Russian Federation instructed the subordinate bodies as follows:

• for foreign citizens who arrived to the Russian Federation in a manner requiring a visa to extend the validity of their visas until December 15, 2020 (p.1 the Letter);

• with respect to foreign citizens who arrived to the Russian Federation in a manner not requiring a visa, make decisions on extending the period of temporary staying until December 15, 2020 (p.2 the Letter).

This procedure is valid from September 15, 2020 and until a further notice.

7. Highly-qualified specialists from foreign citizens have the right to simultaneously have two and more effective work permits, including in case of an employer change

Information of the MIA of Russia "On a possibility to simultaneously issue several work permits to highly-qualified specialists from foreign citizens" (published on the website https://MIA.RF)

Comments:

The Ministry of Internal Affairs explains that when changing the place of work, a foreign highly-qualified specialist is not obliged to postpone employment with a new employer pending the completion of cases with a previous employer, since the current migration legislation allows such specialists with valid work permits to simultaneously have two or more permits, including when changing the employers.

At the same time, the requirements for each of the employers to submit to the territorial body of the Ministry of Internal Affairs of Russia notifications on the conclusion (termination) of an employment (civil) agreement with a highly-qualified specialist, as well as notifications on the fulfillment of obligations to pay salary (remuneration) in the amount, established by the current legislation.

8. From January 1, 2021 new forms and procedure for notifying the authorities of the Ministry of Internal Affairs of Russia on engaging foreign employees will apply

The Decree of the MIA of Russia of 30.07.2020 No.536 "On approval the form of applying of a foreign citizen (a person without citizenship) on his engagement as a highly-qualified specialist and the procedure for this form filling, as well as the form on notifying the MIA of the RF or its territorial body on performance of labor activity by foreign citizens (persons without citizenship) on the RF territory", registered in the Ministry of Justice of Russia on 19.10.2020 No.60442

Comments:

The Decree of the Ministry of Internal Affairs approved the forms of the following migration documents and instructions for their filling (submission):

- the form of an application of a foreign citizen (stateless person) on his engagement as a highly-qualified specialist, the procedure for its filling;
- the form of a notification on the employment of a foreign citizen (stateless person) by an organisation, providing services of foreign citizens (stateless persons) employment on the territory of the Russian Federation, the procedure for submitting such a notification;
- the form of a notification on the performance by employers and customers of work (services) of obligations to pay salary (remuneration) to highly-qualified specialists and the procedure for a notification submission;
- the form of a notification on the conclusion of an employment agreement or a civil agreement for the performance of works (provision of services) with a foreign citizen (stateless person);
- the form of a notification on the termination of an employment or a civil agreement for the performance of works (provision of services) with a foreign citizen (stateless person);
- the procedure for employers or customers of works (services) to submit notifications about the conclusion and termination of an employment or a civil agreement for the performance of works (provision of services) with a foreign citizen (stateless person).

The previously valid Decree of the Ministry of Internal Affairs of Russia of 04.06.2019 No.363 shall become invalid from January 1, 2021 in connection with issuance of the Decree of the Government of the Russian Federation of 07.24.2020 No.1110.

Arbitration

1. The Supreme Court has recognised as partially invalid the form No.P14001 “Application on changes entry to the USRLE data”

The Decision of the Supreme Court of the RF of 15.09.2020 No.AKPI20-481 “On satisfaction of the administrative claim for the recognition as partially invalid the form No.P14001, approved by the order of the Federal Tax Service of Russia of 25.01.2012 No.MMB-7-6/25 @"

Comments:

Background

The administrative plaintiff, who is the sole participant of LLC “Sila Sveta”, made a decision that the company would continue to act on the basis of the standard charter No.35, and submitted a package of documents to the IFTS, including an application on the form No.R14001, for registering the transition of LLC “Sila Sveta” to the standard charter No.35. By the decision of the IFTS, which was subsequently left unchanged by the decisions of higher tax authorities, it was denied in the state registration of changes of data about the legal entity contained in the Unified State Register of Legal Entities (hereinafter – the USRLE). The plaintiff applied to the court with an administrative claim for the recognition of partially invalid the form No.P14001 "Application for amending data of a legal entity contained in the USRLE" (Exhibit No.6), approved by order of the Federal Tax Service of January 25, 2012 No.MMB-7-6/25 @”.

Position of the Supreme Court

The Decree of the Ministry of Economic Development of Russia of 1 August 2018 No.411 approved 36 standard charters on which ground limited liability companies may carry out their activity, and this regulatory legal act came into force since 24 June 2019.

According to paragraph 2 clause 23 the Administrative Regulation for the provision by the FTS of a state service on state registration of legal entities, natural persons in kind of individual entrepreneurs and peasant (farm) households, approved by the decree of the Ministry of Finance of Russia of 30 September 2016 No.169n, in case of entering changes to the USRLE, relating to the data that the legal entity will perform on the ground of a standard charter, specified by pp.”e” p.1 art.5 the Federal Law “On state registration of legal entities and individual entrepreneurs”, for the provision of the state documents it’s necessary to submit to the tax inspection the documents, listed in p.22 the Administrative Regulation, along with a decision of the participants of the legal entity on the fact that this legal entity will carry out activity on the ground of the standard charter.

At the same time, the approved by the FTS form No.P14001 “Application on entering changes to data on the legal entity, contained in the USRLE” wasn’t actualized in compliance with requirements of the mentioned federal laws and interdependent regulatory legal acts in the system of legal regulation, which provide the right to a legal entity to carry out activity on the ground of a standard charter and the need for timely recording of such data in the USRLE. As it follows from the provided materials, the form No.P14001, used in the law-enforcement activity of the registering authority, may not be applied within the state service provision on registration of changes entering into the Register, relating to the data that such a legal entity will carry out activity on the ground of a standard charter, since no relevant additional content is specified therein.

Therefore, in the system of the applicable legal regulation the form of the application No.14001 doesn’t allow to perform state registration of changes of the legal entity data, contained in the USRLE, if the participants of the legal entity made a decision that this legal entity will carry out activity on the ground of a standard charter.

Consequently, the specified legal regulation doesn’t comply with the aforesaid regulatory legal acts which prevail, and it violates the rights of the legal entity which participants made a decision

that this legal entity will carry out activity on the ground of a standard charter.

Taking into consideration the abovementioned the Supreme Court of the RF has recognised as invalid the form No.P14001 “Application on entering changes to data on the legal entity, contained in the USRLE” (exhibit No.6), approved by the decree of the FTS of Russia of 25 January 2012 No.MMB-7-6/25@, to the extent that this form of the application in the system of the applicable legal regulation doesn’t allow to perform state registration of changes in the data on the legal entity, contained in the USRLE, in the event of making a decision by the participants of the legal entity that it will act on the ground of a standard charter.

The form is recognized as invalid from the date of the court decision entering into legal force, i.e. after the expiration of the time limit for the appeal, if the decision is not appealed, or after the court has considered the appeal, if the contested decision of the court is not canceled (p.1 art.186 the Code of Administrative Court Procedure of the RF). An appeal can be filed within one month from the date of the final decision making by the court (art.298 the Code of Administrative Court Procedure of the RF).

Let us kindly remind you that since 25 November 2020 new forms of documents for legal entities registration will come into force. In particular, the new form No.P13014 “Application on state registration of changes, introduced to the foundation documents of the legal entity, and (or) on entering changes to the legal entity data, contained in the USRLE” contains a column for entering data on the company transition to the standard charter (Decree of the FTS of Russia of 31.08.2020 No.ED-7-14/617@ “On approval the forms and requirements to execution of documents, submitted to the registering authorities within state registration of legal entities, IEs and peasant (farm) households”).

Civil law

1. The Ministry of Justice of Russia has approved the procedure for performing notarial actions remotely, which will become effective from December 29, 2020

The Decree of the Ministry of Justice of Russia of 30.09.2020 No.232 "On approval the Procedure for sending an application for the performance of a notarial act remotely, making payment for a notarial act, including using electronic means of payment, return to the applicant of the amount of payment for performing a notarial act remotely, as well as interaction of the applicant or his representative, who applied for a notarial act remotely, and a notary", registered in the Ministry of Justice of Russia on 05.10.2020 No.60217

Comments:

From December 29, 2020, notaries will have the right to perform some notarial actions remotely, the corresponding changes were introduce in December 2019 to the "Fundamentals of the legislation of the Russian Federation on notaries", approved by the SC of the RF on 11.02.1993 No.4462-1 (approved by the Federal Law of 2019 No.480-FZ).

The following actions can be performed remotely:

- certification of the correctness of a translation,
- transfer of documents of natural persons and legal entities to other natural persons and legal entities,
- accepting cash and securities on deposit,
- deposition by a notary of movable items, non-cash funds or uncertified securities,
- collection of monetary amounts or claiming of property from the debtor,

- acceptance of documents for storage (in terms of storage of electronic documents),
- actions of a notary to provide evidence (in the form of reviewing information located in the information and telecommunications network "Internet"),
- issuance of an extract from the register of notifications on the pledge of movable property,
- certification of the equivalence of an electronic document made by a notary in a different format to an electronic document submitted to a notary.

The Fundamentals provide for the following procedure while performing notarial acts remotely (art.44.3 the Fundamentals):

In order to perform a notarial act remotely, the applicant or his representative sends to the Federal Notary Chamber through the unified information system of notaries, including using a single portal of state and municipal services, an application for the performance of a notarial act remotely with the attachment of documents established by laws of the Russian Federation in the electronic form.

The specified application is signed with an enhanced qualified electronic signature of the applicant or its representative, which is verified by a notary in accordance with the Federal Law No.63-FZ of April 6, 2011 "On Electronic Signatures".

The Federal Notary Chamber sends the received application for the performance of the notarial act remotely and the attached electronic documents to the notary, who has automatically declared its readiness to perform the corresponding notarial act remotely.

The order of the Ministry of Justice determines the procedure for sending to the Federal Notarial Chamber an application for performing a notarial act remotely, the rules for making payment for a notarial act and refunding the amount of payment for completing a notarial act remotely, as well as interaction between the applicant / its representative who applied for the notarial act remotely and the notary.

The applicant has the right to choose the place where the notarial act is performed remotely by specifying the notarial district or the subject of the Russian Federation, and in the cases established by law it shall choose the place where the notarial act is performed remotely by specifying the notarial district.

The Order of the Ministry of Justice of Russia of 28.04.2017 No.68 "On approval the Procedure for sending an application to a notary in the electronic form for issuing an extract from the register of notifications on the pledge of movable property" was recognised as invalid.

2. In Moscow, the procedure for submitting information on employees, transferred to a remote regime of work, has been clarified; entry to nightspots in Moscow will be carried out by a QR code or a phone number

The Decree of the Mayor of Moscow of 15.10.2020 No.101-UM "On amending the decrees of the Mayor of Moscow of 8 June 2020 No.68-UM"

Comments:

The Decree has adjusted the procedure for the submission of data on employees, transferred to a remote regime of work (p.11.3 the Decree No.68-UM, as amended):

- In the absence of changes in data provided in accordance with this clause about employees (contractors under civil agreements), weekly submission of such data is not required. When data on employees (contractors) is changed, the updated information is submitted on the day the relevant decision making.
- In case of organizing a regime of work which provides for interchange of a remote regime of work and performance of a labor function at the working place, as well as a shift regime

- of work, when submitting the data specified in this clause it's necessary to indicate all employees (contractors), with respect to those corresponding decisions have been made. While making such decisions it shall be ensured that no more than 70% of employees (contractors) were simultaneously at the working place.

Besides that, during the period from 19 October to 1 November 2020 (p.14.1 the Decree):

visiting nightclubs (discos), night bars, venues for similar entertainment events, in which, among other things, services are provided for holding such entertainment events (hereinafter - the entertainment activities), the working period of which provides for rendering of relevant services from 00:00 to 06:00 am, under the stipulation that visitors and employees of organisations and individual entrepreneurs, engaged to the entertainment activities, pass the registration procedure for a visit using a special electronic service on the official website of the Mayor and the Government of Moscow or by sending a message to a special short number 7377 in the manner set forth by the Information Department of Moscow which is necessary, among others, for the subsequent receipt of notifications on possible contact with a patient with a new coronavirus infection (2019-nCoV) when visiting the indicated places.

Information "How an organisation can receive a QR-code for the registration to enter to public places" is published on the official website of the Mayor of Moscow (https://www.mos.ru/otvet-ekonomika-i-biznes/kak-organizacii-poluchit-qr-kod-dlya-registracii-prohoda-v-obschestvennye-mesta/)

3. The government has extended since 07.10.2020 the moratorium on the initiation of bankruptcy proceedings against certain debtors, operating in the most affected sectors of the Russian economy for 3 months

The Decree of the Government of the Russian Federation of October 1, 2020 No.1587 "On the extension of the moratorium on the initiation of bankruptcy proceedings upon an application of creditors in relation to individual debtors" (hereinafter - the Resolution)

Comments:

From 07.10.2020 the validity period of the moratorium on the initiation of bankruptcy proceedings at the request of creditors in relation to organisations and individual entrepreneurs, the code of the main type of activity of which, in accordance with OKVED, is indicated in the List of sectors of the Russian economy, most affected by the worsening of the situation in the result of the spread of the new coronavirus infection, approved by the Decree of the Government of the Russian Federation of April 3, 2020 No.434 (p.1 the Resolution).

At that, the type of activity shall be determined by organisations and individual entrepreneurs by the code of the main type of activity, data on which is contained in the Unified State Register of Legal Entities or in the Unified State Register of Individual Entrepreneurs as of March 1, 2020 (p.2 the Resolution).

The essence of the moratorium is that applications of creditors declaring the debtor as a bankrupt in relation to persons subject to the moratorium, filed with the arbitration court during the moratorium, are subject to return by the arbitration court without consideration (p.2 art.9.1 the Federal Law "On Bankruptcy").

For the duration of the moratorium in respect of debtors to whom it applies (p.2 art.9.1 the Federal Law "On Bankruptcy"), the following certain features are in effect:

- the obligations of the debtor to file an application of the debtor in the arbitration court and the citizen on the filing of the citizen's application for his recognition as a bankrupt are suspended (art.9 and p.1 art.213.4 the Federal Law "On Bankruptcy");
- it is not allowed to satisfy claims of the founder (participant) of the debtor on the allocation of a share in the property of the debtor in connection with withdrawal from its founders

- (participants), redemption or acquisition by the debtor of outstanding shares or payment of the actual value of the share;
- it is not allowed to terminate the debtor's monetary obligations by offsetting a counter claim of the same kind, if it violates the order of satisfaction of creditors' claims established by the Federal Law “On Bankruptcy”;
- seizure by the owner of the debtor’s property - a unitary enterprise of the property belonged to the debtor is not allowed;
- it is not allowed to pay dividends, income by shares, as well as distribution of profit between the founders (participants) of the debtor;
- foreclosure on pledged property is not allowed, including in the out of court procedure;
- the enforcement proceedings on property foreclosures on claims arising before the introduction of the moratorium are suspended (it does not remove the arrests of the debtor's property and other restrictions on the disposal of the debtor's property imposed in the course of enforcement proceedings).

Any person who is subject to the moratorium has the right to declare a refusal to apply moratorium in relation to it by entering data thereon to the Unified Federal Register of Bankruptcy Data (p.1 art.9.1 the Federal Law "On Bankruptcy").

4. The measures against the spread of the coronavirus infection have been strengthened in the Moscow region since October 21, 2020

The Decree of the Governor of the Moscow Region of 19.10.2020 No.463-PG "On Amending the Decree of the Governor of the Moscow Region of 12.03.2020 No.108-PG" On the introduction in the Moscow Region of a high alert regime for the governing bodies and forces of the Moscow regional system for the prevention and elimination of emergency situations and some measures to prevent the spread of the new coronavirus infection (COVID-2019) in the Moscow region"

Comments:

From October 21 to November 7, 2020 (inclusive) it is prohibited on the territory of the Moscow region to conduct leisure, entertainment, cultural, exhibition, educational, advertising and other similar events with the full-time presence of citizens, including in buildings, construction, structures (premises) with the exception of the established cases, and the visits of citizens to museums, reserve museums and palace and park museums are suspended, with the exception of cases of their visiting for the purpose of walking on their territories.

Currency control

1. The Government has approved a list of services in the provision of which residents have the right not to credit their bank accounts in the authorized banks with a foreign currency in the event of offsetting counterclaims for obligations, arising from foreign trade agreements concluded between residents and non-residents

The Resolution of the Government of the Russian Federation of 23.09.2020 No.1516 "On approval the list of services in the provision of which residents have the right not to credit to their bank accounts in the authorized banks a foreign currency or the currency of the Russian Federation in the event of offsetting counterclaims for obligations arising from foreign trade agreements (contracts) concluded between residents and non-residents, the terms of which specify provision of services to non-residents"

Comments:

From January 1, 2021, amendments to the Federal Law of December 10, 2003 No.173-FZ "On Currency Regulation and Currency Control" will come into force, according to which residents have the right not to credit a foreign currency or the currency of the Russian Federation to their bank accounts in the authorized banks when conducting offset of counterclaims for obligations arising from foreign trade agreements (contracts) concluded between residents and non-residents, the terms of which specify provision of services to non-residents, included into the List of services, approved by the Government of the Russian Federation upon agreement with the Central Bank of the RF (hereinafter - the List).

The List includes the following services:

- software publishing (OKVED code 58.2);
- software publishing (OKVED code 62.01);
- data processing activities, provision of information placement services and related activities (OKVED code 63.11);
- higher education (OKVED code 85.22).
- services for the production of computers and peripheral equipment; individual operations of the production process of computers and peripheral equipment performed by a subcontractor (OKPD code 26.20.9);
- services for the production of communication equipment, performed by a subcontractor (OKPD code 26.30.9);
- services for the provision of licenses for the right to use computer software (OKPD code 58.29.5);
- services in the field of higher education (code OKPD 85.22).

Comments on this issue prepared by:

Irina Chuchkova, Veronika Tikhonravova.
Accounting and tax accounting

Olga Olshevskaya, Chekh Marina
HR recordkeeping

Natalia Kuzmina, Vera Levina
Payroll

Veronika Tikhonravova,
Migration rules, Arbitration, Civil law, Currency control

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.

28