

NEWS FROM THE RUSSIAN FEDERATION

- 1. A Custom Code of the Custom Union came into force**
- 2. The regulations for notarial document management have been modified**
- 3. The rate of quota on issue of invitations for entry into the Russian Federation to foreign citizens is specified**
- 4. Invoices with indexes specified in foreign currencies and in rubles should be drawn up in accordance with the applicable laws**
- 5. The procedure of accounting exchange differences by payers using simplified tax system has been clarified**

1. The Customs Code of the Customs Union comes into force

On 1 July 2010 the Customs Code of the Customs Union came into effect. With regard to this the procedure used to confirm the actual export of goods for the purpose of applying zero rate VAT was explained. If the goods were placed under the customs regime prior to 1 July 2010 and exported through Kazakhstan outside of the Customs Union or to Kazakhstan, the actual export mark is filled in by Russian customs authorities at the Russia-Kazakhstan border. Herewith the actual date of export is of no importance.

If the goods were placed under the customs regime after 1 July 2010, the actual export is confirmed in accordance with a procedure similar to the procedure for the export of goods from the territory of the Union State of Russia and Belarus. If the goods are exported through Kazakhstan, the mark is filled in by the customs authorities of this country. The customs authorities of Orenburg have been authorized to create the archive of documents concerning goods exported through Kazakhstan and to distribute such documents on demand.

2. The regulations for notarial document management have been modified

From 1 July 2010 all Russian notaries should use a standardized form with specific protection ratings when performing legally relevant actions.

After 1 July 2010, other forms now being used by notaries when performing notarial actions should no longer be used. Documents certified by notaries and drawn up prior to the date specified on plain paper or forms for notarial actions shall be considered as being duly executed and not subject to replacement by documents drawn up on new forms.

3. The rate of quota on issue of invitations for entry into the Russian Federation to foreign citizens is specified

Order No. 456 dd. 18 June 2010 of the Ministry of Public Health and Social Development of the Russian Federation was registered at the Ministry of Justice on 18 July 2010. This Order resulted in an increase in the number of invitations in the Central, North-West, South, North-Caucasian, Privolzhsky, Ural, Siberian and Far East federal districts. The reserve of quota for Russia was

reduced from 181,840 to 175,338 invitations.

4. Invoices with indexes specified in foreign currencies and in rubles should be drawn up in accordance with the applicable laws

The tax authority confirmed that invoices with indexes specified in foreign currencies and in rubles should be drawn up in accordance with the applicable laws (Federal Tax Service Letter No. 37-3/6194 dd. 8 July 2010).

Specifically, they may be drawn up as stated above provided the price for the goods under the terms of the contract is expressed in foreign currency but payment is to be effected in rubles at an equivalent rate.. According to Clause 2 Article 169 of the Tax Code of the RF, the invoice is to be used as the basis for confirming the amount of the deductible tax produced by the seller to the buyer. Failure to meet requirements in relation to the invoice not stipulated by Clauses 5 and 6 of this article may not be the basis for refusal to accept amounts of deductible taxes produced by the seller.

5. The procedure of accounting exchange differences by payers using simplified tax system has been clarified

The Ministry of Finance of the RF in Letter No. 03-11-06/2/109 dd. 9 July 2010 specified the procedure for accounting exchange rate differences by tax payers using simplified tax system with profit-making taxable goods and services when obtaining loans in a foreign currency.

According to the Ministry, the Tax Code of the RF does not contain provisions for determining the procedure for recognition of proceeds and costs in the form of positive and negative exchange differences paid by tax payers operating with cash.

In its turn, recalculation of property represented in the form of currency values into rubles according to the official exchange rate established by the Central Bank of the RF should be performed for the purpose of organization of accounting of revenue evaluated in rubles. Thus, positive exchange differences connected with the recalculation of debt liabilities in the form of a loan received in a foreign currency shall be accounted by the borrowing organization using simplified tax system as of the date of termination of debt liability on repayment of a loan considering interest or the last day of the reporting period whichever occurs first.

NEWS FROM UKRAINE

1. The procedure of public supervision over business activities has been changed

2. The procedure of accreditation of separate divisions of foreign legal entities on the territory of the Ukraine may be changed

3. Cooperation between taxpayers and tax authorities will be improved

4. The procedure for preparation of information concerning activities on registering holder of registered securities

1. The procedure of public supervision over business activities has been changed

On 1 July 2010, Verkhovna Rada of the Ukraine passed the law On Amendment of the Law On Basic Principles of Public Supervision (Control) in the Field of Economic Activity. One of the primary innovations of the law is a substantial reduction in the number of regulatory authorities.

According to the law, there may be only one regulatory authority in the central authority of the executive branch. Currently, 79 regulatory authorities operate in the Ukraine.

A new standard has been introduced according to which a business entity has up to one month with which to correct any violations. As occurs quite often today, inspectors provide only 3-5 days with which to correct violations. In addition, the list of grounds by which extraordinary measures concerning public supervision may be taken has been increased by one (that is accident, death of victim as a result of accident or an occupational health disease).

Adoption of the Act confirms equal time periods for fulfilling the executive order by a business entity. At the legislative level the Act introduces the standard that the functions of public regulation (control) should be fulfilled only by central authorities of the executive branch and stipulates that business entities should render assistance in relation to the elimination of hazards constituting danger to life (health) of employees.

2. The procedure of accreditation of separate divisions of foreign legal entities on the territory of the Ukraine may be changed

Verkhovna Rada of the Ukraine has taken on the project On Introducing Amendments into Several Legislative Acts of the Ukraine concerning Accreditation of Separate Divisions of Foreign Legal Entities as a basis. Draft Law No. 5148 has suggested introducing accreditation of representative offices and branches of business entities and enter information on such subdivisions into the Unified State Register of legal and natural bodies – entrepreneurs.

The suggested system of accreditation includes public authorities vested with the function of ensuring implementation of public policy in the field of foreign economic activity in the course of implementation of activities in corresponding branches of economy by foreign legal bodies on the territory of the Ukraine. A procedure has also been provided according to which the specified authorities may carry out their accreditation and issue a document on their accreditation on the territory of the Ukraine.

Under such conditions, members of Verkhovna Rada consider that accreditation of separate divisions of foreign legal entities on the territory of the Ukraine is to consist of public registration in accordance with the Act On Public Registration of Legal Entities and Natural Bodies - Entrepreneurs.

3. Cooperation between taxpayers and tax authorities will be improved

In accordance with State Tax Administration Order No. 499 which came into force on 12 July 2010, the new Unified format of transport communication with regard to information exchange via telecommunication channels using electronic digital signature is approved.

The exchange of information between taxpayers and tax authorities in accordance with the document may be affected by way of transferring documents in electronic form by use of electronic media (diskette, flash drive) as well as telecommunication channels. Requirements relating to encryptic protection of information, requirements relating to structure of a data transport message which is transferred by telecommunication channels as well as requirements to the structure of data transport container for transmission of documents to the tax authority have been specified.

The Unified format of a data transport message supports all operating types of electronic documents of information exchange. Order No. 213 dd. 24 April 2009 of the State Tax Administration of the Ukraine approving a similar document had expired.

4. The procedure for preparation of information concerning activities on registering holder of registered securities

On 1 July 2010, Resolution No. 380 dd. 7 April 2010 of the State Committee on Securities and Stock Exchange On Approval of Amendments to the Provision on Preparation of Administrative Data Regarding Registration of Holders of Registered Securities and Provision of Documents to the State Committee on Securities and Stock Exchange has come into effect.

The provision defines the procedure for preparing administrative data concerning activities on registration of holders of registered shares by Registrars and Issuers as well as terms and procedure for providing corresponding documents to the Committee. According to the amendments, the notions of holder of equity stake and nominee shareholder of equity stake are differentiated. Information provided by registrars of the State Committee on Securities and Stock Exchange is divided into quarterly and intermittent bases. The notion of intermittent information is being changed. The amendments introduce the following notions: nominee shareholder of equity stake, date of appearance of intermittent information and entered information.

Electronic form of documents containing intermittent information is transferred via e-mail as of the date of its appearance. Paper documents containing intermittent information are presented together with monthly documents. The registrar (issuer) bears responsibility for the failure to provide full and / or adequate information

If you are interested to obtain more detailed advice concerning the above matters, please do not hesitate to contact our specialist in Moscow, Saint-Petersburg or Kyiv office of Smithbridge or the person with whom you usually deal.

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