A REVIEW OF TAXATION REGULATORY DOCUMENTS ISSUED IN THE PERIOD OF JANUARY–FEBRUARY 2014

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New trends in Russia's fiscal legislation emerged and developed in the period under review, January thru February 2014. First of all, having adopted the International Financial Reporting Standards (IFRS),[1] Russia is facing the challenge of approximating the existing schemes for the determination of tax bases provided for by the Tax Code of the Russian Federation to the rules for the calculation of revenues and expenditures provided for by the IFRS. There is a second factor which may have an effect on reforming the fiscal framework, i.e. the amendments to the Civil Code of the Russian Federation which were initiated by previous Russia's President D. A. Medvedev. The effect of the amendments to the Civil Code of the Russian Federation on fiscal relations (under a draft law "On Making Amendments to the Federal Law On Limited Liability Companies as Related to the Procedure for Distribution of Profits" which is being under discussion until 21.02.2014)[2] needs extra studying. The new Common Reporting Standard (CRS) commissioned by G20 and prepared by the OECD is going to be an important measure to prevent tax evasion, i.e. instead of providing data by request of tax authorities, it will be provided automatically when certain criteria are met (for example, when the balance of an account has reached $250,000, etc.)[3].

1. The International Financial Reporting Standards (IFRS) are universally accepted standards for accounting and reporting despite that under the applicable law and regulations in the Russian Federation they are only applied to banks, insurance companies, and organizations whose securities are listed in regulated markets. Therefore, due to the Russia's accession to the World Trade Organization (WTO), these standards will gradually replace the Russian Accounting Standards (RAS). The Ministry of Finance of Russia and the Federal Tax Service of the Russian Federation (FTS of Russia) have a lot of work to do to integrate the IFRS methods into the Russian rules for tax base assessment. Of course, this objective is not critical for the time being, because Russia's fiscal legislation just correlates with rather than relies on the RAS. It was designed this way so that fiscal law and regulations have no effect on the amount of taxpayers' tax liabilities. Anyway, there is close relationship between accounting and taxation. In making decisions on further production and investment activities, participants (shareholders) are also governed by the degree of tax burden on their business. Therefore, contradictions and inconsistencies in terminology and definitions should be detected and transcribed (for example, realization, revenues and expenditures etc.).

There are more serious challenges that will be difficult to deal with. For instance, the definition of consolidated group (consolidated financial statements under the IFRS) and principles of consolidation which under IFRS 10 don't allow consolidation of the parent company and its subsidiaries engaged in co-financed investment in the same investee[4]. This issue has so far been addressed exactly the opposite in the Russian

1 See the Federal Law of 27.06.2010, No. 208-FZ "*On Consolidated Financial Statements*". Consolidated financial statements are to be prepared in addition to accounting statements in banks, insurance companies, and organizations whose securities are listed in regulated markets. The statements will be subject to submission to participants including shareholders of an organization and the Central Bank of Russia beginning with the statements for the year following a year of its adoption, but not earlier than the statements for 2015. Согласно the Russian Government's Regulation of 25.02.2011 the decision to introduce the international standards document on the territory of the Russian Federation was made with regard to the document as a whole. The Information Letter of the Ministry of Finance of Russia explains that the official website contains a Consolidated Version of the IFRS which includes the complete text of the IFRS which is duly accepted for the execution on the territory of the Russian Federation and contains all the amendments made to the standards in 2013.

2 The information is included into the expert analytical reports made by IC ConsultantPlus. See ConsultantPlus: Legal News. Special Issue. "Amendments to the provisions set forth in the Civil Code of the Russian Federation on transactions, establishment, meetings' resolutions, time limit for claims, etc. (the Federal Law of 07.05.2013, No. 100-FZ)": "2... LLC's participants may come to be entitled to appropriate the entire profit of the company, not just its net profit ....There is a plan to entitle participants of the limited liability companies to share the LLC's entire profit, not only its net profit as provided for by the applicable legislation. Respective amendments are to be made to the provisions set forth in Clause 1, Subparagraph 7, Paragraph 2, Article 33 of the Federal Law of 08.02.1998, No. 14-FZ "On Limited Liability Companies" (hereinafter referred to as "the LLC Law"), regulating the appropriation of profit among the participants of a company. The initiatives contain a draft prepared by the Ministry of Finance of Russia in conjunction with the Ministry of Economic Development of Russia".

3 Т. Едовина, О новом стандарте обмена информацией о налогоплательщиках kommersant.ru/doc/2407402 от 14.02.2014 г. [T. Edovina. On a new Common Reporting Standard (CRS), kommersant.ru/doc/2407402 of 14.02.2014],. The new Common Reporting Standard (CRS) will be approved by G20 in Sydney as soon as next week – it is expected to be introduced until the end of 2015.

4 See IFRS 10, п. B101: "B 101. When an entity become s an investment entity, it ceases to consolidate its subsidiaries at the date of the change of status except for any subsidiary that it is required to continue to consolidate in accordance with clause 32." (i.e. save for subsidiaries that provide services that relate only to the investment entity's own investment activities).

Federation: no limits are imposed on consolidation for the purpose of taxation of revenues and expenditures of the parent company and its subsidiaries, above all, when it comes to hydrocarbon production.

Here are some facts to support. First, the Russian legislation contains what is called "Investment partnership" which is regulated by the Federal Law of 28.11.2011, No. 335-FZ "On the Investment Partnership"[1] and imposes no limits whatsoever on joint investment activity of the parent company and its subsidiaries within an investment partnership. Second, the applicable Tax Code of the Russian Federation opts dividends out of the scope of consolidation[2], whereas other terms of consolidation encourage consolidation of the parent company and its subsidiaries for the purpose of alleviating the tax burden. Consolidation requires a huge stakeholding in the capital (at least 90%)[3]. Other consolidation criteria are more abstract: total share of VAT on internal turnover is at least Rb 10bn, revenues at least Rb 100bn, total assets at least Rb 300bn[4]. Given the fact that under Clause 4, Article 105.14 of the Tax Code of the Russian Federation transactions between members of the same consolidated group of taxpayers may not be deemed to be consolidated, "save for transactions with a produced mineral resource subject to the mineral extraction tax whose production is taxable at a tax rate established in percentage terms"[5], transactions on hydrocarbon production between related parties a priori don't include any controlled transactions. Therefore, the currently existing profit tax scheme grants exclusive privileges for alleviating the tax burden on profits through consolidation of revenues and expenditures of related parties producing hydrocarbons, thereby opting them out of the framework of transactions which are supervised by tax authorities in the context of setting market prices. And this scheme, in our opinion, isn't quite in line with the consolidation principle provided for by the IFRS. It is understood that profit tax allowances for consolidated taxpayers producing hydrocarbons can to a certain extent be explained by the presence of mineral extraction tax which determines costs per unit of a produced mineral resource and constitutes a sort of rent payments. However, rent payments should allow the manufacturer to generate average market rate of return in a market-driven economy. We believe, therefore, that opting transactions between related parties producing hydrocarbons (even where the mineral extraction tax is applied) out of the supervision of tax authorities, providing the opportunity for unlimited consolidation of revenues and expenditures of the parent company and its subsidiaries creates an economically unreasonable profit tax privilege for extracting monopolies and no barriers to the emergence of channels for tax evasion such as recognizing subsidiaries' losses incurred from foreign trade transactions.

Regrettably, the adopted Russian version of the IFRS lacks a clear definition of co-financed investment in an investee, thereby giving rise to questions. For instance, investment in the natural resource development under the terms of a product-sharing agreement entered into between the parent company and its subsidiaries is co-financed investment in an investee or a common production? What about obtaining a production license for a mineral deposit by the parent company and subsequent development of the deposit by its subsidiary? As a reminder, the answer to these questions will determine the opportunity for consolidation of revenues and expenditures of the parent company and its subsidiaries for the purpose of determining a profit tax base if the IFRS's principles of consolidation are embedded into the Tax Code of the Russian Federation.

The issue of determining a tax base in case of applying for tax purposes the rules provided for by IFRS 9 which regulates the assessment of revenues and expenditures on transactions with derivatives will need further analysis. There is a problem here, i.e. the IFRS apply the same rules for the assessment of private income to common investors and organizations as professional participants. The IFRS rely on market values rather than the assessment of revenues on a cash basis. It is specific methods of classifying revenues and expenditures as part of transactions and the rules for market-value appraisal of assets and liabilities that is the essence of accounting schemes of revenues and expenditures under the IFRS. As a reminder, the Tax Code of the Russian Federation recognizes a priori the actual transaction value (save for related parties) as the market value between independent counterparties. Unless Russian manufacturers and administrators of budget revenues master the way of making financial statements provided for by the IFRS, there is no point to give up the applicable the Tax Code of the Russian

1 Investment partnership is referred to a simple partnership agreement.

2 According to Paragraph 1, Article 278.1 of the Tax Code of the Russian Federation, the consolidated tax base contains no revenues of the participants in the consolidated group of taxpayers, which are subject to withholding tax at source (dividends) and the tax base which is subject to tax rates other than those established by Clause 1, Article 284 of the Tax Code of the Russian Federation (this clause establishes a total tax rate of 20%).

3 Article 25.2 of the Tax Code of the Russian Federation.

4 Ibid, Clause 5.

5 According to Subparagraphs 9–15, Paragraph 2, Article 342 thereof, rates for hydrocarbons are actually determined in rubles as per production unit in physical measures, i.e. no hydrocarbon production whatsoever is to be included into the transactions covered by tax authorities.

Federation, because it is fairly autonomous and defines the market value upon completion of a transaction. In our opinion, however, the tax allowances granted under the Tax Code of the Russian Federation to large producers of hydrocarbons which explicitly allow extracting monopolies and their subsidiaries to keep their revenues at their own disposal and reduce the tax base of the federal budget and regional budgets should be revised. In our opinion, making adjustments to tax bases following the IFRS's principles embedded in the Tax Code of the Russian Federation will help increase budget revenues through the application of the internationally accepted rules for the determination of market value and consolidation principles.

2. There is another group of changes to the income tax rules which can be made due to the adjustment to the basic relations in the Civil Code of the Russian Federation. Let's consider this in the context of a draft federal law "On Making Amendments to the Federal Law "On Limited Liability Companies" with Regard to the Procedure for Distribution of Profits". In our opinion, the draft law is the authors' attempt to develop, using JSCs as an example, new universal schemes of taxation of revenues amid changes to the legal framework regulating ownership relations within the frameworks of the Civil Code of the Russian Federation.

The amendments made by the Federal Law of 07.05.2013 No. 100-FZ[1] to the Civil Code of the Russian Federation offer quite a utilitarian approach towards ownership protection: a transaction which is settled in contravention of the Law isn't deemed to be illegal and automatically void but subject to legal proceedings, i.e. is deemed to be disputed. Such a radical change to approaches toward ownership relations has some reasons – the court only will investigate into disputed transactions, thereby allowing business's risks associated with declaring all related transactions illegal and void to be mitigated. Invalidating an illegal transaction or driving the same to a situation under which it is otherwise brought in accordance with the Law becomes an option the parties may chose during an adversary legal procedure.

In that context, having detected a violation of the law in the transaction, the tax service isn't entitled to dispute the same (only the parties to transactions are allowed to do that). At the same time, however, accepting the results of such a transaction, tax authorities assume the risk of incorrect calculation of budget revenues at lower levels (to where 80% of profit tax revenues are appropriated). Therefore, in our opinion, the Ministry of Finance of Russia has found it unreasonable to give up calculating net profit of OJSCs (using editorial and technical peculiarities of the legislation on OJSCs) and allocate prior to profit tax the entire sum as difference between revenues and expenditures (gross profit). In fact, it implies giving up on the classic profit tax, the transition to a general scheme of taxation of total income, which can hardly be beneficial for the Russian Federation at the present stage of its economic development.

Let's illustrate the situation. Suppose the entire profit of a legal entity is shared among its participants (founders) and the revenue, having passed through a chain of sharing, is ultimately taxed on end beneficiary parties as physical bodies. Indeed, this seriously simplifies the system of taxation much simpler in technical terms and allows legal uncertainties to be avoided in calculating taxable profit of the legal entity. However, the newly created value (the very same GDP) is consisted of two main components, namely the investment income – return on investment (the difference between the revenue and aggregate costs) and the staff compensation – revenue posted to manufacturing costs. At present, the Russian Federation has both types of income which are subject to taxation as budget tax revenues, while withholding tax on payments of dividends is subject to the terms of international double taxation conventions, i.e. nonresidents are withheld taxes to the budget at the source of dividends.

Russia is a federal state. Giving up on calculation of taxable income generated on the territory of a region will deprive regional budgets[2] of legal resources as tax on the profit generated at the source of investment income. Should such a scheme have been implemented, regions would have costly personal income tax (personal income tax) withheld from salaries and wages of those employed on a given territory, property tax, and some other taxes which are insignificant for regional budgets. Personal income tax, property tax, and other taxes have nothing to do with the results of entrepreneurial activity. A tax on a "new type of dividends" will be withheld at the domicile of nonresident recipients of dividends (foreign organizations and physical bodies), i.e. outside the territory of the Russian Federation. Since capital fleeing the Russian Federation, the proposed scheme may be regarded as an attempt to transform the Russian market fiscal framework to a some kind of colonial taxation scheme under which the entire investment income is withdrawn from the territory of a colony, save for earned income tax (however, costs are normally subject to minimization). In

1 The Federal Law of 07.05.2013, No. 100-FZ "On Making Amendments to Subparagraphs 4 and 5, Paragraph I, Clause 1, and Article 1153 of Part 3 of the Civil Code of the Russian Federation".

2 And, maybe, to Russia's budget revenues generated from investment of capital if such capital is owned by a non-resident.

our opinion, the Ministry of Finance of Russia should analyze its proposals more thoroughly.

In our opinion, since the colonial taxation scheme doesn't fit Russia, profits from entrepreneurial activity must be subject to taxes withheld at the source of such profits, i.e. in the Russian Federation, and once the profit tax is paid, net profit may be paid as dividends as it is currently the case.

3. There is another issue which Russia's monetary authorities have been trying to address – countermeasures against offshore zones which are used for tax free (or minimal tax burden) appropriation of profits generated on the territory of a state within another state which offers a preferential tax treatment. Retained revenues of organizations – Russian taxpayers (in so far as it relates to refunded depreciation) – which are subsequently provided with the same sums as interest-bearing loans; other speculations for the purpose to withdraw incomes[1]; transfers to foreign trusts from physical bodies and legal entities (trusts are based on temporal transfer of ownership to third parties, except that trust management relations are not regulated by the civil legislation in the Russian Federation) with subsequent provision of the same funds as interest-bearing loans or for the purpose of speculations in the stock exchange are only a few of absolutely legal channels designed to avoid taxation. Such channels often lead to a formal position of judicial bodies treating fiscal relations as derivative of civil law relations. In its Ruling of 16.07.2013 No. 3372/13 on the case No. A33-7762/2011 the Presidium of the Superior Commercial Court of Russia gave straightforward explanations that only judicial procedure of collecting additionally charged taxes is mandatory when tax authorities re-qualify the transaction.

As a result, it is not always that tax authorities can prevent capital leaking under transactions whose adverse fiscal effects are evident, and given that such transactions are deemed to be legally legitimate, they aren't subject to control by the Federal Financial Monitoring Service of Russia. Detected facts of deformed tax burden should, in our opinion, be considered a reason for making instant amendments to the Tax Code of the Russian Federation. The practice shows that it is only explicitly defined wording in the Tax Code of the Russian Federation that has so far proved effective for restraining channels designed to avoid taxation.

Considering the objective set by the President of Russia – counteract capital transfer to offshore zones, – financial government agencies has brought up the question of introducing the concept of resident with respect to Russian organizations[2]. This implies that Russia is claiming that any Russian resident's revenues generated through permanent establishments, trusts, and other forms of stakeholding in foreign residents should be subject to taxation. In other words, this is an attempt to impose taxes on offshore revenues on the capital of Russian organizations and physical bod-

1 For example, operations with bills: counterparties have exchange bills, the Russian resident has honored the bill, whereas the foreigner has failed to do that, and the Russian resident has charged the loss to reserves created from pre-taxed profits. Therefore, the latter has transferred cold "cash" out the country and reduced the tax base in Russia. Bills can be replaced with mutual loans in the scheme. The use of such tax avoidance schemes is possible in no small part to the position of highest judicial bodies. For example, the Supreme Commercial Court of the Russian Federation (SCC Russia), considers legal automatic offset of reciprocal claims for the purpose of tax base assessment required by tax authorities. See The Ruling of the Presidium of the Supreme Commercial Court of the Russian Federation of March 19, 2013, No. 13598/12 which was communicated by Letter of the Ministry of Finance of Russia and the FTS of Russia of 24.12.2013 No. CA-4-7/23263 on the Review of Tax Hearings at the Highest Judicial Bodies in 2013. In fact, the position of the SCC of Russia brings to naught the objective of preventing tax-avoiding transfers to offshore zones. Despite that the Civil Code of Russia provides for no obligation to offset mutual claims of counterparties by court, the SCC Russia encharged tax authorities to accrue taxes irrespective of whether or not the counterparties have mutual liabilities, even though netting of such liabilities would result in a fair level of tax burden. This creates protection for abusive taxpayers. In our opinion, amendments to redress the injustice resulting in the infringement of interests of good faith taxpayers should be made to the Tax Code of the Russian Federation.
The practice shows that introducing special provisions into the text of the Tax Code of the Russian Federation is basically the only efficient method of counteracting tax avoidance. For instance, in its Letter of 23.12.2013, No. 03-08-05/56706 the Ministry of Finance of Russia explains that Article 269 of the Tax Code of the Russian Federation prohibits Russian organizations as borrower to charge interest paid under a credit agreement to the expenses. Interest is accepted for deduction with regard to controlled indebtedness. Controlled is deemed to be indebtedness to a foreign company holding more than a 20% stake in the borrower or to such company's affiliate, except that the Russian borrower's indebtedness is three times its equity. An interest the borrower has paid over the estimated amount is not accepted as expense and re-qualified as dividends.
In paying interest (including interest re-qualified as dividend) to a foreign organization, the Russian borrower is acting as fiscal agent and must accrue, withhold, and remit the profit tax to the budget (Subparagraphs 1 and 3, Paragraph 1, Article 308, Paragraph 2, Article 310 of the Tax Code of the Russian Federation). In paying interest income, including that re-qualified as dividend, to Russian organizations, the Tax Code of the Russian Federation specifies no obligation for the fiscal agent, therefore the Ministry of Finance of Russia explained that in internal relations these revenues must not be subject to profit tax at source. As one may see, formal grounds lead to absolutely different tax consequences under similar transactions, thereby trespassing against the principle of neutrality and equity of taxation.

2 lenta.ru 30.01.2014 г. «Минфин предложил обложить налогом зарубежные «дочки» российских компаний». [Minfin suggests that Russian companies' foreign "subsidiaries" should be subject to taxation].

ies. Will it help increase tax revenues? There is little chance for this: any capital invested in foreign residents' shares or credited to accounts with foreign banks is automatically subject to immunity granted to their fiscal residents under the law and regulations of such states. The experience of US tax authorities is a good illustration of the fact that this problem cannot be resolved single-handedly: let's recall the story about a long-lasting battle between the US tax authorities and Swiss banks, which came to the point that Swiss banks' managers had to spend their vacation in Switzerland in fear of being held responsible under the US laws for condoning US residents' money transfers to and concealing income in offshore banks. The United States imposed a 30% tax withholding US residents' funds transferred to anonymous beneficiaries. A similar scheme was introduced in the Russian Federation last year, i.e. a 30% tax must be withheld from transferred dividends (interest), if no beneficiaries have been identified.

Economic authorities in the developed countries realize that such a solution is based on free-market relations. This is why the new Common Reporting Standard (CRS) was commissioned by G20 and developed by the Organization for Economic Cooperation (OECD). The Standard is intended to automatically exchange information between tax authorities. This is, in our opinion, the best possible approach, first, because it is cheaper than other means of collection information, second, it ensures the transparency and therefore legitimacy of capital residence.

Russia has been active in cooperating with the international community in terms of adopting the information exchange standard, because it should negotiate the rules for determining the budget revenues base without entering into a conflict with economic interests of other countries in determining their budget revenues base. It helps to remember that the Russian Federation's level of development differs from that of the OECD countries. Since the Russian budget system was basically intended to automatically prevent sweeping loss of budget revenues amid crisis, it should be reformed with an abundance of caution. At present, although the prevailing two-pillar system of determining profit tax bases in the Russian Federation doesn't make taxation an obstacle to capital outflow (which is unacceptable in the context of international market), it is still able to temper the inflow of speculative capital to the domestic market of commodities (works, services), ensuring separate assessment of taxable incomes generated from production and in the financial market. Profits generated from the production of mineral resources, manufacturing of goods (works, services) are not reduced by losses from financial operations. Of course, businesses would like to aggregate losses in the financial market with sales proceedings, e.g. hydrocarbons, but it is still an exceptional risk for the Russian budget system. The tax system scheme prevailing in the Russian Federation is in agreement with the information exchange standard and is only applied on its own territory. In our opinion, this scheme should be retained.

Following listed are the explanations and information letters of tax authorities and other federal agencies, as well as reviews of the tax-related rulings issued by highest judicial bodies in the period under review, which, in our opinion, are worth emphasizing.

4. The Letter of January 22, 2014 No. ЕД-4-2/738@ issued by the Ministry of Finance of Russia and the FTS of Russia explains the procedure for the application of the Russian Government's Regulation of 25.08.2012 No. 851 "On the Procedure for Federal Executive Bodies to Disclose Information on the Preparation of Draft Laws and Regulations and the Results of Their Public Discussion" in preparing laws and regulations of the Federal Tax Service of Russia. In particular, it is specified that notifications on the preparation of such laws and regulations are available on http://regulation.gov.ru. The FTS of Russia considers proposals posted on the website.

5. The Federal Anti-Monopoly Service of Russia (FAMS of Russia) Explanations of 24.01.2014 on the execution of the provisions of Article 15 of the Federal Law of 26.07.2006 No. 135-FZ "On the Protection of Competition" are worth noting. The FAMS of Russia specified, among the actions in providing public services constraining the competition, a service provision fee which is not provided for by the law and related by-laws adopted by the constituent territories of the Russian Federation and municipal legal acts. In particular, the FAMS of Russia explained that under Clause 7, Article 29 of the Federal Law "On Public and Municipal Services" from February 1, 2011 actions of organizations engaged in providing public or municipal services associated with charging the fee for the provision of public (municipal) service may be recognized as violation of Paragraph 9, Clause 1, Article 15 of the Federal Law "On the Protection of Competition", if such a fee is not provided for by the Federal Law "On Taxes and Levies", adopted federal laws, other related by-laws of the Russian Federation, legal acts adopted by the constituent territories of the Russian Federation, municipal legal acts.

6. The FTS's Letter of 21.01.2014 No. GD-4-3/607 explains that consistent with the amendments made

to the Russian-Cypriot Double Taxation Agreement, the income from immovable property shall also cover the income generated through real estate trusts, real estate unit funds or similar collective forms of investment (Clause 5, Article 6 thereof).

Therefore, the income of a resident of the Republic of Cyprus from sale of investment units of a close-end unit fund whose property includes immovable property located on the territory of the Russian Federation, subject to the provisions of Clause 1, Article 13 thereof, shall be subject to taxation in the Russian Federation.

The FTS of Russia should avoid using the "trust" term in its legal acts and letters, because the legislation of the Russian Federation has no definition of "trust-based relations" (a legal scheme of property trust management is applied in the Russian Federation).

7. For the purpose of transferring excise revenues to regional budgets, the Ministry of Finance of Russia in its Letter No. 02-08-05/1596 and the Treasury of Russia in its Letter No. 42-7.4-05/5.4-36 of 20.01.2014 provided updated revenue distribution rates on oil products, as well as furnace oil: from January 1, 2014 excises on oil products are to be transferred 28% to the federal budget, 72% to the budget of the constituent territories of the Russian Federation (except that withholdings from constituent territories' budget revenues to local budgets must be at least 10% under the laws of the constituent territories). The furnace oil excise is to be paid in full (100%) to the budget of the constituent territories of the Russian Federation.

8. The Russian Government Executive Order of February 10, 2014, No. 162-r approved a roadmap for "Enhancing Tax Administration".

The list of measures includes important innovations, such as the FTS of Russia's publishing of explanations of the applicable reference intra- and inter-documentary relations allowing taxpayers to detect and correct errors prior to the submission of tax returns (computations) on different taxes and levies to supervisors; not holding taxpayers liable for failure to comply with time limits for the submission of tax returns in case of failure to timely publish changes to reporting forms (through extending the period of submission of accounts for a period of delay of publishing) or in case of the taxpayer timely submitting accounts according to the previously approved form; extending the terms of submission of tax accounts (five days, and 10 days for e-reporting); expanding the scope of e-interaction between taxpayers and tax authorities; studying the possibility to introduce the institute of "preliminary fiscal consultancy" on the assessment of business situations; developing a draft federal law regulating fiscal consulting and fiscal consultants' liability, keeping it optional for being used by taxpayers; approximating fiscal accounting and book-keeping; simplifying fiscal accounting, eliminating provisions interfering with the use of rules similar to the accounting rules for the purpose of determining a corporate profit tax base; considering the possibility to apply the declarative principle on refunding the value added tax (within the limits of previously paid value added tax for the preceding year) etc.

9. In its Letter of 30.01.2014 No. BS-4-11/1561@ the FTS of Russia explained that upon a voluntary medical insurance agreement between an insurance company and employer for the benefit of an employee, the employee shall be entitled to social tax deduction on the personal income tax on the ground of insurance contributions withheld directly from the employee's wage.

10. The Review of Tax Hearings at the Presidium of the Supreme Commercial Court of the Russian Federation (SCC Russia), the Supreme Court of the Russian Federation (SC Russia), as well as interpretation of the provisions of the law on taxes and levies provided in the rulings of the Constitutional Court of the Russian Federation (CC of Russia) in 2013 was presented in the Letter of the Ministry of Finance of Russia and the FTS of Russia of December 24, 2013, No. CA-4-7/23263 for the purpose of communicating tax authorities and taxpayers on rulings issued by highest judicial bodies on the key issues of taxation and reduction the number of legal proceedings. The review includes abstracts of most essential rulings on all taxes adopted in 2013, as well as fiscal control and taxpayers' liability for breaching the tax legislation.

Where the position of highest judicial bodies differs from the position set forth in the laws and regulations issued by the Ministry of Finance of Russia and the FTS of Russia, the position of the latter is deemed to be changed from the date of a ruling issued by the former.

11. The Letter of the Ministry of Finance of Russia and the FTS of Russia of January 29, 2014, No. GD-4-3/1410@ provides a detailed explanation of how to apply a new system of measuring the level of depletion of a subsoil area $C_в$ ($C_в = N/V_o$), determining initial recoverable reserves (V_o), cumulative production (N) for the assessment of mineral extraction tax for crude oil. Additionally, the Letter explains that cumulative oil production on a specific subsoil area (including production losses) for a reporting period of taxation

is determined on the basis of the data of the national register of mineral reserves approved for the previous reporting year (N_{t-1}). The calculation method $C_{вt}$ ($C_{вt}$ = $=N_{t-1} / V_o$) for a respective year allows taxpayers to individually apply it for the assessment of mineral extraction tax for 2013.

In simplified form, the mineral extraction tax rate for a particular subsoil area will be determined as (a ruble-denominated mineral extraction tax rate established by the Tax Code of the Russian Federation for the respective year t) x (free market oil price dynamics factor) x ($C_{вt}$).