AN OVERVIEW OF NORMATIVE DOCUMENTS ON TAXATION ISSUES FOR APRIL–MAY 2014

L.Anisimova

Over the period under consideration it became evident that the already existing economic problems created by the negative effects, in the sphere of foreign politics, of the Crimea's incorporation into the Russian Federation have been further aggravated by the deterioration of Russia's domestic economic situationu. While it had been officially declared that no further steps would be taken to increase the tax burden, the period under consideration saw a continuation of the practice of introducing new bans and constraints for individuals and legal entities alike, as well as legislative consolidation of some additional responsibilities to perform work and render services for the benefit of the power structures. We believe that this practice gives rise to an additional economic burden on citizens and commodity producers, and so it can be regarded as a hidden form of mandatory payments to the power structures.
As far as the sphere of interbudgetary relations is concerned, the RF Government intends, instead of reinstating the regions' revenue base, to replace their debt to banks by loans granted from the federal budget, thus maintaining their complete economic dependence on the federal center and enabling the latter to continually influence the political situation in regions by managing their debt burden and imposing sanctions for accumulated debt.
If can hardly be possible to reverse the negative trend in Russia's economic development without altering the current government policy; besides, that policy has given rise to some new economic risks at the level of interregional relations.
During his meeting with the heads of biggest Russian and foreign companies and business associations in the framework of the St. Petersburg International Economic Forum (SPIEF) (which took place from 22nd to 24th May 2014), RF President Vladimir Putin put forth a number of new ideas aimed at business promotion, as well as some proposals concerning changes to be introduced in the taxation system. It is planned that the core package designed to improve the business climate in Russia will be prepared by the end of 2014.

At the recent SPIEF, as part of the principal measures designed to alter the existing tax policy, RF President Vladimir Putin put forth a proposal concerning the introduction of a combination of mechanisms for rendering support to those enterprises that were implementing best available ecologically safe technologies with methods based on tax incentives aimed at ousting outdated and environmentally harmful equipment (by way of imposing an increased tax burden on outdated equipment). The President explained that in 2015, a revaluation of all production assets will take place, and in 2015–2016 – a specially targeted estimation of workplaces at the enterprises operating in industry, transport and communications in order 'to identify facilities that use outdated equipment, have dangerous or unsafe working conditions, or pose potential environmental hazards and risks. We will impose additional taxes on outdated production facilities'[1]. By way of rendering support to newly established enterprises, it is suggested that they must be granted tax exemptions within the sum of capital investment made by these new enterprises at the time of their creation'[2]. Vladimir Putin then said that by the year-end 2014 it is planned to submit to the State Duma a package of draft laws prepared within the framework of roadmaps for implementing the national entrepreneurial initiative[3]. The timelines for preparing these draft laws have been dramatically shortened – previously, this task was to be completed only by 2018. The package was to consist of some 160 draft laws designed to improve the business climate in Russia.

At the same time, we believe that little success can be achieved in promoting business development in Russia if the methods applied in accomplishing this task should envisage only the creation of proper incentives. Russia currently offers very complicated conditions for businesses where any independent competitive entrepreneurial activity is difficult. So, if the situation is in no way changed, it will become unprofitable to operate in RF territory, investment outflow will be on the rise.

Over the period under consideration, in response to the introduction of international sanctions against the Russian Federation, the power structures in Russia began to increasingly interfere with the economic policy issues: there were proposals to cancel the sales of rocket engines to the USA, for Russia to withdraw from international space exploration projects, or to

1 See itar-tass.com/ekonomika/1210245 as of 23 May 2014.
2 See itar-tass.com/ekonomika/1210228 as of 23 May 2014.
3 See itar-tass.com/ekonomika/1210300. The list of roadmaps is established by Regulation of the RF Government of 6 September 2012, No 1613-r (as amended on 10 May 2014, No 789-r).

close down the GPS stations in RF territory. Ambitions are also beginning to prevail over common sense in the Federal Assembly during the approval of new economic laws: a distinct bias has become visible towards legislative acts designed to impose some new bans and constraints on the economic activities of certain foreign organizations operating in RF territory, as well as to envisage sanctions for their violation[1]; the deputies are refusing to pass the law on the interaction between Russian banks and the IRS[2] in the framework of FATCA[3], which has already been approved by Russia's top economic government departments (the RF Ministry of Finance and the RF Central Bank), explaining their decision by the necessity to introduce 'adequate' measures in regard of foreign banks[4], while at the same time ignoring the fact that a refusal to interact in the FATCA framework will result in the correspondent accounts of Russian bank kept with the Old World's biggest banks being liquidated. In other words, the routine conduct of any standard settlements and payments by Russian organizations in the framework of their international trade and international relations will be rendered absolutely impossible (the scale of Russian and US banking systems being incomparable).

In our opinion, the personal emotions of government officials and lawmakers must not influence the real economic policy – as any 'adequate' responses to the imposed sanctions in the form of 'ejection' from the Russian market of its foreign participants, market 'closure', or Russia's economic self-isolation will be extremely harmful in the present situation.

Any attempts to 'respond' to the externally imposed sanctions by means of a voluntary refusal to sell our competitive commodities (or work, or services) on the world market can, in reality, result only in Russian producers being ousted from their already secured positions, and so such a decision, in terms of economics, can be described as a fundamental error.

One more factor complicating the current situation in the Russian economy is the debt issue. A debt-based economy offers no opportunities for earning money, because everything is being snatched away either for the purpose of debt redemption, or by way of sanctions imposed for failure to properly redeem debt. A situation where market agents may shift their debts onto the government (when the latter buys out corporate liabilities at the expense of government funds), whereupon these debts are written off ('redeemed'), among other things, by way of money emission ('quantitative easing') can only be possible in the phase of economic growth. In face of a downward trend, money will simply flow away, towards other jurisdictions where economies are on the rise – that is, where 'money can be earned'.

The majority of regional budgets across RF territory are burdened with debt. These are, in the main, ruble-denominated loans taken from banks with state participation. And the banks with state participation (state corporations) have been issuing bonds – including bonds denominated in world currencies – in order to keep their current ratio at an acceptable level. And in an event of a default, these bonds issued by banks with state participation will be redeemed at the expense of RF property, including the RF Central Bank's gold and foreign currency reserves. So, the RF Ministry of Finance's attempt to 'manage' regional budgets through the mechanism of debts and penalties may re-

1 It should be remembered that the legislatively established requirement that the international payment systems Visa and MasterCard must create mandatory reserves equal to the amount of their money transfers into the RF within 2 days, with mandatory fines in the amount of 10% of the contribution for each day of delay (see T. Romanova, Bitaya karta [A Trashed Card], lenta.ru/articles/2014/04/30/ as of 30 April 2014) only resulted in an announcement, by these systems, that the prospects for their operation in RF territory looked unpromising, and that the possibility was high that they would withdraw from Russia. In the end, the attitude displayed by the international payment systems urged the lawmakers to introduce new amendments to legislation whereby the right to impose fines and set the amount of their contributions was to be delegated to the RF Government or the RF Central Bank (see Gosduma uberet trebovaniia k Visa i MasterCard iz zakona [The State Dume Will Remove the Requirements for Visa and MasterCard from the Law] at lenta.ru/news/2014/05/22/visa, 22 May 2014). The standpoint of the RF Government on that issue was explained by Alexey Moiseev, RF Deputy Minister of Finance in his interview with Olga Bychkova, a radio host from Ekho Moskvy [Echo of Moscow] radio station. See the interview at echo.msk.ru/programs/beseda/1325288 as of 22 May 2014: 'On 5 May, the RF President signed Federal Law No 112, whereby it is envisaged that all the settlement operations conducted via plastic cards should use the infrastructures situated in RF territory. We are now preparing some logical amendments with regard to settlements between banks…. We must ensure that the physical infrastructure should be situated in RF territory. Nothing more than that. No nationalization, no bans … and no self-isolation ... We are – and have always been – for Russia to remain an integral part of the world economy and the world financial system'.

2 Internal Revenue Service is the US supreme tax administration.

3 Foreign Account Tax Compliance Act.

4 'The State Duma is threatening banks with imprisonment for their cooperation with the USA. In the nearest future, the job of a department head in a bank who is responsible for data transfer under FATCA will become a dangerous occupation', see izvestia.ru/news/571205 of 22 May 2014. The deputies have warned about sanctions to be imposed on those bank officials who will make data on US taxpayers available to the US tax agency without that right being first consolidated by Russian laws. As the Izvestia newspaper has found out, Chairperson of the State Duma Committee on Financial Markets Natalia Burykina said that 'sanctions will be introduced against those bank personnel for violations of bank secrecy legislation — in accordance with the RF Criminal Code. She also noted that if the USA should choose to impose sanctions to Russian banks for their failure to comply with the provisions of FATCA (in the form of 30% withheld from the sum of payments made by US citizens), Russia would 'mirror' these measures and impose similar sanctions against US banks.

sult in direct losses for the treasury. The majority of regions will not be able to repay their debts, while their current tax-generated revenues are being 'pumped' out of their budgets in the form of interest and penalties paid against their debts to various creditors. As we have already noted many times, one of Russia's present-day key goals is the liquidation of deficit in regional budgets and reinstatement of their own revenue base. However, the federal authorities are in no hurry to endow the regions with their independent revenue base, because this will bring down the level of regions' manageability from the federal center.

Meanwhile, the accumulated debt issue undermines the relations between RF regions. Thus, Moscow's attempts to invite organizations to operate in its territory, by means of offering them a reduced rate of the profits tax (13% vs. 18%) – in addition to the already existing inflow into its budget of personal income tax (PIT) paid by Moscow enterprises for their employees residing or having a permanent residence registration in other RF regions – have given rise to very negative attitudes, because many of the regions burdened with social obligations are forced to borrow money in order to fulfill these obligations, thus running out of proper source for funding their own economic development. This fact, among other things, was pointed out by President Vladimir Putin, who noted that it was an unacceptable policy to delegate obligations to regions and local governments without providing them with the funds needed for fulfilling such obligations.

Another manifestation of the regions' unpreparedness to put up with their differentiation in terms of their ability to independently dispose of their own resources was their attitude to the preferential economic treatment granted to the Crimea in the field of taxation. Kaliningrad Oblast asked to be granted similar treatment[1]. Any attempts to soften the financial problems posed to regional budgets by the necessity to fulfill their social obligations, as outlines in the RF President's May 2012 edicts, by means of replacing bank loans as the sources for covering their budget deficit by loans granted from the federal budget will improve nothing from the point of view of the real situation, if these debts are not simply written off later on[2].

The recent developments in Vologda Oblast have also taken a non-standard course. That region's government refused to fulfill its guarantees issued to agricultural producers against loans granted to them by VTB Bank[3]. According to representatives of the government of Vologda Oblast, VTB Bank made formal errors when presenting its request for the transfer of guaranteed payments. President of the Association of Russian Banks Garegin Tosunyan believes that the conflict between the region's current government and its previous leaders, which has taken the form of a refusal to recognize the previous government's guarantees and initiation of judicial proceedings, creates an undesirable precedent for the market. Such a situation may repeatedly reproduce itself in the future, thus giving rise to problems with bank loan repayment.

Government officials, while seemingly speaking in favor of market development, at the same time introduce new bans and responsibilities for individuals and legal entities under the pretext of struggling against terrorism, and impose fines for failures to comply with the new rules[4]. In our opinion, the legislative norms

1 P. Netreba. L'goty navsegda. Kaliningrad Oblast khochet krymskikh preferentsii. [Privileges Are Forever. Kaliningrad Oblast Wants to Be Granted the Same Preferential Treatment as the Crimea]. See kommersant.ru/doc/2469716 of 14 May 2014

2 It should be reminded that the Russian Federation, quite recently, wrote off the huge debts, denominated in world currencies, owed to her by Afghanistan, Cuba and the Democratic People's Republic of Korea (DPRK), and so it appears strange that the RF government has chosen to keep the 'debt noose' on the neck of RF regions.

3 VTB demands half-a-billion rubles from Vologda authorities. Experts say that the refusal of regional authorities to pay under their own guarantees is unprecedented. See izvestia.ru/news/571060 of 20 May 2014.

4 See, for example, Federal Law No 110-FZ of 5 May 2014, whereby more alterations are introduced in the rather notorious Federal Law of 7 August 2001, No 115-FZ 'On Preventing Legalization (Laundering) of Incomes Received by Criminal Methods, and Financing of Terrorism', including some new sanctions and fines.

See Federal Law of 5 May 2014, No 97-FZ 'On Introducing Alterations into Federal Law of 27 July 2006, No 149-FZ "On Information, Information technologies and Information Protection" and Some Legislative Acts of the Russian Federation on Issues Regulating Information Exchange with the Use of Information and Telecommunications Networks'. This Law established that popular bloggers (whose websites register 3,000 or more visits per day) should be treated as mass media companies and obliged then to store in RF territory, for a period of 6 months, information on the facts of receipt, transmission, delivery and (or) processing of voice information, written text, images, sound or other electronic messages from Internet users, and also information on those Internet users, and to make that information available to the empowered government bodies involved in investigation activity or safeguarding the Russian Federation's state security. A failure to comply with the rules will entail the imposition of fines and other sanctions.

See Federal Law of 5 May 2014, No 130-FZ 'On Introducing Alterations into Federal Law of 3 April 1995, No 40-FZ 'On the Federal Security Service', whereby the rights of the Federal Security Service were expanded, the responsibility for terrorist activities and special training for the purpose of engaging in terrorist activities toughened, and some new penalties and sanctions introduced. Thus, in particular, administrative responsibility is established for rendering financial support to terrorism (Article 15.27.1 of the Russian Federation Code of Administrative Offences), the amount of fine being from Rb 10m to Rb 60m for legal entities; fines were also introduced for failures to failure to comply with the decision of the collegial body coordinating and organizing the anti-terrorist activity. See also some other laws adopted in the period under consideration.

envisaging the provision of mandatory work and services to the government power structures and budget-funded organizations by individuals and legal entities represents a form of additional mandatory payments in unspecified amounts, which are not stipulated in the RF Constitution. In fact, this has given rise to a situation where market subjects must collect and process operative data, spend their own money on it, employ additional staff and pay their salaries, and if they fail to comply with the newly introduced burdensome requirements and do not provide gratis work and services, they will be faced with high-ceilinged penalties (a scheme which, according to the RF Constitutional Court, contradicts the RF Constitution) and resulting elevated financial risks.

Thus, the additional legislative constraints and obligations imposed on market subjects boost the amount of unjustified costs for commodity producers, with the simultaneous growth of financial risks associated with operation in RF territory. All this undermines the competitive potential of Russia's economy and has a destructive effect on the investment climate. We believe that Russia at present is faced with a fundamentally different task – that of securing broad support from the international and domestic business communities, as only these two forces, when acting in conjunction, can be capable of softening the sanctions and finding acceptable ways for boosting growth in the Russian economy.

The declining competitive capacity of the RF economy in the world market also manifests itself in the increasing pressure on Russia's domestic economic policy being exerted by the other members of the Customs Union (CU). Thus, Belarus is more strongly expressing her opinion that the export customs duty on oil (when it is exported beyond the territory of the Customs Union) should not be linked to the country of origin of a given natural resource. If Belarus, after buying crude oil from Russia without an export duty, exports it to countries outside of the Customs Union, the relevant amount of export duty must them be transferred the RF budget. So, Belarus insists that the export duty should be lifted, and the rate of tax on mineral resources extraction raised as early as 2015 (previously, thus measure was planned to be introduced much later). In such a situation, Belarusian tax residents will be able to buy oil at Russia's domestic market price, while the relevant export duty in the event of its sale elsewhere will remain in в Belarus's budget. The unification of export duty, which envisages a reduction of Russia's export duty approximately to Kazakhstan's level – by 4.7 times to 80 USD/ton, coupled with cancellation of the claims to Belarus that she should transfer the relevant export revenues to the Russian budget, will translate itself into a loss of approximately $ 33bn per annum for Russia's treasury, according to RF Deputy Minister of Finance Sergey Shatalov[1]. He believes that such a 'maneuver' will result in a surge of oil and gasoline prices in Russia's domestic market. However, the government maintains that the integration with Belarus into a single market space will ensure for Russia some economic gains on another level.

The continuing step-by-step transformation of civil legislation creates gaps in the law enforcement system, where sectoral laws have not been brought in conformity with the RF Civil Code (RF CC). In such a case, law enforcement practice in the field of taxation should be based on explanatory notes issued by the RF Ministry of Finance and the RF Federal Tax Service (RF FTS) as well as on corresponding judicial decisions. Thus, by Federal Law of 5 May 2014, No 99-FZ, amendments were made to the RF Civil Code whereby a new definition of the term 'juridical person' was established, and the notions of corporation, commercial corporate organization, corporate agreement, public and non-public societies, production cooperatives, non-commercial corporate organization, etc. were introduced. So, the specific features of taxation of these new legal forms of entrepreneurial activity will need to be explained.

By alterations introduced into the RF Labor Code (RF LC) by Federal Law of 5 May 2014, No 116-FZ employees are allowed to 'lend' their employees on a temporary basis to other individual or legal entities under special agreements established for this form of 'lending', and the format of entrepreneurial activity in this sphere is described. So far, only some general amendments have been introduced in this connection into the RF Tax Code (RF TC): the appointment of personnel by a foreign organization to work at another organization is not to be considered an establishment of a standing representative office of the former, if that personnel acts exclusively on behalf and in the interests of the latter[2]. Evidently, later on the specific regulations will be issued in regard to managing the revenues and expenditures, tax base and the mechanism for paying tax on the operations carried on during a temporary period of an organization's employees' work for the benefit of a third party, because this is an entirely new system of eco-

1 D . Koptiubenko. Rossiia nachinaet nalogoviy manevr v 'neftianke' radi Lukashenko [Russia to Launch a Tax Maneuver in the Oil Sector for the Sake of Lukashenko]. See rbc.ru/economics/11/05/2014/922974 of 11 May 2014.

2 The exceptions from this rule are determined in Item 2 of Article 306 of the RF Tax Code and are to be applied to activities involving the use of mineral and natural resources, construction, assembly, servicing, maintenance and exploitation of equipment, and sale of goods from warehouses situated in RF territory.

nomic relations for the Russian Federation, with no history of its legal application.

Auditors have identified one very interesting new problem. Thus, in the draft of Item 6 of Article 66 the RF Civil Code it is envisaged that 'government bodies and local self-government bodies have no right to participate in their own name in economic associations and societies'. This innovation will make it difficult to apply the norms stipulated in Article 80 of the RF Budget Code (RF BC), whereby it is established that 'granting of budget-funded investment to juridical persons other than government or municipal institutions and government or municipal unitary enterprises shall give rise to the right of government or municipal ownership to an equivalent part of the charter (or share) capital of the said juridical persons, to be formalized as the participation of the Russian Federation, subjects of the Russian Federation, and municipal formations in the charter (or share) capital of such juridical persons' 'granting budgetary investments to legal entities that are not state or municipal institutions or state or municipal unitary enterprises involves the emergence of the right of state or municipal ownership of the equivalent part of the authorized (pooled) capital of the said legal entities to be legalized by the participation of the Russian Federation, its constituent entities and municipal entities in the authorized (pooled) capital of such legal entities'[1]. In actual practice, the participatory share of the State in charter capital was by no means always legally formalized, which was a violation of Article 80 of the RF Budget Code. In this connection, while such organizations obtained some funds on a gratis basis (as their charter capital remained unchanged, and the amount of the state stake was not specified), they did not pay the profits tax on these funds, and the unlawfulness of such acts is confirmed by Ruling of the Supreme Arbitration Court of the Russian Federation (RF SAC) of 30 July 2013, No 3290/13. Evidently, it will be the task of the Federal Financial Monitoring Service (Rosmonitoring) to investigate the instances of improper use of budget funds, and to identify the facts and causes of violations of Article 80 of the RF Budget Code, as well as to elaborate measures designed to properly regulate the current situation.

Some newly adopted laws point to the fact that, so far, no technically perfect solution has been provided in regard to the issue of combined application of budgetary and tax legislation in those cases when the right to spend budget allocations (not subsidies, but budget funds allocated in the framework of government target programs) is delegated by a branch ministry to non-commercial organizations (NCO), which effectively begin to perform the functions of manager of budget-funded investment acting in its own name.

Thus, by Federal Law No 108-FZ of 5 May 2014, No 108-FZ, a new exemption is introduced from the profits tax. The edited version of the amended text is rather tricky. Obviously, it has been planned to create yet another non-commercial organization in support of Russian national cinematography and its competitive potential. This new organization will receive funding, which will enable it to act as a share partner in the production of movies shot on RF territory, or to cover the costs incurred in their creation. In this connection, this non-commercial organization will evidently secure a sort of 'reward' or benefit (the law applies the term 'deductions') when transferring the relevant sum of money to the recipient of funding (film producer). This amount will be entered in the non-commercial organization's records as targeted funding, and it will be made exempt from profits tax if its source is a budget allocation.

In accordance with the RF Budget Code, non-commercial organization functioning in the form of budget-funded or autonomous institutions are granted subsidies from the budget to the conduct of their charter activity (fulfillment of government assignments). They receive budget-funded investment (budget allocations) only to cover the cost of newly established government property, and not a kopeck of that funding may be spent by a budget-funded institution on its own upkeep. Budget-funded investment, in terms of economics, is essentially not a subsidy granted to a budget-funded (or autonomous) institution so that it would be able to pursue its activities. If film production is qualified as budget-funded investment, what sort of 'deductions' from it can actually be made for the benefit of a non-commercial organization? And who will be giving permission for such 'deductions' from budget-funded investment? From whose balance sheet will these be written off? The RF Budget Code offers no such mechanism for distributing budget allocations. If subsidies are meant, to cover the costs of the non-commercial organization's activity, why then the term 'deductions' is applied? In this connection, we believe that this law needs further elaboration in order to improve its quality. The non-commercial organization in question will probably not be able to take advantage of this exemption until the issue is properly clarified by judicial bodies.

In addition to the aforesaid normative documents, the period under consideration also saw the issuance of the following ones.

In connection with the ratification, by Federal Law of 5 May 2014, No 86-FZ of the UNIDROIT Convention

1 A. Korotkov, auditor. Nezakonnoe finansirovanie gosudarstvom kommercheskinh organizatsii na sotri milliony rublei [Unlawful Financing, by the State, of Commercial Organizations to the Value of Hundreds of Billions Rubles]. See echo.msk.ru/blog/korotkov58/1310048-echo of 29 April 2014.

on International Factoring[1] of 28 May 1988, the Russian Federation assumed the obligation to recognize factoring operations. Therefore, corresponding amendments should be introduced to Russia's tax legislation. Factoring is a trade transaction involving purchase by a bank (or company) of a producer's receivable assets, the former thus becoming the latter's factor. This scheme protects the producer, who has delivered commodities, ceded the rights under a factoring agreement to a bank (or company) – the factor – and paid a certain commission, after which the producer practically instantly restored the working capital turnover needed for further activity. The factor either waits until the contract is fulfilled, or sells it on the market at a discount that is less than the amount of commission received from the supplier, and so gains on it. The buyer gains if he manages to buy out this contract on the market at a discount from the contractual price, if the factor actually sells the contract. This usually becomes possible if a contract is bought out prior to its expiry date. The economic interests of all the participants are evident. The purpose is to legally bring down the price of a commodity without altering the contract value, by means of maximum acceleration of the process of settlements. The problem here is how to convince the taxmen that the contract buyout price paid to the factor prior to the contract's expiry is the real market price of the commodity as of the date of contract buyout, which should serve as a base for calculating VAT liabilities and the amount of profit. The price stipulated in the contract is also a market price, but set as of the date of its fulfillment – that is, at a much later date. As we have predicted, soon the system of clearing relations will also be augmented by contracts on commodities. This is an important step towards further development of the financial and commodity markets in the RF. At the same time, the necessary amendments must also be made to the RF Tax Code.

2. The Bank of Russia released Information Letter, of 29 April 2014, 'Answers and Explanations Concerning Some Issues Relating to the Bank of Russia's Provision of 25 November 2013, No 409-P "On the Accounting Procedure to Be Applied to Carry-forward of Tax Liabilities and Carry-forward of Tax Assets"'.

It is strange that this explanation is not coordinated with the RF Ministry of Finance and the federal Tax Service. The Bank of Russia compares the accounting rules with tax accounting rules. In particular, the Bank explains when and in which procedure tax liabilities carried forward and tax assets carried forward must be adjusted, how the tax lags should be calculated and how they should be treated when determining the tax base, and so on. We believe that the empowered financial department and supreme judicial bodies must issue a public explanation to the effect that banks are not unconditionally obliged to be guided by this information letter released by a licensing body. No references to that letter will be taken into account as a proper excuse when determining the fact of a tax violation, because the Bank of Russia is not authorized to interpret tax legislation.

By Letter of the RF Ministry of Finance of 14 May 2014, No 03-08-13/22654 the issue of how to apply the new procedure for paying tax on dividends is explained, in connection with the alterations introduced by Federal Law of 29 December 2012, No 282-FZ into legislation on joint-stock companies and the securities market in regard to the dividend payment procedure.

The RF Ministry of Finance explained that, in accordance with Item 1 of Article 8.7 of Federal Law No 39-FZ 'On the Securities Market', shareholders and other persons – holders of securities in accordance with federal laws may receive dividends in money on their shares through their depository. As in accordance with the new version of Federal Law No 39-FZ a depository is not obliged to disclose to the issuer of securities the relevant information on holders of securities as of the date of dividend payment, the issuer has no information as to who holds the right to securities and receives income in the form of dividends – a Russian or foreign organization. In this connection, the issuer cannot act as a tax agent when dividends are transferred to the depository. As the RF budget targets (which in Russia are established by a special budget law) cannot depend on the content of sectoral laws, while the duty to pay taxes is stipulated in the RF Constitution, the RF Ministry of Finance, on the basis of a systemic interpretation of legislative norms, has explained that, in such a situation, a depository is to be recognized to be a tax agent. If the judicial bodies happen to be of a different opinion, once a ruling is issued by judicial bodies to the effect that this normative act should be abolished, the RF Ministry of Finance (by Letter 14 May 2014, No 03-08-13/22654) will have to abide by the judicial ruling. Thus, we can see that the RF Ministry of Finance has found a rather elegant way out of a very complicated situation, which confirms its capability, as a federal ministry, to efficiently protect the budget's interests, while at the same time remaining strictly within the framework of prevailing law.

1 UNIDROIT (Institut international pour l'unification du droit privé – the International Institute for the Unification of Private Law) is an independent intergovernmental organization with its seat in the Villa Aldobrandini in Rome, established in 1926. Its purpose is to study needs and methods for modernizing, harmonizing and coordinating private and in particular commercial law as between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives.