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Electronic document flow – a new reality?

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Electronic document flow

- Electronic justice
- Filing electronic documents with tax authorities (including tax accounting, exchange of information, tax supervision, electronic tax returns)
- Electronic VAT invoices

Electronic justice: main laws and regulations

- Federal Law No. 228-FZ dated 27 July 2010
On amending the Russian Arbitration Procedure Code
- Temporary procedure for filing documents electronically with state arbitration courts (approved by Order No. 1 of the Supreme Arbitration Court dated 12 January 2001)
- Resolution No. 12 of the Plenum of the Supreme Arbitration Court dated 17 February 2011 *On certain issues of applying the Russian Arbitration Procedure Code as amended by Federal Law No.228-FZ dated 27 July 2010 'On amending the Russian Arbitration Procedure Code'*

Electronic justice – new opportunities

- Filing documents with the court by completing a form placed on the official arbitration court website (under the procedure established by the Supreme Arbitration Court);
- Court notifications given by being placed on the official arbitration court website;
- Possibility of taking part in court hearings using videoconferencing systems;
- Use of audio recording to be compulsory for records of court hearings (a written record is an additional means of recording information concerning a court hearing);

Electronic justice – new possibilities

- Presenting evidence to the court in electronic form;
- Treating documents received via electronic or other communications (e.g. the Internet) as written evidence, including documents signed with an electronic signature or another reproduction of a manual signature;
- Treating as evidence explanations received from persons involved in an arbitration court trial using video conferencing systems;
- Inspecting case files electronically by way of receiving copies in a tangible form.

Ensuring that justice is open

- Publishing judicial decisions on the arbitration court's official website;
- Publishing information on the progress of a case (court notices, filing applications, appeals, motions, the court sending letters etc.) on the arbitration court's official website;
- It is compulsory to publish Resolutions of the Presidium of the Supreme Arbitration Court on the Supreme Arbitration Court's official website;
- Streaming (including live transmission) of hearings of the Presidium of the Supreme Arbitration Court via the Internet.

Information services and web resources of the Supreme Arbitration Court

- <http://kad.arbitr.ru> – an index of arbitration court cases (access to all judgments issued by all arbitration courts);
- <http://my.arbitr.ru> – filing documents with arbitration courts;
- <http://kad.arbitr.ru/guard.php> – “the electronic watcher” (automated monitoring of case progress in court);
- <http://rad.arbitr.ru> – timetable of court hearings;
- <http://spg.arbitr.ru> – filing appeals against the acts of courts and court employees;

Information services and web resources of the Supreme Arbitration Court

- <http://www.arbitr.ru> – Supreme Arbitration Court official site;
- http://twitter.com/arbitr_ru – Supreme Arbitration Court's official feed on the Twitter social network;
- <http://www.youtube.com/arbitrru> – Supreme Arbitration Court's official channel on YouTube;
- <http://presidium.arbitr.ru/> – live streaming of sessions of the Presidium of the Supreme Arbitration Court;
- <http://arbitr.ru/e-justice2/ikad/> – the 'Index of Arbitration Cases' information system's mobile clients for Apple iPhone and iPad, and for OS Android;

Electronic document flow with the tax authorities

- **Federal Law No. 229-FZ dated 27 July 2010**
On amending the first part and the second part of the Russian Tax Code and certain other items of Russian legislation, and also on repealing specific items of Russian legislation (provisions of legislation) which relate to the payment of arrears on taxes, levies, penalties and fines and certain other issues of tax administration

General requirements for the procedure for exchanging information

- Article 31(4) of the Russian Tax Code;
- Russian Federal Tax Service's Order No. mmv-7-2/169@ dated 17 February 2011

On confirming the procedure for the supply in electronic form using telecommunications channels of the documents used by the tax authorities when exercising their powers in relations governed by legislation on taxes and levies, and also on amending certain legal regulatory acts of the Federal Tax Service

General requirements for the procedure for exchanging information

- Those involved: taxpayers, persons paying levies, tax agents, their representatives, the tax authorities and specialist communications operators;
- Compulsory technical electronic documents: confirmation of sending date, notice of acceptance, notice of rejection, confirmation of receipt of electronic document;
- The date on which a document is deemed to be received is treated as the date stated in the notice of acceptance;

General requirements for the procedure for exchanging information

- Documents sent in electronic form through technical channels of communication are encrypted and must use certified methods of electronic digital signature;
- Key signature certificates are issued by organisations which release such certificates to be used in public information systems in accordance with the Federal Law *On electronic digital signatures*;
- Persons involved in the electronic flow of documents must check the arrival of documents and technical electronic documents at least once per day, and must also ensure that all documents and technical electronic documents are stored if sent and received using electronic digital signatures and key signature certificates.

Keeping records of taxpayers: the main legal and regulatory acts

- Federal Tax Service's Letter No. MN-37-6/10623@
dated 3 September 2010
On arranging for the accounting of organisations and individuals in the tax authorities in connection with the entry into force of Federal Law No. 229-FZ dated 27 July 2010
- Federal Tax Service's Order No. MMV-7-11/154@
dated 11 February 2011
On approving the form, the procedure for completing it and the format of information on the inventory of real property and other information necessary for calculating taxes
- Federal Tax Service's Order No. MMV-7-11/11@
dated 13 January 2011
On approving the form, the procedure for completing it and the format of information on rights and transactions relating to registered real property (including land plots), the owners of such property and items of real estate property

Keeping records of taxpayers

- The registration of Russian organisations for tax purposes at the location of their branches or representative offices (as well their winding up or changes to information previously provided) is carried out based on information from the Companies Register (sub-clauses 2-5, clause 5.1, article 84, of the Russian Tax Code);
- The registration of other standalone subdivisions (as well their winding up or changes to information previously provided) is carried out on the basis of messages from the Russian organisations which may be sent to the tax authority in electronic form using technical communications channels (clauses 2 and 7 , article 23, and clause 5.1, article 84 of the Tax Code);
- Notification of the selection of tax authority when several standalone subdivisions are registered in one municipal body may be sent in electronic form using technical communications channels (clauses 2 and 7, article 23, and clauses 2 and 5.1, article 84 of the Tax Code);

Keeping records of taxpayers

- Taxpayers may, at their request, be provided with documents (notifications) which confirm their tax registration or deregistration in electronic form using technical communications channels (clauses 2 and 7, article 23, and clauses 2 and 5.1, article 84 of the Tax Code);
- The registration of organisations for tax purposes where real property and means of transport are located is carried out on the basis of information sent to the tax authority in electronic form using technical communications channels by the bodies indicated in clause 4, article 5 of the Russian Tax Code (clauses 2 and 5.1, article 84 and clauses 4 and 11, article 85 of the Tax Code);
- Sending notifications concerning tax registration with a tax authority where real property and means of transport are located may be done in electronic form using technical communications channels (clauses 2 and 5.1, article 84 and clauses 4 and 11, article 85 of the Tax Code)

Keeping records of taxpayers

- Information on Russian organisations having a participatory interest in foreign organisations may be sent in electronic form using technical communications channels (clauses 2 and 7, article 23 of the Tax Code);

Federal Tax Service information resources

- ‘Submitting state registration documents electronically information service: software testing for ‘Electronic registration’ in Moscow (http://www.nalog.ru/el_usl/gosreg_eldocs/);
- ‘Obtain an extract from the Companies Register or Register of Individual Entrepreneurs online’ information service (http://www.nalog.ru/el_usl/egrip/);
- ‘Access to the Companies Register or Register of Individual Entrepreneurs’ information service (http://www.nalog.ru/el_usl/egrip2/);
- ‘Check yourself and your counterparty’ information service (<http://egrul.nalog.ru/>).

Information which may be sent electronically by registration authorities using technical communications channels

- The fact that an individual has been registered where he/she resides (clauses 3 and 11, article 85 of the Tax Code);
- The fact that a foreign employee has been registered or deregistered where he/she is located (clauses 3 and 11, article 85 of the Tax Code);
- The birth or death of individuals (clauses 3 and 11, article 85 of the Tax Code);
- That a document proving the identity of a Russian citizen has been issued (clauses 8 and 11, article 85 of the Tax Code);
- That personal data contained in the newly issued document has been amended (clauses 8 and 11, article 85 of the Tax Code);
- That an individual has submitted a declaration that a document proving the identity of a Russian citizen has been lost (clauses 8 and 11, article 85 of the Tax Code);

Information which may be sent electronically by registration authorities using technical communications channels

- Concerning real property located in a dependent territory (clauses 4 and 11, article 85 of the Tax Code);
- Concerning registered transport vehicles (rights to them and transactions with them) and the owners of such vehicles (clauses 4 and 11, article 85 of the Tax Code);
- Concerning the inventory value of real property and other information necessary for calculating taxes (clauses 9.1 and 11, article 85 of the Tax Code);
- Concerning land plots classed as taxable items under article 389 of the Tax Code (clauses 9.2 and 11, article 85 of the Tax Code).

Exchange of information concerning the payment and assessment of taxes

- Federal Tax Service's Order No. MMV-7-8/700@
dated 9 December 2010
On approving the Procedure for sending claims concerning the payment of a tax, levy, penalty or fine to a taxpayer in electronic form using technical communications channels
- Federal Tax Service's Order No. MMV-7-8/781@
dated 29 December 2010
On approving the Procedure for sending a mutual reconciliation of settlements certificate concerning the payment of taxes, levies, penalties or fines in electronic form using technical communications channels

Exchange of information concerning the payment and assessment of taxes

- *Regulations on the procedure for sending to a bank in electronic form an instruction or a resolution of the tax authority and for a bank to send to the tax authority in electronic form information about funds remaining (approved by No. 365-P of the Bank of Russia dated 29 December 2010);*
- **Federal Tax Service's Order No. MMV-7-2/203@ dated 15 March 2011**

On approving the Procedure for presenting to banks documents used by the tax authority when carrying out their duties in relations governed by the legislation on taxes and levies and for banks to supply information at the tax authorities' request electronically via telecommunications channels

Exchange of information concerning the payment and assessment of taxes

- Communications from taxpayers concerning the opening and closing of accounts (personal accounts) (clauses 2 and 7, article 23 of the Tax Code);
- Performing a mutual reconciliation of settlements in relation to taxes, levies, penalties and fines (sub-clause 11, clause 1, article 32 of the Tax Code);
- Sending claims relating to the payment of tax (clause 6, article 69 of the Tax Code) and tax notifications (clause 4, article 52 of the Tax Code);
- Sending instructions of the tax authorities to deduct funds from taxpayers' accounts and transfer them to the budget (clause 2, article 46 of the Tax Code);

Exchange of information concerning the payment and assessment of taxes

- Sending resolutions to suspend (or cancel the suspension of) operations on the accounts of corporate taxpayers (clause 4, article 76 of the Tax Code);
- Communications from banks concerning the balances of funds on corporate accounts where operations have been suspended (clause 5, article 76 of the Tax Code).

Electronic tax returns

- Now not only a written declaration is recognized as a tax return: also recognized is a declaration of the taxpayer that is compiled electronically, sent using technical communications channels and with an electronic digital signature applied (clause 1, article 80 of the Tax Code);
- Electronic returns are compulsory for major taxpayers (clause 3, article 80 of the Tax Code), and also for organisations with an average number of employees exceeding 100 (clauses 1 and 4, article 80 of the Tax Code);
- Article 119.1 of the Tax Code creates a new form of liability, which relates to the failure to present a tax return or settlement electronically.

Tax supervision

- Federal Tax Service's Order No. MMV-7-2/169@
dated 17 February 2011
On approving the procedure for the supply in electronic form using telecommunications channels of the documents used by the tax authorities when exercising their powers in relations governed by legislation on taxes and levies, and also on amending certain laws and regulations of the Federal Tax Service
- Federal Tax Service's Order No. MMV-7-2/1689@
dated 17 February 2011
On approving the procedure for sending demands for documents or information to be submitted and the procedure for such documents or information to be submitted in accordance with a tax authority's demand in electronic form using telecommunications channels

Tax supervision

- Requiring documents to be provided within the scope of tax audits (article 93 of the Tax Code), requiring documents or information to be provided in relation to a taxpayer or specific transactions (article 93.1 of the Tax Code);
- Submitting documents compiled electronically according to the forms established (articles 93 and 93.1 of the Tax Code)

Electronic VAT invoices

- **Federal Law No. 229-FZ dated 27 July 2010**
On amending the first part and the second part of the Russian Tax Code and certain other items of Russian legislation, and also on repealing specific items of Russian legislation (provisions of legislation) which relate to the regulation of debt connected with the payment of taxes, levies, penalties and fines and certain other issues of tax administration;
- **Order No. 50n of the Ministry of Finance dated 25 April 2011**
On approving the Procedure for submitting and receiving VAT invoices electronically using telecommunication channels and applying electronic digital signatures.

Electronic VAT invoices: terms of use

- Electronic VAT invoices are used when each of the parties to a transaction so agrees;
- The parties must have compatible technical means and be able to receive and process VAT invoices in accordance with the established formats and procedures;
- Submitting and receiving VAT invoices is carried out through an electronic document flow operator (one or several);
- There is a compulsory requirement to use means of protecting information by encryption which are certified under Russian law;

Electronic VAT invoices: terms of use

- A VAT invoice must be signed using the electronic digital signature of a duly authorized officer of the taxpayer in accordance with Russian legislation;
- Signature key certificates are issued by organisations which release such certificates to be used in general use information systems, and they perform the functions stipulated by the Federal Law *On electronic digital signatures* and are certified centers which are part of the Federal Tax Service's network of certified centers;
- Electronic document flow is implemented separately in respect of each individual VAT invoice;

Electronic VAT invoices: terms of use

- A VAT invoice is considered to have been raised electronically on the date on which the VAT invoice file reaches the Operator from the seller, and a VAT invoice is considered to have been received on the date on which the seller's VAT invoice file is sent by the Operator to the buyer. These dates must be attested by the appropriate confirmation from the Operator and there must be a notification that the buyer has received the VAT invoice;
- The parties involved in the electronic document flow process must ensure that the relevant documents bearing electronic digital signatures are kept, together with the signature key certificates used to create those signatures, throughout the time period laid down for VAT invoices to be kept;

Electronic VAT invoices: terms of use

- The Federal Tax Service needs to confirm the formats for VAT invoices raised electronically and for electronic accounting journals for VAT invoices, sales ledgers and purchase ledgers;
- The relevant amendments need to be made to the Russian Government's Resolution No. 914 dated 2 December 2000 *On approving the Rules for maintaining accounting journals for VAT invoices raised and received, purchase ledgers and sales ledgers when calculating value added tax*



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