

# Movable vs immovable property: the Russian Federal Tax Service puts an end to the discussion

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On 21 May 2021, the Federal Tax Service (the “FTS”) issued letter No. [BS-4-21/7027@\\*](#) (the “Letter”) specifying the criteria for distinguishing between immovable and movable property with the latter subject to an exemption from corporate property tax in Russia.

In recent years, Russian tax authorities have been trying to challenge the qualification of assets as movable property in cases when these assets, in particular production machines and equipment, were highly integrated into buildings or land (under the “interconnectivity” criterion) and could not be separated from them (the “inseparability” criterion).

## Essence of the Letter

According to the Letter, the above criteria are so vague that they cannot be used as the sole ground to qualify property as immovable or movable. They do not allow for the distinction between investments made into production equipment or temporary construction facilities, and investments into capital facilities and buildings.

The Letter also states that, in both cases, the “inseparability” criterion is not met until facilities are completely installed, while the “interconnectivity” criterion can be met for complex property items containing both movable and immovable components, which, once put into operation, cannot be separated for economic or technical reasons.

According to the Letter, the inclusion of fixed assets into the Unified State Register of Immovable Property should not be used as a sole ground for deciding whether a property is of a movable or an immovable nature.

Instead, the Letter suggests relying on the established accounting principles for qualification of property as fixed assets. These principles provide for a clear distinction between buildings/constructions and equipment accounted as different categories of fixed assets.

According to the All-Russian Classifier of Fixed Assets, pieces of equipment should be clearly distinguished from buildings and constructions, but there are specific exceptions when certain types of equipment are an integral part of a building. This may be the case with built-in boiler plants, or water, gas and heating pipe installations.

However, machinery and equipment duly acquired and booked by a taxpayer as separate inventory objects, rather than parts of buildings and capital facilities, should meet the movable property qualification and lawfully enjoy the property tax exemption, even in case of their further installation into buildings or construction facilities.

The fact that separate use of certain types of equipment installed into buildings or constructions would lack economic expediency if de-installed should not change the legal qualification of this equipment for taxation purposes. Otherwise, this may discourage taxpayers from investing into equipment or machinery renovation.

The Letter also specifically notes that exemption of new movable property from corporate property taxation in Russia aims to simplify the accounting process and reduce the tax burden on good-faith taxpayers. As a result, this should encourage investment into new production equipment and the modernisation or renovation of existing ones.

## Comments

In our view, these new clarifications of the Federal Tax Service demonstrate a positive trend on the use of unified formalised criteria to qualify property as movable or immovable. As a result, the Russian tax authorities have less room for wide interpretations based on vague and general conclusions on the economic expediency of the use of certain property. Therefore, good-faith taxpayers can use the arguments offered in the Letter to justify their position in case of a tax dispute and to prove their right to the tax exemption.

This Letter should also help reduce the number of tax disputes and claims on the matter from tax authorities. These have been frequent since movable property became exempt from taxation in Russia.

At the same time, taxpayers should pay particular attention to the proper booking of their fixed assets in their accounts and the compliance of these movable property items with the criteria provided in the Letter.

If you have any questions on this eAlert, do not hesitate to contact CMS Russia experts **Dominique Tissot**, **Maria Kabanova**, **Anna Osmakova** or your regular contact at CMS Russia.

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