



Russian Federal Tax Service comments on applicability of IT incentives in case of split of business

28 March 2022

The Russian Federal Tax Service commented on the possibility for companies specifically created as a result of a business split to apply IT incentives in its [letter](#)* No. SD-4-2/3289@ dated 17 March 2022. According to this letter, IT incentives in the Russian tax legislation we previously [reported](#) on should be applicable both to existing companies and those created after the introduction of IT incentives in Russia.

In addition, Russian tax authorities should not regard a business reorganisation resulting in the establishment of a new IT company (subject to the application of IT incentives) as a bad-faith split of a business performed to obtain an unjustified tax benefit in Russia within the meaning of Article 54.1 of the Russian Tax Code. Provisions of [letter](#)* No. BV-4-7/3060@ issued by the Federal Tax Service on 10 March 2021 on the assessment of the key aim of business reorganisations are thus not applicable to such newly created IT companies.

IT incentives should be applicable irrespective of whom the eligible IT activity benefits (e.g. related or unrelated companies, other persons belonging to the group of companies, etc.).

Provided that a newly created IT company does not overtly misinterpret its business operations, Russian tax authorities should not doubt the economic justification of the tax benefit received by such an IT company, since the introduction of IT incentives for eligible IT companies was initially intended to support IT businesses by reducing the applicable tax burden.

Interestingly, this position of the Federal Tax Service contradicts its previous explanations on the matter (e.g. letters No. SD-19-3/173@ dated 9 April 2021 or No. SD-4-3/2249@ dated 20 February 2021), where the tax authorities insisted that each case of reorganisation of a business activity resulting in the establishment of a new IT company should be reviewed to ensure that such a split of a business was not performed artificially with the sole aim of benefitting from the IT incentives' application.

This switch in the perception of the tax authorities is aimed at increasing the businesses that may enjoy the application of IT tax incentives and should thus encourage taxpayers to invest in the development of the IT lines of their activities in Russia. This new approach, together with the previously [announced](#) new package of tax support measures for IT companies in Russia, is generally intended to support IT businesses in the current turbulent economic environment and to retain the IT workforce in Russia.

* *In Russian*

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