

The concept of unjustified tax benefit is formalized in the Russian Tax Code

August 3, 2017

Dear Ladies and Gentlemen,

We would like to inform you that the Federal Law No. 163-FZ dated July 18, 2017 (the “Law”) introduced amendments to the Russian tax legislation, codifying the concept of unjustified tax benefit, which was previously described by the Supreme Arbitration Court in 2006.

The new Article 54.1, formalized in the Russian Tax Code, provides the following underlying concept:

- The prohibition on the reduction by the taxpayer of the tax base and/or amount of tax payable as a result of misrepresentation.
- Taxpayer has a right to reduce the tax base by using two basic conditions, meanwhile certain other circumstances cannot be considered independently as the basis for the tax base reduction being recognized as illegal.

Additionally, the amendment of Article 83 states that tax authorities, while conducting tax control measures, have an obligation to prove that the taxpayer has complied with conditions set out in Article 54.1 of the Russian Tax Code.

The Law solidifies the existing judicial practice and provides both the taxpayers and tax authorities with an opportunity to stand their ground in court. Nevertheless, the main aim of the codification of the concept is strengthening of the tax authorities’ position in tax disputes through the range of issues requiring evidence now being clearly defined. Therefore, we draw your attention to the fact that taxpayers must take into account the new provisions introduced in the Law regarding unjustified tax benefits, when carrying out their activities.

The Law enters into force one month after its publication in the official resources (July 19, 2017).

Hope that the information provided herein would be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our Tax practice, please let us know about it in reply to this email. We will be glad to provide you with our materials.

If you have any questions, please, do not hesitate to contact the Senior Partner of ALRUD Law Firm **Maxim Alekseyev** at MAlekseyev@alrud.com.

Kind regards,

ALRUD Law Firm

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