

# TAX CODE OF THE RUSSIAN FEDERATION

## PART ONE NO. 146-FZ OF JULY 31, 1998

### AND PART TWO NO. 117-FZ OF AUGUST 5, 2000

(with the Amendments and Additions of March 30, July 9, 1999, January 2, December 29, 2000, May 30, August 6, 7, 8, November 27, 29, December 28, 29, 30, 31, 2001, May 29, July 24, 25, December 24, 27, 31, 2002, May 6, 22, 28, June 6, 23, 30, July 7, November 11, December 8, 23, 2003, April 5, June 29, 30, July 20, 28, August 18, 20, 22, October 4, November 2, 29, December 28, 29, 30, 2004, May 18, June 6, 18, 30, July 1, 18, 21, 22, October 20, November 4, December 5, 6, 20, 31, 2005, January 10, February 2, 28, June 3, 30, July 18, 26, 27, October 16, November 3, 11, December 4, 5, 29, 30, December 18, 2006, April 26, May 16, 17, July 19, 24, October 30, November 4, 8, 29, December 1, 4, 6, 2007, April 30, June 26, 30, July 22, 23, October 13, November 24, 26, December 1, 4, 22, 25, 30, November 26, December 30, 2008, March 14, April 28, June 3, 26, July 17, 18, 19, 24, September 27, October 30, November 9, 23, 25, 28, December 17, 27, 29, 2009, March 9, April 5, 30, May 8, 19, June 2, 17, July 5, 27, 30, September 28, November 3, 8, 15, 27, 29, December 28, 2010, March 7, April 21, June 3, 7, 4, 21, 27, July 1, 11, 18, 19, 20, 21, November 7, 16, 21, 28, 30, December 3, 6, 2011, March 30, 2012)

#### Part One

(with the Amendments and Additions of March 30, July 9, 1999, January 2, August 5, 2000, March 24, December 28, 29, 30, 2001, May 28, June 6, 30, July 7, December 23, 2003, June 29, 2004, July 1, November 4, 2005, February 2, July 27, December 30, 2006, April 26, May 17, 2007, June 26, 30, July 23, November 24, 26, 2008, July 19, 24, November 23, 25, 28, December 17, 29, 2009, March 9, May 8, July 27, 30, September 28, November 3, 27, 29, December 28, 2010, June 7, 27, July 11, 18, 19, November 16, 21, 28, December 3, 2011, March 30, 2012)

Adopted by the State Duma on July 16, 1998

Approved by the Council of Federation on July 17, 1998

See **Federal Law** No. 147-FZ of July 31, 1998 on Putting Into Force Part I of the Tax Code of the Russian Federation

### Section 1. General Provisions

#### Chapter 1. Legislation on Taxes and Fees and Other Regulatory Legal Acts on Taxes and Fees

**Article 1.** Legislation of the Russian Federation, Legislation of Russian Federation Member Territories, and Regulatory Legal Acts of Representative Bodies of Municipal Formations on Taxes and Fees

**1.** The legislation of the Russian Federation on taxes and fees shall consist of this Code

and other federal laws on taxes and fees adopted in accordance therewith.

**2.** This Code shall establish a system of taxes and fees and general principles of taxation and fees in the Russian Federation, including:

- 1) types of taxes and fees collected in the Russian Federation;
- 2) the grounds for the arising and the procedure for fulfillment of obligations to pay taxes and fees;
- 3) the principles of the introduction, enforcement and invalidation of earlier introduced taxes of the subjects of the Russian Federation and local taxes;
- 4) the rights and duties of taxpayers, the tax authorities and other parties to relations regulated by tax and fee legislation;
- 5) forms and methods of tax control;
- 6) liability for tax violations;
- 7) the procedure for appeals against reports of tax bodies and actions (inaction) of their officials.

**3.** This Code shall apply to establishment, introduction and collection of fees in cases where it is explicitly provided for in this Code.

**4.** The legislation of the subjects of the Russian Federation on taxes and fees consists of laws on taxes of the subjects of the Russian Federation adopted in accordance with this Code.

**5.** Normative legal acts of municipal formations on local taxes and fees shall be adopted by the representative of municipal formations in accordance with this Code.

**6.** Laws and other regulatory legal acts provided for by this Article shall be referred to in this Code as "legislation on taxes and fees."

***Federal Law No. 154-FZ of July 9, 1999 amended Article 2 of this Code***

***The amendments shall enter into force upon the expiry of one month from the day of the official publication of the Federal Law***

***See the previous text of the Article***

## **Article 2.** Relations Regulated by Tax and Fee Legislation

Tax and fee legislation shall regulate relations of authority involving imposition, enactment and collection of taxes and fees in the Russian Federation, and also relations arising during the exercise of tax control, appeal against the acts of tax bodies, the actions or inaction of their officials, and imposition of sanctions for tax violations.

Tax and fee legislation shall not apply to relations involving imposition, enactment and collection of customs payments or relations arising during the exercise of control over customs payments, appeal against the acts of customs bodies, the action or inaction of their officials and imposition of sanctions on guilty persons unless otherwise provided by this Code.

## **Article 3.** Basic Principles of Tax and Fee Legislation

**1.** Each person shall pay taxes and fees imposed in a lawful way. Tax and fee legislation shall be based on recognition of universality and equality of taxation. Upon the introduction of taxes it is necessary to take into account the taxpayer's ability to pay the tax.

**2.** Taxes and fees may not be discriminatory or applied differently depending on social, racial, national, religious and other similar criteria.

It shall not be allowed to set differential tax or fee rates or grant tax benefits depending on the form of ownership, citizenship of individuals or origin of capital.

**3.** Taxes and fees shall have an economic basis and may not be arbitrary. It shall not be allowed to impose taxes preventing individuals from the exercise of their constitutional rights.

**4.** It shall not be allowed to impose taxes and fees which violate the single economic area of the Russian Federation and in particular restrict free movement, either directly or indirectly, of

goods (works, services) or financial resources within the Russian Federation; nor shall it be allowed to restrict or hinder an economic activity of natural persons and organisations, which is not banned by law, in any other way.

**5.** No one may be charged with an obligation to pay taxes and fees or other contributions and payments having the characteristics of taxes as defined by this Code which are not provided for by this Code or are imposed in a way which is different from that provided by this Code.

**6.** Upon the introduction of taxes it is necessary to define all the elements of taxation. The legislative acts on taxes and fees shall be formulated in such a way as to enable each person to know exactly which taxes or fees he should pay, when and in which procedure.

**7.** All unremovable doubts, contradictions and ambiguities of legislative acts relevant to taxes and/or fees shall be interpreted in favour of taxpayers (payers of fees).

**Article 4.** The Normative Legal Acts of the Government of the Russian Federation, the Federal Executive Bodies, the Executive Bodies of the Subjects of the Russian Federation and the Executive Bodies of Local Self-Government on Taxes and Fees

**1.** In cases stipulated by the legislation on taxes and fees the Government of the Russian Federation, the federal bodies, authorised to discharge the functions of elaborating state policy and of regulating in normative legal acts on taxes and fees and in the field of customs business, the executive bodies of the subjects of the Russian Federation and the executive bodies of local self-government shall issue, within their jurisdiction, normative legal acts on the taxation questions which may not modify or supplement the legislation on taxes and fees.

**2.** The federal executive governmental body empowered to carry out the functions of control and supervision in the area of taxes and fees, its territorial bodies and also the customs bodies of the Russian Federation reporting to the federal executive governmental body empowered in the field of customs affairs are not entitled to issue normative legal acts on tax and fee issues.

**Article 5.** Enactment and Validity of Legislative Acts on Taxes and Fees

**1.** Legislative acts on taxes shall take effect not earlier than upon expiry of one month after the date of their official publication and not earlier than the first day of the next tax period for the corresponding tax except for cases provided by this Article.

Legislative acts on fees shall take effect not earlier than upon expiry of one month after the date of their official publication except for cases provided by this Article.

Federal laws amending this Code with regard to imposition of new taxes and/or fees, and also legislative acts on taxes and/or fees of Russian Federation member territories and normative legal acts of representative bodies of municipal formations imposing taxes shall not take effect until 1 January of the year following the year of their adoption, but not earlier than one month from the day of their official publication.

The legislative acts on taxes and fees cited in **Items 3** and **4** of this Article may enter into effect as of the date of their official publication if they directly provide for it.

**2.** Legislative acts on taxes and fees which impose new taxes and/or fees, raise tax rates, the amounts of fees, impose or increase sanctions for breaches of the legislation on taxes and fees, establish new obligations for, or worsen the situation in any other way of, taxpayers or payers of fees or other parties to relations regulated by legislation on taxes and/or fees shall not be retroactive.

*On guarantees against unfavourable changes in the legislation of the Russian Federation,*

*granted to residents of special economic zones, see **Federal Law No. 116-FZ of July 22, 2005***

3. Legislative acts on taxes and/or fees which lift or mitigate sanctions for breaches of the legislation on the taxes and fees or provide additional guarantees of protection of the rights of taxpayers and payers of fees or tax agents and their representatives, shall be retroactive.

4. Legislative acts on taxes and fees which revoke taxes and/or fees, reduce tax rates, eliminate obligations of taxpayers, payers of fees, tax agents and their representatives or improve their position in any other way, may be retroactive if the above acts explicitly provide for it.

5. The provisions provided for by this Article shall also extend to the normative legal acts on taxes and fees of the federal executive bodies, executive bodies of the constituent entities of the Russian Federation and local self-government bodies.

#### **Article 6. Lack of Correspondence Between Regulatory Legal Acts on Taxes and Fees and This Code**

1. A regulatory legal act on taxes and fees shall be considered to be at variance with this Code if such act:

1) is issued by a body which does not have the right under this Code to issue acts of this type or is issued in violation of the established procedure for issuance of such acts.

2) revokes or restricts the rights of taxpayers, payers of fees, tax agents or their representatives or powers of the tax authorities, customs agencies established by this Code;

3) imposes duties which are not provided for by this Code or changes the content of obligations of parties to relations as regulated by the legislation on taxes and fees, or other persons whose duties are established by this Code;

4) prohibits actions of taxpayers, payers of fees or tax agents and their representatives, allowed by this Code;

5) prohibits actions of the tax authorities, customs agencies, their officials allowed or prescribed by this Code;

6) allows or admits actions prohibited by this Code;

7) changes the grounds, conditions, sequence or procedure for actions of parties to relations as regulated by the legislation on taxes and fees, or of other persons whose duties are established by this Code;

8) changes the scope and/or content of concepts and terms defined in this Code or uses these concepts and terms in a meaning other than that one used in this Code;

9) contradicts in any other way the general principles and/or the literal meaning of particular provisions of this Code.

2. Normative legal Acts referred to in **Item 1** of this Article shall be considered to be at variance with this Code provided even one of the circumstances set forth in Item 1 of this Article exists.

3. The recognition of a normative legal act as inconsistent with this Code shall be effected through legal proceedings, unless otherwise stipulated by this Code. The Government of the Russian Federation, or other executive body or the executive local self-government body, which adopted the said act or their higher bodies shall be entitled to repeal this act to introduce the necessary amendments to it prior to its juridical examination;

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 4 of Article 6 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

4. The regulatory legal acts governing the procedure for levying the taxes payable in

connection with goods being moved across the customs border of the Customs Union within the framework of the Eurasian Economic Community (hereinafter referred to in this Code as the Customs Union) shall be subject to the provisions established by the **customs legislation** of the Customs Union and the customs legislation of the Russian Federation.

**Article 6.1.** Procedure for Calculation of Time-Limits Established by the Legislation on Taxes and Fees

**1.** The time-limit established by the legislation on taxes and fees shall be determined by a calendar date, by an indication to an inevitable event or to an action, which has to be made, or by a period of time that is calculated in terms of years, quarters, months, weeks or days.

**2.** The running of a time-limit shall start on the day following the calendar date or the occurrence of the event (making of the action) determining the start thereof.

**3.** The time-limit calculated in terms of years shall expire on the appropriate month and date of the last year of the time-limit.

With this, a year (except for a calendar year) shall be deemed any time period consisting of 12 months running.

**4.** The time-limit calculated in terms of quarters shall expire on the last day of the last month of the time-limit.

With this, a quarter shall be deemed equal to three calendar months and quarters shall be counted out from the start of a calendar year.

**5.** The time-limit calculated in terms of months shall expire in the appropriate month and on the appropriate date of the last month of the time-limit.

If the end of a time-limit falls at a month without the corresponding date, the time-limit shall expire on the last day of the month.

**6.** The time-limit determined in terms of days shall be calculated in terms of working days, if it is not fixed in terms of calendar days. In so doing, a working day shall be deemed the day which is not recognised under the **legislation** of the Russian Federation as a day-off and (or) a holiday.

**7.** Where the last day of a time-limit falls on the date recognised under the **legislation** of the Russian Federation as a day-off or a holiday, the following working day shall be deemed the finishing day of the time limit.

**8.** An action for which a certain time-limit is fixed may be made before 12 p.m. of the last day of the time-limit.

If documents or monetary funds are delivered to a communication office before 12 p. m. of the last day of a time limit, the time limit shall not be deemed missed.

*On the verification of the constitutionality of Article 7 of this Federal Law see **Ruling** of the Constitutional Court of the Russian Federation No. 284-O of December 10, 2002*

**Article 7.** Effect of International Treaties on Taxation

If a tax treaty of the Russian Federation, which contains provisions concerning taxation and fees, establishes rules and standards other than those provided by this Code or laws and other regulatory legal acts on taxes and/or fees adopted in accordance with it, the rules and standards of tax treaties of the Russian Federation shall prevail.

**Federal Law No. 154-FZ of July 9, 1999 amended Article 8 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the Federal Law**

**See the previous text of the Article**

## **Article 8.** Concept of Tax and Fee

**1.** A tax shall be defined as an obligatory and individually non-refundable payment collected from organisations and individuals in the form of alienation of monetary resources owned by them by right of ownership, economic jurisdiction or operational management for the purposes of financing the activity of the state and/or municipalities.

**2.** A fee shall be defined as an obligatory contribution collected from organisations and individuals the payment of which is one of the conditions of legally significant actions to be taken in relation to payers of fees by government authorities, local self-government bodies or other bodies and officials authorised by them, including granting of particular rights or issuance of permits (licences).

## **Article 9.** Parties to Relations Regulated by Legislation on Taxes and Fees

Parties to relations regulated by tax and fee legislation shall be as follows:

**1)** organisations and individuals recognised as taxpayers and payers of fees under this Code;

**2)** organisations and individuals recognised as tax agents under this Code;

**3)** the tax bodies (the federal executive body, authorised for control and supervision in the sphere of taxes and fees, and its territorial agencies);

**4)** the customs agencies (the federal executive body, authorised in the sphere of customs business, customs agencies of the Russian Federation subordinate to it);

**5)** **abrogated** from January 1, 2007;

**6)** **abolished**;

**7)** **abrogated** from January 1, 2007;

## **Article 10.** Proceedings in Connection with Violations of the Legislation on Taxes and Fees

**1.** A person shall be made liable for a tax violation and tax violation proceedings shall be conducted, in accordance with the procedure established in **Chapters 14** and **15** of this Code.

**2.** Proceedings with respect to violations of tax and fee legislation containing elements of an administrative violation or crime shall be conducted in accordance with the procedure established by the legislation on administrative violations or the criminal procedural legislation of the Russian Federation, respectively.

### **3. Abolished**

***Federal Law No. 154-FZ of July 9, 1999 amended Article 11 of this Code***

*The amendments shall **enter into force** upon the expiry of one month from the day of the **official publication** of the Federal Law*

***See the previous text of the Article***

## **Article 11.** Institutions, Concepts and Terms Used in This Code

*According to **Federal Law No. 95-FZ of July 29, 2004 entering into force** on January 1, 2005, until the entry into force of Chapters of Part Two of the Code on taxes and fees envisaged by **Articles 12 - 15** of the Code, the references in Item 1 of Article 11 to the provisions of the Code shall qualify as references to legislative acts of the Russian Federation on relevant taxes adopted until the entry into force of the said Federal Law*

**1.** Institutions, concepts and terms of civil law, family law and other branches of law used in this Code shall apply in the meaning in which they are used in these branches of law unless otherwise provided by this Code.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 2 of Article 11 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**2.** The following concepts shall be used for the purposes of this Code and other legislative acts on taxes and fees:

**organisations** are legal entities set up in accordance with the legislation of the Russian Federation (hereinafter referred to as Russian organisations), and also foreign legal entities, companies and other corporate associations with a civil legal capacity, set up in keeping with the legislation of foreign states, international organisations, branches and representative offices of the said foreign persons and international organisations set up on the territory of the Russian Federation (hereinafter referred to as foreign organisations);

**natural persons** are citizens of the Russian Federation, foreign nationals and stateless persons;

**individual entrepreneurs** are natural persons registered in the statutory manner and engaged in private business without the status of a legal entity and heads of peasant's farms. Natural persons engaged in private business with the status of a legal entity, but not registered as individual entrepreneurs in contravention of the requirements of the civil legislation of the Russian Federation, shall not be entitled to rely to the fact that they are not individual entrepreneurs when they discharge the duties vested in them by this Code;

**abrogated** from January 1, 2007;

**persons (a person)** mean organisations and/or natural persons;

**abrogated** from January 1, 2007;

**abrogated** from January 1, 2007;

**banks (a bank)** mean commercial banks and other credit organisations having a licence of the Central Bank of the Russian Federation;

**accounts (an account)** mean settlement (current) and other accounts with banks, opened on the basis of a bank account contract, on which the pecuniary funds of organisations and individual entrepreneurs, private notaries, the solicitors/barristers who have founded solicitors/barristers' studies are placed and from which they may be spent;

**personal accounts** mean the accounts opened with the Federal Treasury agencies (with other agencies engaged in opening and keeping personal accounts) in compliance with the **budget legislation** of the Russian Federation;

the **Federal Treasury accounts** mean the accounts opened by a territorial agency of the Federal Treasury which are intended for accounting receipts and their distribution to the budgets of the budget system of the Russian Federation in compliance with the **budget legislation** of the Russian Federation;

**a source of payment of incomes to a taxpayer** means an organisation or a natural person from whom a taxpayer received income;

**arrears** mean the amount of a tax or the amount of fees not paid out in the period of time fixed by the legislation on taxes and fees;

**the certificate of registration with the tax body** being the document proving registration of a Russian organisation, foreign organisation or a natural person with a tax authority accordingly at the location of the Russian organisation, at the location of the international organisation, at the place where the foreign organisation exercises its activities on the territory of the Russian Federation through a separate unit thereof, at the place of residence of the natural person;

**a notice of registration with the tax body** being the document proving registration with a tax authority of an organisation or natural person, including an individual businessman, for the reasons established by this Code, except for the reasons which involve issuance of the certificate proving registration with a tax authority;

**seasonal production** means production directly associated with natural and climatic conditions and the season. This concept is used in relation to an organisation or an individual entrepreneur, if in definite tax periods (a quarter or a half-year) their production activity is prevented by natural and climatic conditions;

**abrogated.**

**the location of a separate unit of a Russian organisation** is the place where this organisation exercises its activities through a separate unit thereof;

**the place of residence of a natural person** being the address (the name of a subject of the Russian Federation, the district, the town, another populated centre, the street, the number of the house, the apartment) where the natural person has been registered at the place of residence in order established by the **legislation** of the Russian Federation. If a natural person has no place of residence on the territory of the Russian Federation, for the purposes of this Code, as the place of residence may be defined, at the request of this natural persons, the place of stay thereof. In so doing, as the place of stay of a natural person shall be deemed the place where the natural person temporarily resides at the address (denomination of a constituent entity of the Russian Federation, district, town other inhabited locality, street, house number and flat number) where the natural person is registered at the place of stay in the procedure established by the legislation of the Russian Federation;

**a separate subdivision of an organisation** means any territorially separated subdivision, in whose location permanent **places of employment** are equipped. A separate subdivision of the organisation is recognised as such, regardless of the fact whether its creation is reflected or not reflected in the organisation's constituent instruments or their organisational and order documents and regardless of the powers vested in the said subdivision. In this case the place of employment shall be deemed to be permanent, if it is created for a term exceeding one month;

**accounting policy for taxation purposes** means the totality of ways (methods) of assessing receipts and (or) expenditures, their recognition and distribution, as well as of accounting other indices of a taxpayer's financial and economic activities, allowable under this Code, which are selected by the taxpayer.

**territory of the Russian Federation and other territories under its jurisdiction** being the territory of the Russian Federation, as well as the territories of artificial islands, installations and structures which are under the jurisdiction of the Russian Federation in compliance with the legislation of the Russian Federation and international law rules.

**3.** The concepts of taxpayer, taxable item, tax base, tax period and other specific concepts and terms of legislation on taxes and fees shall be used in the meaning defined in the corresponding Articles of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 4 of Article 11 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**4.** In the relationships occurring in connection with the levy of tax when goods are moved across the customs border of the Customs Union the terms defined by the customs **legislation** of the Customs Union and the customs **legislation** of the Russian Federation shall be used, and in as much as they are not defined by such the terms defined by this Code shall be used.

**5.** The rules provided for by **Part One** of this Code in respect of banks shall extend to the Central Bank of the Russian Federation and the State Corporation "Bank of Development and of Foreign Economic Activities (Vneshekonombank)".



## Chapter 2. System of Taxes and Fees in the Russian Federation

**Article 12.** Types of Taxes and Fees in the Russian Federation. Authority of Legislative (Representative) State Power Bodies of the Subjects of the Russian Federation and Representative Bodies of Municipal Formations, as Regards the Imposition of Taxes and Fees

1. The following types of taxes and fees shall be imposed in the Russian Federation: **federal, regional** and **local** ones.

2. As federal taxes and fees shall be deemed the taxes and fees imposed by this Code and payable throughout the Russian Federation, if not otherwise provided for by **Item 7** of this Article.

3. As regional taxes and fees shall be deemed the taxes and fees established by this Code and the laws of the subjects of the Russian Federation and payable in the territories of appropriate subjects of the Russian Federation, unless otherwise established by **Item 7** of this Article.

Regional taxes shall be carried into effect and abolished in the territories of the subjects of the Russian Federation in accordance with this Code and the tax laws of the subjects of the Russian Federation.

With the introduction of regional taxes by the legislative (representative) bodies of the subjects of the Russian Federation the following elements of taxation shall be defined in the procedure and within the limits provided for by this Code: the tax rates, the procedure for, and the terms of, payment of taxes, if these elements of taxation are not established by this Code. Other elements of taxation with regard to local taxes and taxpayers shall be defined by this Code.

Legislative (representative) state power bodies of the subjects of the Russian Federation may establish by tax laws in the procedure and within the limits provided for by this Code tax concessions, grounds and procedure for application thereof.

4. Local taxes and fees shall be deemed those established by this Code and by the normative legal acts of the representative bodies of municipal formations on taxes payable in the territories of respective municipal formations, unless otherwise provided for by this Item and **Item 7** of this Article.

Local taxes shall be carried out into effect and abolished in the territories of municipal formations in compliance with this Code and the normative legal acts of representative bodies of municipal formations on taxes.

Land tax and individual property tax shall be imposed by this Code and by normative legal acts of representative bodies of settlements (municipal districts) and city circuits on taxes and shall be payable in the territories of appropriate settlements (inter-settlement territories) and urban circuits, unless otherwise provided for by **Item 7** of this Article. Land tax and individual property tax shall be carried into effect and shall be abolished in the territories of settlements (inter-settlement territories) and of urban circuits in compliance with this Code and the normative legal acts of representative bodies of settlements (municipal districts) and urban circuits on taxes.

Local taxes in the cities of federal importance - Moscow and St. Petersburg - shall be established by this Code and the laws of the said subjects of the Russian Federation on taxes, and shall be payable in the territories of these subjects of the Russian Federation, unless otherwise provided for by **Item 7** of this Article. Local taxes shall be carried into effect and abolished in the territories of the cities of federal importance (Moscow and St. Petersburg) in compliance with this Code and the laws of the said subjects of the Russian Federation.

When introducing local taxes by representative bodies of municipal formations (by legislative (representative) state power bodies of the cities of federal importance Moscow and St.-Petersburg), the following taxation elements shall be defined in the procedure and within the limits provided for by this Code: the tax rates, the procedure for, and the terms of, paying the taxes, if these elements of taxation are not established by this Code. Other elements of taxation in respect of local taxes and taxpayers shall be established by this Code.

Representative bodies of municipal formations (legislative (representative) state power bodies of the cities of federal importance Moscow and St.-Petersburg) may establish by the laws on taxes and fees in the procedure and within the limits provided for by this Code tax concessions, grounds and procedure for application thereof.

**5.** Federal, regional and local taxes and fees shall be abolished by this Code.

**6.** No federal, regional or local taxes (fees) may be imposed which are not provided for by this Code.

**7.** This Code shall establish special tax treatments, which may be provided for by federal laws not indicated in **Article 13** of this Code, shall determine the procedure for establishing such taxes, as well as the procedure for the putting into effect and application of the said special tax treatments.

Special tax treatments may provide for the exemption from the duty of paying individual federal, regional and local taxes and fees indicated in **Articles from 13 to 15** of this Code.

#### **Article 13. Federal Taxes and Fees**

Federal taxes and fees shall include:

- 1) value-added tax;
- 2) excise taxes;
- 3) tax on income (profit) of **natural persons**;
- 4) **abrogated** from January 1, 2010;
- 5) tax on profit of **organisations**;
- 6) tax on extraction of minerals;
- 7) **abolished** from January 1, 2006;
- 8) water tax;
- 9) fee for the right to use fauna and aquatic biological resources;
- 10) state duty.

#### **Article 14. Regional Taxes**

Regional taxes shall include:

- 1) tax on property of organisations;
- 2) tax on gambling industry;
- 3) transport tax.

#### **Article 15. Local Taxes**

Local taxes shall include:

- 1) land tax;
- 2) individual property tax.

#### **Article 16. Information About Taxes**

Information and copies of laws, other normative legal acts on the establishment, modification and terminate the operation of regional and local taxes shall be sent by the organs of state power of the subjects of the Russian Federation and local self-government bodies to the Ministry of Finance of the Russian Federation and the federal executive body authorised to exercise control and supervision in the area of taxes and fees, and also to the financial bodies

of the respective subjects of the Russian Federation and to the territorial tax bodies.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 17 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the Federal Law*

*See the previous text of the Article*

**Article 17.** General Conditions of Imposition of Taxes and Fees

1. A tax shall only be considered as imposed if the taxpayers and the elements of taxation are defined, namely,

taxable item;

tax base;

tax period;

tax rate;

procedure for calculation of tax;

procedure and dates of tax payment.

2. In tax imposition, a legislative act on taxes and fees may also if necessary provide tax benefits and grounds for their use by the taxpayer.

3. In imposing fees, their payers and elements of taxation shall be defined relative to particular fees.

**Article 18.** Special Types of Tax Treatment

1. Special types of tax treatment shall be established by this Code and shall apply in the instances and in the procedure that are provided for by this Code and other legislative acts on taxes and fees.

Special types of tax treatments may provide for a special procedure for defining taxation elements, as well as the exemption from the duty of paying individual taxes and fees stipulated by **Articles from 13 to 15** of this Code.

2. Special types of tax treatments shall include:

1) taxation system for agricultural producers (uniform agricultural tax);

2) simplified taxation system;

3) taxation system in the form of uniform tax on imputed earnings for some types of activities;

4) taxation system, when implementing agreements on division of products.

**Section 2. Taxpayers and Payers of Fees. Tax Agents.  
Representation in Tax Legal Relations**

**Chapter 3. Taxpayers and Payers of Fees. Tax Agents**

*Federal Law No. 154-FZ of July 9, 1999 amended Article 19 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the Federal Law*

*See the previous text of the Article*

**Article 19.** Taxpayers and Payers of Fees

Taxpayers and payers of fees shall be defined as organisations and individuals who are under an obligation, under this Code, to pay taxes and/or fees, respectively.

In the order prescribed by this Code the branches and other separate subdivisions of

Russian organisations shall discharge the duties of these organisations in the payment of taxes and fees in the location of these branches and other separate subdivisions.

*According to **Federal Law No. 227-FZ of November 18, 2011** the provisions of Article 20 of this Code shall be applied from January 1, 2012 solely to transactions, the income and (or) the outlays from (on) which have been declared in conformity with **Chapter 25** of this Code before the day of **entry into force** of the said Federal Law*

#### **Article 20. Related Persons**

**1.** For purposes of taxation, related persons shall be defined as individuals and/or organisations the relations between which may exert influence on the conditions or economic results of their activity or the activity of persons they represent, namely:

1) one organisation directly and/or indirectly participates in another organisation, and the summary share of such participation makes up over 20 per cent. The share of the indirect participation of one organisation in another one through a sequence of other organisations shall be determined in the shape of the product of the shares of direct participation of the organisation in this sequence of one in another;

2) one individual is subordinate to another individual as to his or her superior;

3) in accordance with the family law of the Russian Federation, the persons are spouses, relatives, are related to each other by marriage, are an adopter and an adoptee or a guardian and a ward.

**2.** The court may recognise persons as interdependent on other grounds, which are not provided for by Item 1 of this Article, if the relations between these persons may influence the results of transactions in the sale of goods (works, services).

***Federal Law No. 154-FZ of July 9, 1999** amended Article 21 of this Code*

*The amendments shall **enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law*

*See the previous text of the Article*

#### **Article 21. Rights of Taxpayers (Payers of Fees)**

**1.** Taxpayers shall have the right to:

1) to receive in the place of their registration from tax bodies information (including information in written form) about current taxes and fees, the legislation on taxes and fees and the normative legal acts adopted in accordance with it, about the procedure for the calculation and payment of taxes and fees, the rights and duties of taxpayers, and about the powers of tax bodies and their officials, and also to receive the forms of tax declarations (calculations) and explanations about the order of their completion;

*See **Regulations for Organising the Work with the Taxpayers, the Payers of Fees and Insurance Premiums for Obligatory Pension Insurance, and with the Insurance Agents**, approved by **Order** of the Federal Tax Service No. SAE-3-01/444 of September 9, 2005*

2) to receive from the Ministry of Finance of the Russian Federation written explanations of the application of the taxation legislation of the Russian Federation, from the financial bodies of the subjects of the Russian Federation and municipal formations - of the application of the legislation of the subjects of the Russian Federation on taxes and fees and of the normative legal acts of municipal formations on local taxes and fees;

3) use tax benefits provided there are grounds for such and in accordance with the

procedure established by tax and fee legislation;

4) receive deferral, the right to pay in installments, or an investment tax credit in accordance with the procedure and on conditions set by this Code;

5) the timely credit or refund of tax, penalty interest, fines amounts paid or collected over and above the correct amount;

5.1) to check, jointly with tax authorities, estimations of taxes, fees, penalties and fines, as well as to receive a **report** on a joint check of estimations of taxes, fees, penalties and fines;

6) represent their interests in the relations regulated by the legislation on taxes and fees in person or via their representative;

7) provide explanations to the tax authorities and their officials on the calculation and payment of taxes and fees, and also on protocols of audits conducted;

8) be present at a field tax audit;

9) receive copies of a tax audit protocol and decisions of the tax authorities, and also of tax notices and requirements for tax payment;

10) require compliance with tax and other legislation from tax officials and other authorised bodies while the latter perform actions with respect to taxpayers;

11) not to comply with unlawful acts and demands of the tax authorities, other authorised agencies and their officials which are at variance with this Code or other federal laws;

12) appeal against acts of the tax authorities and other authorised agencies and actions (inaction) of their officials in accordance with the established procedure;

13) require a **tax secret** be respected and kept;

14) claim full compensation for losses caused by unlawful decisions of the tax authorities or unlawful actions (inaction) of their officials;

15) participate in consideration of the material of a tax inspection or other acts of the tax authorities in the cases provided for by this Code.

**2.** Taxpayers shall also have other rights under this Code and other acts of tax and fee legislation.

**3.** Payers of fees shall have the same rights as taxpayers.

**4.** Any of the parties to an agreement of investment partnership is entitled to appeal in the established procedure against acts of tax authorities and actions (omission to act) of their officials.

## **Article 22.** Guarantee and Protection of Rights of Taxpayers (Payers of Fees)

**1.** Taxpayers (payers of fees) shall be guaranteed administrative and judicial protection of their rights and legitimate interests.

The procedure for protection of taxpayers rights shall be established by this Code and other federal laws.

**2.** The rights of taxpayers (payers of fees) shall be secured by the relevant obligations of tax officials and other authorised bodies.

Failure to fulfill or improper fulfillment of obligations to secure the rights of taxpayers (payers of fees) shall involve liability under federal laws.

## **Article 23.** Guarantee and Protection of Rights of Taxpayers (Payers of Fees)

**1.** Taxpayers shall be obliged to:

1) pay taxes and fees imposed in a lawful way;

2) register with the tax authorities, if this Code provides for such an obligation;

3) keep records of their income (expenses) and taxable items in accordance with the

established procedure, if the legislation on taxes and fees provides for such an obligation;

4) file tax returns (calculations) for taxes they are required to pay with the tax authority at the place of registration in accordance with the established procedure, if legislation on taxes and fees provides for such an obligation;

5) present to the tax authority at the place of residence of an individual businessman, private notary or solicitor/barrister who has founded solicitor's studies the registers of receipts, expenditures and economic transactions by request of the tax authorities; to present to the tax authority at the location of an organisation accounting report documents in compliance with the requirements established by the **Federal Law** on Accounting, except for the cases when organisations under the said **Federal Law** are not obliged to keep accounts or are relieved of keeping accounts;

6) submit to the tax authorities and to their officials in the cases and in the procedure, provided for by this Code, the documents required to calculate and pay taxes;

7) comply with lawful demands of a tax authority to eliminate revealed violations of tax and fee legislation, and also not to hinder the lawful activity of tax officials when they discharge their official duties;

8) ensure safekeeping, over the course of four years, of bookkeeping and tax records, as well as of other documents required for the calculation and payment of taxes and fees, including the documents confirming income earned and expenses incurred (for organisations and individual businessmen) and paid (withheld) taxes;

9) fulfill other obligations provided for by tax and fee **legislation**.

**2.** Taxpaying organisations and individual businessmen, apart from the obligations set forth in **Item 1** of this Article, shall be obliged to inform the tax authority at the location of the organisation or at the place of residence of the individual businessman of the following:

1) of **opening or closing accounts** (personal accounts) - within seven days as of the date of opening (closing) such accounts. Individual businessmen shall inform the tax authority of the accounts used by them in their business activities;

1.1) about the beginning or the termination of the right to use corporate electronic instruments of payment for transfers of electronic money resources - in the course of seven days from the date of the beginning (termination) of such a right;

2) of **all instances of holding an interest in Russian and foreign organisations** - at the latest in one month as of the commencement of such interest;

3) of all separate subdivisions of a Russian organisation set up on the territory of the Russian Federation (except for branches and representative offices) and amendments made in the data on such separate subdivisions reported to a tax authority:

within a month as from the date when a separate subdivision of a Russian organisation is established;

within three days as from the date when the appropriate data on a separate subdivision of a Russian organisation are amended;

3.1) of all separate subdivisions of a Russian organisation on the territory of the Russian Federation through which the activities of this organisation are terminated (which are closed by this organisation):

within three days as from the date of adoption by the Russian organisation of the decision to terminate activities through a branch or representative office (on closing a branch or representative office) thereof;

within three days as from the date of termination of the activities of the Russian organisation through a different separate subdivision (of closing a different separate

subdivision);

4) of **re-organisation or liquidation of an organisation** - within three days as of the date of adoption of such decision.

3. The notaries, engaged in private practice, and the lawyers, who have instituted lawyer's offices, are obliged **to inform** the tax body at the place of their residence about opening (closing) accounts, intended for their performance of professional activity, within seven days as from the day of opening (closing) such accounts.

4. Payers of fees shall be obliged to pay the legally established fees, and also meet other obligations as established by the legislation relevant to taxes and fees.

5. For failure to fulfill, or improper fulfilment of, the obligations imposed on him, a taxpayer (payer of fees) shall be liable under the legislation of the Russian Federation.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 6 of Article 23 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

6. Taxpayers who pay their taxes in connection with movement of goods across the customs border of the Customs Union shall also discharge the duties provided for by the **legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

7. The information provided for by **Items 2 and 3** of this article may be supplied to a tax authority in person or through a representative, sent by registered mail or transmitted in electronic form via telecommunication channels.

Where such information reports are transmitted in electronic form they must be attested by the electronic digital signature of the person presenting it or by the electronic digital signature of a representative thereof.

The forms and formats of the information reports to be presented using a paper medium or in electronic form, as well as a procedure for filling out the forms of the cited reports, shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

A procedure for presenting the information reports provided for by Items 2 and 3 of this article in electronic form via telecommunication channels shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

#### **Article 24. Tax Agents**

1. Tax agents shall be defined as persons who are required under this Code to calculate, withhold from the taxpayer and remit taxes to the budget system of the Russian Federation.

2. Tax agents shall have the same rights as taxpayers unless otherwise provided by this Code.

The rights of tax agents shall be ensured and protected in compliance with **Article 22** of this Code.

3. Tax agents shall be required to:

1) calculate, withhold from monetary funds paid to taxpayers and remit taxes to the budget system of the Russian Federation onto corresponding accounts of the Federal Treasury;

2) notify in writing the tax authority at the place of their registration of the impossibility to withhold tax and on the amount of a taxpayer's arrears within one month as of the date when a tax agent learnt about such circumstances;

3) keep records of income calculated and paid to taxpayers and of taxes withheld and remitted to the budget system of the Russian Federation, including separate records for each

taxpayer personally;

4) provide to the tax authority at the place of registration documents required to control the correctness of calculation, withholding and remittance of taxes;

5) ensure safekeeping within four years of the documents required for calculation, deduction and remittance of taxes.

**3.1.** Tax agents shall also discharge other duties provided for by this Code.

**4.** The tax agents shall transfer the collected taxes in the order prescribed by this Code for the payment of the tax by a taxpayer;

**5.** For failure to fulfill or improper fulfillment of obligations imposed on him, the tax agent shall incur liability under the legislation of the Russian Federation.

#### **Article 24.1.** The Taxpayer's Participation in an Agreement of Investment Partnership

**1.** Every taxpayer shall independently discharge the duty of paying tax on organisations' profits and tax on natural persons' incomes arising in connection with the participation thereof in an agreement of investment partnership, subject to the specifics provided for by this article and other provisions of this Code.

**2.** The duty of paying taxes and fees which are not cited in **Item 1** of this Article but arise in connection with execution of an agreement of investment partnership shall be imposed upon the party to such agreement being the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records).

**3.** The managing partner responsible for keeping tax records shall be deemed a tax agent with respect to the incomes of foreign persons derived from participation in the investment partnership.

**4.** The managing partner responsible for keeping tax records is bound to do the following:

1) to forward to the tax authority at the place of registration thereof a copy of the agreement of investment partnership (except for the investment declaration), to report on its termination, to report on the exercise or termination of exercising the functions of a managing partner at latest in five days as from the date of making the cited agreement and its termination, the start and termination of exercising the functions of a managing partner;

2) to keep separate records in respect of operations of the investment partnership in the procedure established by **Chapter 25** of this Code;

3) to file with the tax authority at the place of registration thereof an estimation of the financial result of the investment partnership.

The form of an estimation of the financial result of an investment partnership shall be endorsed by the Ministry of Finance of the Russian Federation.

An estimation of the financial result of an investment partnership shall be filed with the tax authority at the time fixed by this Code for presenting the tax declaration (estimation) for tax on organisations' profits;

4) to report to the tax authority at the place of registration thereof on opening and closing accounts of the investment partnership within seven days as from the date of opening or closing such accounts;

5) to present to the agreement's participants a copy of an estimate of the financial result of the investment partnership and data on the share of profit (loss) of the investment partnership falling on each of them in the procedure and at the time which are established by the agreement of investment partnership but at latest fifteen days before the end time of filing with the tax authority tax declarations (estimates) for tax on organisations' profits fixed by this Code.

The managing partner shall present to the partners data on the shares of profit (loss) of the investment partnership falling on each of them in respect of each kind on incomes for which



the tax base is estimated separately in compliance with this Code;

6) to present to the parties to the agreement of investment partnership the data provided for by the **Federal Law** on Investment Partnerships;

7) if an estimate of the financial result of the investment partnership is emended, to file the emended estimate with the tax authority at the place of registration thereof and to present to the parties to the agreement a copy of the emended estimate of the financial result of the investment partnership within five days as from the date when it is emended.

**5.** The managing partner responsible for keeping tax records shall enjoy the same rights as taxpayers in the relations connected with running business of the investment partnership.

**Article 25. Abrogated** from January 1, 2007.

### **Chapter 3.1. A Consolidated Group of Taxpayers**

#### **Article 25.1.** General Provisions on a Consolidated Group of Taxpayers

**1.** As a consolidated group of taxpayer shall be deemed a voluntary association of taxpayers that pay organisations profit tax on the basis of an agreement on forming the consolidated group of taxpayer in the procedure and under the terms and conditions which are provided for by this Code for the purpose of estimation and payment of organisations profit tax subject to the aggregate financial result of economic activities of the cited taxpayers (hereinafter referred to as organisations profit tax for a consolidated group of taxpayers).

**2.** As a participant in a consolidated group of taxpayer shall be deemed the organisation which a party to an effective agreement on forming the consolidated group of taxpayer, satisfies the criteria and terms provided for by this Code in respect of participants in a consolidated group of taxpayer

**3.** As the responsible participant in a consolidated group of taxpayer shall be deemed the participant in the consolidated group of taxpayer which is charged under an agreement on forming the consolidated group of taxpayer with the duty of estimating and paying organisations profit tax for the consolidated group of taxpayer and which in the legal relations involved in estimation and payment of the cited tax exercises the same rights and discharges the same duties as taxpayers paying organisations profit tax.

**4.** As the document proving the authority of the responsible participant in a consolidated group of taxpayer shall be seen an agreement on forming the consolidated group of taxpayer made in compliance with this Code and the civil legislation of the Russian Federation.

#### **Article 25.2.** The Conditions of Forming a Consolidated Group of Taxpayers

**1.** Russian organisations meeting the conditions provided for by this article are entitled to form a consolidated group of taxpayer.

The conditions which the participants in a consolidated group of taxpayer must meet and which are provided for by this article shall apply within the total validity term of an agreement on forming the cited group, unless otherwise provided for by this Code.

**2.** A consolidated group of taxpayers may be formed by organisations on condition that one organisation participates directly and/or indirectly in the authorised (pooled) capital of the other organisations and the share of such participation in each such organisation makes up at least 90 per cent. The cited condition must be satisfied within the total validity term of the agreement on forming the consolidated group of taxpayer.

The share of participation of an organisation in another organisation shall be estimated in the procedure established by this Code.

**3. An organisation** which is a party to an agreement on forming a consolidated group of taxpayer must meet the following conditions:

1) the organisation is not being reorganised or liquidated;  
2) insolvency (bankruptcy proceedings are not initiated in respect of the organisation in compliance with the **legislation** on insolvency (bankruptcy);

3) the amount of the organisation's net wealth estimated on the basis accounting reports/statements as of the last accounting date preceding the date of filing with a tax authority documents for registration of the agreement on forming (changing) the consolidated group of taxpayers exceeds the amount of the authorized (pooled) capital thereof.

4. A new organisation may be joined to an already existing consolidated group of taxpayers, provided that the organisation to be joined satisfies the conditions provided for by **Item 3** of this article as of date of its joining.

5. All the organisations in the aggregate which participate in a consolidated group of taxpayer must meet the following conditions:

1) the aggregate sum of value-added tax, excise tax, organisations profit tax and severance tax paid within the calendar year preceding the year in which the documents for registration of an agreement on forming a consolidated group of taxpayer are filed, less the tax amounts paid in connection with movement of commodities across the customs border of the Customs Union, is at least 10 milliard roubles;

2) the total volume of proceeds from selling commodities and products, from carrying out works and rendering services and of other incomes according to accounting reports/statements for the calendar year preceding the year in which documents for registration of the agreement on forming the consolidated group of taxpayer are filed with a tax authority amounts to at least 100 milliard roubles;

3) the aggregate value of assets according to accounting reports/statements as of December 31 of the calendar year preceding the year in which documents for registration of an agreement on forming the consolidated group of taxpayer are filed amounts to at least 300 milliard roubles.

6. The following organisations are not entitled to participate in a consolidated group of taxpayer:

1) organisations which are residents of special economic zones;

2) organisations applying special tax treatments;

3) banks, except when all the other organisations in this group are banks;

4) insurance organisations, except when all the other organisations in this group are insurance ones;

5) non-governmental pension funds, except when all the other organisations in this group are non-governmental pension funds;

6) professional securities market participants which are not banks, except when all the other organisations in this group are professional securities market participants which are not banks;

7) organisations which participate in some other consolidated group of taxpayers;

8) organisations which are not deemed taxpayers in respect of organisations profit tax, as well as those exercising the right to be relived of the duties of a taxpayer in respect of organisations profit tax in compliance with **Chapter 25** of this Code;

9) organisations engaged in educational and/or medical activities and applying the 0 per cent tax rate of organisations profit tax in compliance with **Chapter 25** of this Code;

10) organisations which are taxpayers in respect of tax on gambling industry;

11) clearing organisations.

7. A consolidated group of taxpayer shall be formed for at least two tax periods for organisations profit tax.

### **Article 25.3.** An Agreement on Forming a Consolidated Group of Taxpayers

1. In compliance with an agreement on forming a consolidated group of taxpayers organisations satisfying the conditions established by **Article 25.2** of this Code shall unite on a voluntary basis without forming a legal entity for the purpose of estimation and payment of organisations profit tax in respect of the consolidated group of taxpayers in the procedure and under the conditions which are established by this Code.

2. An agreement on forming a consolidated group of taxpayers must contain the following provisions:

- 1) the subject matter of the agreement on forming the consolidated group of taxpayers;
- 2) a list and requisite elements of the organisations participating in the consolidated group of taxpayers;
- 3) the denomination of the organisation which is the responsible participant in the consolidated group of taxpayers;
- 4) a list of the powers which participants in the consolidated group of taxpayers delegate to the responsible participant in this group in compliance with this chapter;
- 5) a procedure for and time period of discharging the duties and exercising the rights by the responsible participant and the other participants in the consolidated group of taxpayers which are not provided for by this Code, liability for failure to discharge the established duties;
- 6) the time period calculated in calendar year for which the consolidated group of taxpayers is formed, if it is formed for a fixed term, or an indication that there is no fixed term for which this group is formed;
- 7) the indices which are required for estimating the tax base and payment of organisations profit tax in respect of each participant in the consolidated group of taxpayers subject to the specifics provided for by **Article 288** of this Code.

3. The legislation on taxes and fees shall apply to the legal relations based on an agreement on forming a consolidated group of taxpayers, and to the part thereof which is not regulated by the legislation on taxes and fees the **civil legislation** of the Russian Federation shall apply.

Any provisions of an agreement on forming a consolidated group of taxpayers (including such agreement itself), if they do not comply with the legislation of the Russian Federation, may be declared invalid judicially by a participant in this group or by a tax authority.

4. An agreement on forming a consolidated group of taxpayers shall be in effect pending the occurrence of the earliest of the following dates:

- 1) the date of termination of the cited agreement provided for by this agreement and/or by this Code;
- 2) the date of the agreement's dissolution;
- 3) the first day of the **tax period** for organisations profit tax following the date when a tax authority refuses to register the cited agreement.

5. An agreement on forming a consolidated group of taxpayers is subject to registration with the tax authority at the location of the organisation which is the responsible participant in the consolidated group of taxpayers.

If the responsible participant in a consolidated group of taxpayers is referred to in compliance with **Article 83** of this Code to the category of major taxpayers, an agreement on forming the consolidated group of taxpayers

is subject to registration with the tax authority at the place of registration of the cited responsible participant in the consolidated group of taxpayers as a major taxpayer.

6. To register an agreement on forming a consolidated group of taxpayers the responsible participant in this group shall file the following documents with a tax authority:

- 1) an application for registration of the agreement on forming the consolidated group of taxpayers signed by authorized persons of all the participants in the consolidated group to be formed;

- 2) two copies of the agreement on forming the consolidated group of taxpayers;
- 3) the documents proving fulfillment of the conditions provided for by **Items 2, 3 and 5 of Article 25.2** of this Code attested by the responsible participant in the consolidated group of taxpayers, in particular copies of payment orders to pay value-added tax, excise tax, organisations profit tax and severance tax (copies of decisions of a tax authority on setting off the above taxes), accounting balance sheets, profit and loss reports for the preceding calendar year in respect of each participant in the group;
- 4) the documents proving the authority of the persons that have signed the agreement on forming the consolidated group of taxpayers.

**7.** The documents cited in **Item 6** of this article shall be filed with a tax authority at latest on October 30 of the year preceding the tax period starting from which organisations profit tax in respect of a consolidated group of taxpayers is estimated and paid.

**8.** The head (deputy head) of a tax authority within a month since the date of filing with the tax authority the documents cited in **Item 6** of this article shall register an agreement on forming a consolidated group of taxpayers or shall render the reasoned decision on the refusal to register it.

In the event of detecting violations which can be removed within the time period fixed by this item, the tax authority is bound to notify of them the responsible participant in the consolidated group of taxpayers.

Before the expiry of the time period fixed by this item the responsible participant in the consolidated group of taxpayers is entitled to remove the detected violations.

**9.** In case of meeting the conditions provided for by **Article 25.2** of this Code and **Items 1-7** of this article, the tax authority is bound to register an agreement on forming a consolidated group of taxpayers and within five days as from the date of its registration to issue a copy of this agreement bearing a note proving its registration to the responsible participant in the consolidated group of taxpayers in person against the receipt thereof or in some other way proving the date when it is received.

Within five days from the date of registration of an agreement on forming a consolidated group of taxpayers information about registration of the agreement on forming the consolidated group of taxpayers shall be forwarded by the tax authority to the tax bodies at the location of the organisations participating in the consolidated group of taxpayers, as well as at the location of separate units of the organisations participating in the consolidated group of taxpayers.

*Item 10 of Article 25.3 of this Code shall **enter into force** on April 1, 2012*

**10. A consolidated group of taxpayers shall be deemed formed from the first day of the tax period for organisations profit tax following the calendar year in which the agreement on forming this group is registered.**

**11.** The refusal of a tax authority to register an agreement on forming a consolidated group of taxpayers shall be allowed solely where there is at least one of the following circumstances:

- 1) non-compliance with the conditions for forming the consolidated group of taxpayers which are provided for by **Article 25.2** of this Code;
- 2) non-compliance of the agreement on forming the consolidated group of taxpayers with the requirements cited in **Item 2** of this article;
- 3) failure to present (to present in full), or failure to observe the deadline for filing with an authorised tax agency, the documents for registration of the agreement on forming the consolidated group of taxpayers provided for by **Items 5-7** of this article;
- 4) in case the documents are signed by persons who are not authorized to do it.

**12.** In the event of refusal of a tax authority to register an agreement on forming a

consolidated group of taxpayers, the responsible participant in the consolidated group of taxpayers is entitled to repeatedly present the documents for registration of such agreement.

**13.** A copy of the decision on the refusal to register an agreement on forming a consolidated group of taxpayers within five days as from the date of its adoption shall be transferred by the tax authority to an authorized representative of the person cited in such agreement as the responsible participant in the consolidated group of taxpayers in person against the receipt thereof or in some other way proving the date of its receiving.

**14.** The refusal to register an agreement on forming a consolidated group of taxpayers may be appealed against by the person cited in such agreement as the responsible participant in the consolidated group of taxpayers in the procedure and at the time which are established by this Code for appealing against acts, actions and omission to act of tax authorities and of their officials.

*Paragraph 2 of Item 14 of Article 25.3 of this Code shall enter into force on April 1, 2012*

**In the event of allowing an application (complaint), if there no other obstacles for registration of an agreement on forming a consolidated group of taxpayers established by this chapter, the tax authority is bound to register the cited agreement, and the cited group shall be deemed formed as from the first day of the tax period for organisations profit tax following the calendar year in which such group was subject to registration in compliance with Item 8 of this article.**

#### **Article 25.4.** Changing an Agreement on Forming a Consolidated Group of Taxpayers and Extending It

**1.** An agreement on forming a consolidated group of taxpayers may be changed in the procedure and under the conditions which are provided for by this article.

**2.** The parties to an agreement on forming a consolidated group of taxpayers are bound to amend the cited agreement in the event of the following:

1) adoption of the decision on liquidation of one or several organisations participating in the consolidated group of taxpayers;

2) adoption of the decision on re-organising (in the form of merger, affiliation, separation and division) one or several organisations participating in the consolidated group of taxpayers;

3) affiliation of an organisation to the consolidated group of taxpayers;

4) withdrawal of an organisation from the consolidated group of taxpayers (in particular when such organisation ceases to meet the conditions provided for by **Article 25.2** of this Code, including its merger with an organisation which is not a participant to the cited group or division (separation) of an organisation which is a participant in this group);

5) adoption of the decision on extending the validity term of the agreement on forming the consolidated group of taxpayers.

**3.** An arrangement on changing an agreement on forming a consolidated group of taxpayers (the decision on extending the validity term of the cited agreement) shall be rendered by all the members of such group, including newly-joining participants thereof and excluding the ones which are withdrawing from this group.

**4.** An arrangement on changing an agreement on forming a consolidated group of taxpayers (the decision on extending the validity term of the cited agreement) shall be filed with a tax authority for registration at the following time:

1) at latest a month before the start of a regular tax period for organisations profit tax - when making amendments connected with joining new participants to the group (except when the participants in the cited group are reorganised);

2) at latest a month before the expiry of the validity term of the agreement on forming the

consolidated group of taxpayers- when adopting the decision on extending the validity term of the cited agreement;

3) within a month since the date when the circumstances for changing the agreement on forming the consolidated group of taxpayers occur - in other instances.

**5.** To register an arrangement on changing an agreement on forming a consolidated group of taxpayers (the decision on extending the validity term of the cited agreement) its responsible participant shall file with a tax authority the following documents:

1) a notice of amending the agreement;

2) two copies of the arrangement on changing the agreement signed by authorized persons of participants in the consolidated group of taxpayers;

3) the documents proving the authority of the person who have signed the arrangement on amending the agreement;

4) the documents proving satisfaction of the conditions provided for by **Article 25.2** of this Code, subject to the amendments made in the agreement;

5) two copies of the decision on extending the agreement.

**6.** A tax authority is bound to register the amendments made in an agreement on forming a consolidated group of taxpayers within 10 days as from the date of filing the documents cited in **Item 5** of this article and to issue to an authorised representative of the responsible participant in the cited group a copy of the amendments bearing a note that proves its registration.

**7.** As the grounds for the refusal to register the amendments to be made in an agreement on forming a consolidated group of taxpayers shall be deemed the following:

1) failure to meet the conditions provided for by **Article 25.2** of this Code in respect of at least one participant in the consolidated group of taxpayers;

2) signing of the documents by persons who are not authorized to do it;

3) failure to observe the deadline for filing documents in respect of changing the cited agreement;

4) failure to present (to present in full) the documents provided for by **Item 5** of this article.

**8.** The amendments made in an agreement on forming a consolidated group of taxpayers shall enter into force in the following procedure:

1) the amendments made in the agreement on forming the consolidated group of taxpayers connected with affiliation to such group of new organisations (except when the group's participants are re-organised) shall enter into force at earliest on the first day of the **tax period** for organisations profit tax following the calendar year in which the appropriate amendments made in the agreement are registered by a tax authority;

2) the amendments made in the agreement on forming the consolidated group of taxpayers connected with the withdrawal of participants from such group shall enter into force as from the first day of the tax period for organisations profit tax in which the circumstances for making the appropriate amendments in the agreement occur (unless otherwise provided for by **Subitem 3** of this item);

3) the amendments made in the agreement on forming the consolidated group of taxpayers connected with the withdrawal of participants from such group which at the time of registration by a tax authority of the appropriate amendments meet the conditions provided for by **Article 25.2** of this Code shall enter into force as from the first day of the tax period for organisations profit tax following the calendar year in which the appropriate amendments are registered by the tax authority;

4) in other instances the amendments made in the agreement on forming the consolidated group of taxpayers shall enter into force as from the date cited by the parties thereto but at earliest on the date of registration of amendments by a tax authority.

9. Evasion of making mandatory amendments in an agreement on forming a consolidated group of taxpayers shall entail termination of the agreement from the first day of the tax period for organisations profit tax in which the appropriate mandatory amendments had to enter into force.

**Article 25.5.** The Rights and Duties of the Responsible Participant and Other Participants in a Consolidated Group of Taxpayers

1. The responsible participant in a consolidated group of taxpayers, unless otherwise provided for by this Code, shall exercise the rights and discharge the duties provided for by this Code for taxpayers that pay organisations profit tax in the relations regulated by the legislation on taxes and fees arising in connection with operation of the consolidated group of taxpayers.

2. The responsible participant in a consolidated group of taxpayers is entitled to do the following:

1) to give to tax authorities and their officials any explanations concerning estimation and payment of organisations profit tax (making advance payments) in respect of the consolidated group of taxpayers;

2) to be present when on-site tax audits are held in connection with payment of organisations profit tax, as regards the consolidated group of taxpayers, at the location of any participant in such group and separate units thereof;

3) to receive copies of reports on tax inspections and decisions rendered on the basis of the results of inspections held in connection with payment of organisations profit tax in respect of the consolidated group of taxpayers, as well as to receive demands for paying organisations profit tax (making advance payments) and other documents connected with operation of the consolidated group of taxpayers;

4) to participate in consideration by the head (deputy head) of a tax authority of the materials of tax inspections and additional tax control activities held in connection with payment of organisations profit tax in respect of the consolidated group of taxpayers in the instances and in the procedure which are provided for by **Article 101** of this Code;

5) to receive from tax authorities data on participants in the consolidated group of taxpayers which constitute tax secret;

6) to appeal in the established procedure against acts of tax authorities, other authorised bodies and actions or omission to act of their officials, in particular in the interests in individual participants in the consolidated group of taxpayers in connection with the discharge by them of the duties (exercise of the rights) involved in estimation of organisations profit tax in respect of the consolidated group of taxpayers;

7) to file an application with a tax authority for setting off (repayment) of organisations profit tax paid in excess in respect of the consolidated group of taxpayers.

3. The responsible participant in a consolidated group of taxpayers is obliged to do the following:

1) to file in the procedure and at the time which are provided for by this Code with a tax authority for registration the agreement on forming the consolidated group of taxpayers, amendments made in the agreement on forming the consolidated group of taxpayers, a decision on or a notice about termination of operation of the consolidated group of taxpayers;

2) to keep tax records, to estimate and pay organisations profit tax (make advance payments) in respect of the consolidated group of taxpayers in the procedure established by **Chapter 25** of this Code;

3) to file with a tax authority the **tax declaration** for organisations profit tax, as well as the documents received from the other participants in the group in the procedure and at the time which are established by this Code;

4) in case of termination of operation of the consolidated group of taxpayers and/or

withdrawal of an organisation from the consolidated group of taxpayers to provide the other participants of the group (in particular those which have withdrawn from the group or have been re-organised) the data which are required for estimation and payment of organisations profit tax (making advance payments) and for drawing up tax declarations for appropriate accounting and **tax periods** in the procedure and at the time which are provided for by the agreement on forming the consolidated group of taxpayers;

5) to pay arrears, penalties and fines resulting from the discharge of the duties of a taxpayer paying organisations profit tax in respect of the consolidated group of taxpayers;

6) to inform participants in the consolidated group of taxpayers about receiving a demand to pay taxes and fees within five days as from the date when it is received;

7) to obtain on demand from participants in the consolidated group of taxpayers the documents, explanations and other information which are necessary for exercising by tax authorities tax control activities and for discharging the duties of a taxpayer paying organisations profit tax in respect of the consolidated group of taxpayers;

8) to present the basic documents, tax ledgers and other information in respect of the consolidated group of taxpayers demanded within the framework of tax control activities by the tax authority that has registered the agreement on forming the cited group.

**4.** The responsible participant in a consolidated group of taxpayers within the scope of the authority vested therein enjoy other taxpayer' s rights and discharge other taxpayer's duties provided for by this Code.

**5.** Participants in a consolidated group of taxpayers are bound to do the following:

1) to present (in particular in the electronic form) to the responsible participant in the consolidated group of taxpayers estimates of the tax base for organisations profit tax in respect of their incomes and outlays, data from tax ledgers and other documents which are necessary for the responsible participant in the cited group to discharge the duties and exercise the rights of a taxpayer paying organisations profit tax in respect of the consolidated group of taxpayers;

2) to present to tax authorities at the time and in the procedure established by this Code the requested documents and other information for exercising by a tax authority tax control activities in connection with operation of the consolidated group of taxpayers;

3) to discharge the duty of paying organisations profit tax (making advance payments) in respect of the consolidated group of taxpayers, appropriate penalties and fines, should the responsible participant in this group fail to discharge such duty or to discharge it in a proper way, in the procedure established by **Article 45-47** of this Code;

4) to make all the actions and to present all the documents which are necessary for registration of the agreement on forming the consolidated group of taxpayers and the amendments made therein;

5) if the conditions provided for by **Article 25.2** of this Code are not observed, to promptly notify of it the responsible participant in the consolidated group of taxpayers and the tax authority that has registered the agreement on forming the cited group;

6) to keep tax records in the procedure provided for by **Chapter 25** of this Code.

**6.** In the event of failure of the responsible participant in a consolidated group of taxpayers to discharge or to discharge properly the duty of paying organisations profit tax (making advance payments, paying appropriate penalties and fines), the participant (participants) in this group that has (have) discharged the cited duty shall acquire the right of recourse claim to the extent and in the procedure which are provided for by the **civil legislation** of the Russian Federation and the agreement on forming the cited group.

**7.** Participants in a consolidated group of taxpayers are entitled to do the following:

1) to receive from the responsible participant in the cited group copies of acts, decisions, demands, collation reports and other documents presented to the responsible participant by a tax authority in connection with operation of the consolidated group of taxpayers;



2) to complain independently with a superior tax authority or court against acts of tax authorities, actions or omission to act of their officials subject to the specifics provided for by this Code;

3) to discharge voluntarily the duty of the responsible participant in the consolidated group of taxpayers as to payment of organisations profit tax in respect of the consolidated group of taxpayers;

4) to be present when tax audits of the group's participant are held in connection with estimation and payment of organisations profit tax in respect of the consolidated group of taxpayers, as well as to participate in consideration of such tax inspections' results.

**8.** An organisation when withdrawing from a consolidated group of taxpayers is bound to do the following:

1) to make amendments in tax records from the start of the tax period for organisations profit tax in which the cited organisation ceases starting from the first day thereof to participate in the consolidated group of taxpayers, which are aimed at satisfaction of the requirements of **Chapter 25** of this Code in respect of tax registration of a taxpayer that does not participate in the consolidated group of taxpayers;

2) to estimate and pay organisations profit tax (to make advance payments) on the basis of actually received profit for appropriate **accounting** and **tax periods** at the time fixed by **Chapter 25** of this Code as applied to the tax period in which an organisation starting from the first day thereof ceases to participate in the consolidated group of taxpayers;

3) upon termination of the tax period in which the cited organisation starting from the first day thereof ceases to participate in the consolidated group of taxpayers to file with the tax authority at the place of registration thereof the tax declaration for organisations profit tax at the time which is provided for by **Chapter 25** of this Code.

**9.** The responsible participant in a consolidated group of taxpayers when one or several participants thereof withdraw from the cited group is obliged to do the following:

1) to make the appropriate amendments in tax records from the start of the tax period for organisations profit tax in which the participant (participants) withdrew from the consolidated group of taxpayers;

2) to re-calculate advance payments for organisations profit tax in respect of the expired tax periods and to file with the tax authority at the place of registration thereof specified tax declarations for organisations profit tax in respect of the consolidated group of taxpayers.

**10.** An organisation's withdrawal from a consolidated group of taxpayers shall not relieve it of discharging in compliance with **Articles 45-47** of this Code the duty of paying organisations profit tax, appropriate penalties and fines originating within the period when the organisation was a participant in such group.

This provision shall apply, regardless of whether this organisation had known or not before its withdrawal from the consolidated group of taxpayers about non-discharge of the cited duty or a violation of the legislation of the Russian Federation on taxes and fees, or the appropriate circumstances became known to the organisation after its withdrawal from the consolidated group of taxpayers.

**11. Items 8-10** of this article shall also apply in case of termination of operation of a consolidated group of taxpayers before the expiry of the time period for which it was formed.

#### **Article 25.6.** The Termination of Operation of a Consolidated Group of Taxpayers

**1.** A consolidated group of taxpayers shall terminate its operation where there is at least one of the following circumstances:

1) the expiry of the validity term of the agreement on forming the consolidated group of taxpayers;

2) the dissolution of the agreement on forming the consolidated group of taxpayers as

agreed by the parties thereto;

3) the entry into legal force of the court decision on declaring the consolidated group of taxpayers invalid;

4) failure to present to a tax authority in due time an arrangement on amending the consolidated group of taxpayers in connection with the withdrawal from the cited group of the organisation that has failed to observe the conditions provided for by **Article 25.2** of this Code;

5) re-organisation (except for re-organisation in the form of transformation) or liquidation of the responsible participant in the consolidated group of taxpayers;

6) initiation in respect of the responsible participant in the consolidated group of taxpayers insolvency (bankruptcy) proceedings in compliance with the **legislation** of the Russian Federation on insolvency (bankruptcy);

7) failure of the responsible participant in the consolidated group of taxpayers to satisfy the conditions provided for by **Article 25.2** of this Code;

8) evasion of making mandatory amendments in the agreement on forming the consolidated group of taxpayers.

**2.** The acquisition (sale) of stocks (shares) in the authorised (pooled) capital (fund) of an organisation participating in a consolidated group of taxpayers that does not lead to violation of the conditions provided for by **Item 2 of Article 25.2** of this Code shall not entail termination of operation of the consolidated group of taxpayers.

**3.** Under the circumstances cited in **Subitem 2 of Item 1** of this article the responsible participant in a consolidated group of taxpayers is bound to forward to the tax authority that has registered the agreement on forming this group the decision on termination of operation of such group signed by authorised representatives of all the organisations participating in the consolidated group of taxpayers at latest in five days as from the date of adoption of the appropriate decision.

Under the circumstances cited in Subitems 1, **3-7 of Item 1** of this article the responsible participant in a consolidated group of taxpayers is bound to forward to the tax authority that has registered the agreement on forming this group a notice drawn up in an arbitrary form citing therein the date when such circumstances originated.

Within five days as from the date of receiving the documents cited in Paragraphs One and Two of this item information about termination of operation of a consolidated group of taxpayers shall be forwarded by a tax authority to the tax agencies at the location of the organisations participating in the consolidated group of taxpayers, as well as to the location of separate units of the organisations participating in the consolidated group of taxpayers.

**4.** A consolidated group of taxpayers shall terminate its operation from the first day of the **tax period** for organisations profit tax following the period in which the circumstances cited in **Item 1** of this article took place, unless otherwise provided for by this Code.

**5.** Where there are the grounds provided for by **Subitem 3 of Item 1** of this article, a consolidated group of taxpayers shall terminate its operation from the first day of the **accounting year** for organisations profit tax in which the court decision cited in Subitem 3 of Item 1 of this article entered into legal force.

**6.** Where there are the grounds provided for by **Subitem 4 of Item 1** of this article, a consolidated group of taxpayers shall terminate its operation from the first day of the tax period for organisations profit tax in which a participant in this group failed to meet the conditions established by **Article 25.2** of this Code.

**7.** Where there are the grounds provided for by **Subitem 5-7 of Item 1** of this article, a consolidated group of taxpayers shall termination its operation from the first day of the tax period for organisations profit tax in which the responsible participant in this group was re-organised (except for re-organisation in the form of transformation) or liquidated respectively, or insolvency (bankruptcy) proceedings were initiated in respect of such participant in compliance

with the legislation of the Russian Federation on insolvency (bankruptcy) or this responsible participant failed to meet the conditions provided for by **Article 25.2** of this Code.

#### **Chapter 4. Representation in Relations Regulated by Legislation On Taxes and Fees**

##### **Article 26.** The Right to Representation in Relations Regulated by Legislation on Taxes and Fees

**1.** The taxpayer may participate in legal relations via his legal or authorised representative unless otherwise provided by this Code.

**2.** Personal participation of the taxpayer in tax legal relations shall not deprive him of the right to have a representative; likewise, participation of the representative shall not deprive the taxpayer of his right to personal participation in the above relations.

**3.** The powers of the representative shall be documented in accordance with this Code and other federal laws.

**4.** The rules provided by this Chapter shall apply to payers of fees and tax agents.

##### **Article 27.** Legal Representative of the Taxpayer

**1.** Legal representatives of a taxpayer organisation shall be defined as persons authorised to represent this organisation on the basis of law or its founding documents.

**2.** Legal representatives of an individual taxpayer shall be defined as persons acting as his representatives under the civil law of the Russian Federation.

##### **Article 28.** Actions (Inaction) of Legal Representatives of Organisations

Actions (inaction) of legal representatives of organisations performed in connection with the participation of this organisation in tax legal relations shall be recognised as actions (inaction) of this organisation itself.

##### **Article 29.** Authorised Representative of the Taxpayer

**1.** An authorised representative of the taxpayer shall be defined as an individual or a legal entity authorised by the taxpayer to represent his interests in his relations with the tax authorities (customs agencies) or other parties to relations regulated by tax and fee legislation.

**2.** Officials of tax bodies, customs agencies, internal affairs bodies, judges, investigators or public prosecutors may not be authorised representatives of taxpayers.

**3.** An authorised representative of a taxpayer shall exercise his authority on the basis of a power of attorney issued as prescribed by the civil law of the Russian Federation, if not otherwise provided for by this **Code**.

An authorised representative of an **individual** taxpayer shall exercise his authority on the basis of a power of attorney notarially certified or a power of attorney equated with one notarially certified in accordance with civil law.

**4.** The responsible participant in a consolidated group of taxpayers shall be an authorised representative of all the participants in the consolidated group of taxpayers on the basis of law. Regardless of the provisions of an agreement on forming a consolidated group of taxpayers, the responsible participant in this group is entitled to represent the cited consolidated group's participants in the following legal relations:

1) in the legal relations connected with registration with tax authorities of the agreement on forming the consolidated group of taxpayers, as well as of the amendments made in this

agreement and the decision on extending the agreement's validity term and its termination;

2) in the legal relations connected with the recovery by enforcement from a participant in the consolidated group of taxpayers arrears of organisations profit tax in respect of the consolidated group of taxpayers;

3) in the legal relations connected with making an organisation answerable for the tax offences made in connection with participation in the consolidated group of taxpayers;

4) in other instances when the nature of the actions (omission to act) is such that they directly concern the rights of an organisation which is a participant in the consolidated group of taxpayers.

5. Upon the expiry of the validity term of an agreement on forming a consolidated group of taxpayers, its preschedule dissolution or termination the person which is the responsible participant in this group shall preserve the authority provided for by **Item 4** of this article.

6. The person which is the responsible participant in a consolidated group of taxpayers is entitled to delegate the authority involved in representing the interests of this group's participants to third persons, granted thereto under this Code, in the procedure established by the **civil legislation** of the Russian Federation.

**Federal Law** No. 404-FZ of December 28, 2010 amended the title of Section III of this Code. The amendments shall **enter into force** on January 15, 2011 **See the title in the previous wording**

### **Section III. Tax Bodies. Customs Agencies. Financial Bodies. Internal Affairs Bodies. Investigatory Bodies. The Responsibility of the Tax Bodies, the Customs Agencies, Funds, the Internal Affairs Bodies, Investigatory Bodies and Their Officials**

#### **Chapter 5. Tax Bodies, Customs Agencies. Financial Bodies. The Responsibility of the Tax Bodies, the Customs Agencies and Their Officials**

##### **Article 30.** Tax Authorities in the Russian Federation

1. The tax bodies shall constitute a single centralised system of control over the observance of the taxation legislation, over the calculation, fullness and timeliness of the entry of taxes and fees in the respective budget, and in cases, stipulated by the legislation of the Russian Federation, over the calculation, fullness and timeliness of payment (remittance) of taxes and fees to the budget system of the Russian Federation. The said system includes the **federal executive body authorised to exercise control and supervision in the area of taxes and fees**, and its territorial agencies.

##### **2. Abolished**

3. The tax authorities shall act within their competence and in accordance with the legislation of the Russian Federation.

4. The tax bodies shall perform their functions and cooperate with the federal executive bodies, the executive bodies of the subjects of the Russian Federation, the local self-government bodies and state extra-budgetary funds through the realisation of the powers provided for by this Code and other normative legal acts of the Russian Federation.

##### **Article 31.** The Rights of the Tax Authorities

1. The tax authorities shall have the right:

1) to demand from a taxpayer, a payer of fee or a tax agent in compliance with the legislation on taxes and fees documents in the forms and/or formats in electronic form established by the state bodies and local self-government bodies to serve as grounds for calculation and payment (deductions and transfers) of taxes and fees, and also documents confirming the correctness of calculation and timeliness of payment (deduction and transfer) of taxes and fees;

2) to carry out tax inspections in the order established by this **Code**;

3) to seize documents, during tax inspections of a taxpayer, payer of a fee or a tax agent, in cases when there are sufficient grounds to believe that these documents will be destroyed, concealed, changed or replaced;

4) to summon to tax agencies taxpayers, payers of fees or tax agents to give pertinent explanations by means of written **notices** in connection with payment (deduction or transfer) of taxes by them or in connection with a tax inspection, and also in other cases associated with the execution by them of the legislation on taxes and fees;

5) to suspend transactions on the accounts of taxpayers, payers of fees and tax agents opened with banks and to sequester the property of taxpayers, payers of fees and tax agents in the order provided for by this **Code**;

6) to inspect in the procedure provided for by **Article 92** of this Code workrooms, depots, trading and other premises and areas used by taxpayers to derive income or connected with the maintenance of the objects of taxation, regardless of their location, to draw up an inventory of the property belonging to taxpayers. A **procedure** for drawing up an inventory of the taxpayer's property during a tax inspection shall be endorsed by the Ministry of Finance of the Russian Federation;

7) to determine the sums of taxes to be paid by taxpayers to the budget system of the Russian Federation calculated on the basis of available information about a taxpayer, and also of the data on other similar taxpayers in case of the refusal of the taxpayer to admit tax officials to inspect workrooms, depots, trading and other premises and areas, used by the taxpayer to derive income or connected with the maintenance of objects of taxation, in case of the refusal to submit to a tax body documents necessary for the calculation of taxes within more than two months, in case of the absence of the record-keeping of incomes and expenses, of the objects of taxation or in case of keeping records in contravention of the established order that has led to the impossibility of calculating taxes;

8) to demand that taxpayers, tax agents and their representatives should remove the revealed breaches of the legislation on taxes and fees and to control the fulfilment of the said requirements;

9) to recover tax and fee arrears, and also penalties, interest and fines in the instances and in the procedure established by this **Code**;

10) to demand from banks the documents confirming the fact of writing off the amounts of taxes, fees, penalties and fines from the accounts of taxpayers, payers of fees or tax agents and from correspondent accounts of banks and remittance thereof to the budget system of the Russian Federation;

11) to attract specialists, experts and interpreters for tax control;

12) to summon as witnesses persons who may know any circumstances of relevance to tax control;

13) to apply for the cancellation or suspension of licences for the exercise of certain types of activities of legal entities and natural persons;

14) to make the following claims (applications) with courts of general jurisdiction or with courts of arbitration:

claims for recovery of arrears, penalties and fines for tax offences in the cases provided for by this Code;

claims for repair of damage caused to the State and (or) a municipal formation as a result of unlawful actions of a bank as to writing monetary funds off a taxpayer's account after receiving the decision of the tax authority on suspending operations on it, this making impossible the recovery by a tax authority of arrears in, and debts on, penalties and fines from the taxpayer in the procedure provided for by this Code;

claims for early dissolution of a contract of investment tax credit;  
in other cases provided for by this Code.

**2.** The tax authorities shall also exercise other rights provided for by this Code.

**3.** The superior tax authorities shall have the right to revoke decisions rendered by lower-ranking tax bodies in case of inconsistency of the said decisions with the legislation on taxes and fees.

**4.** The forms and formats for the documents stipulated in this Code, which are used by the tax bodies when exercising their powers in relations, regulated by the legislation on taxes and fees, as well as the procedure for filling out the forms of the cited documents and the procedure for presenting such documents in electronic form via telecommunication channels shall be approved by the federal executive power body authorised to exert control and supervision in the area of taxes and fees, unless a different procedure for their approval is envisaged in this Code.

#### **Article 32.** Duties of the Tax Authorities

**1.** Tax authorities shall be obliged to:

1) comply with the legislation on taxes and fees;

2) monitor observation of the legislation on taxes and fees, as well as of other normative legal acts in compliance therewith;

3) keep records of the organisations and natural persons in the established procedure;

4) inform free of charge (in written form as well) taxpayers, payers of fees and tax agents about current taxes and fees, the legislation on taxes and fees and normative legal acts adopted in conformity with it, the procedure for calculation and payment of taxes and fees, the rights and duties of taxpayers, payers of fees and tax agents, the powers of the tax authorities and their officials, and also to submit the forms of tax returns (calculations) and explain the procedure for their completion;

*See **Administrative Rules of Procedure** of the Federal Tax Service for exercising the state function of free-of-charge informing (in particular in writing) of taxpayers, payers of fees and tax agents about effective taxes and fees, the legislation on taxes and fees and normative legal acts adopted in compliance with it, about the procedure for estimation and payment of taxes and fees, rights and duties of taxpayers, payers of fees and tax agents, about the authority of tax agencies and officials thereof, as well as of presenting forms of tax returns and explaining the procedure for filling them in approved by **Order** of the Ministry of Finance of the Russian Federation No. 9n of January 18, 2008*

5) be guided by written explanations of the Ministry of Finance of the Russian Federation as regards the application of the legislation of the Russian Federation on taxes and fees;

6) inform taxpayers, payers of fees and tax agents, when they are registered with the tax authorities, of data on the requisite elements of the appropriate accounts of the Federal

Treasury, as well as to bring to the knowledge of taxpayers, payers of fees and tax agents in the procedure defined by the federal executive body in charge of control and supervision in the field of taxes and fees, data on changes in the requisite elements of these accounts and other data required for completing orders to remit taxes, fees, penalties and fines to the budget system of the Russian Federation;

7) render decisions on repayment to taxpayers, payers of fees or tax agents the amounts of taxes, fees, penalties and fines paid or recovered in excess, send orders drawn up on the basis of these decisions to the appropriate territorial agencies of the Federal Treasury for execution and set off the amounts of taxes, fees, penalties and fines paid or recovered in excess in the procedure provided for by this Code;

8) observe **tax secrets** and ensure their keeping;

9) forward to the taxpayer, payer of fees or tax agent copies of tax audit acts and decisions of a tax authority, as well as in the cases provided for by this Code, the tax notice and (or) the demand to pay a tax or fee.

10) present to a taxpayer, payer of fees or tax agent by request thereof references in respect of the state of the said person's settlements, as regards taxes, fees, penalties and fines, on the basis of data available to a tax authority.

A requested reference shall be presented (shall be transmitted via telecommunication lines) within five working days as of the date of receiving by a tax authority of the appropriate request in writing of a taxpayer, payer of fees or tax agent;

10.1) to present to the responsible participant in a consolidated group of taxpayers at the request thereof forwarded within the scope of authority granted thereto reference notes in respect of the state of settlements of the consolidated group of taxpayers and of the participants of this group, as regards organisations profit tax;

11) jointly collate on the basis of an application of a taxpayer, payer of a fee or tax agent estimations of taxes, fees, penalties and fines. The results of a joint collation of estimations of taxes, fees, penalties and fines shall be legalized in the form of a **report**. A report on joint collation of estimations of taxes, fees, penalties and fines shall be handed in (sent by registered mail) or transferred to a taxpayer (payer of a fee, tax agent) in electronic form via telecommunication channels within the following day after the date when such report is drawn up.

The **form** and formats of a report on joint collation of estimations of taxes, fees, penalties and fines, as well as the procedure for its transmittance in electronic form via telecommunication channels, shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees;

12) issue, on the application of a taxpayer, payer of fees or tax agent, copies of the decisions adopted by a tax authority in respect of this taxpayer, payer of fees or tax agent.

13) on the basis of an application of the responsible participant in a consolidated group of taxpayers to issue copies of the decisions adopted by a tax authority in respect of the consolidated group of taxpayers.

**2.** Tax bodies shall also perform other duties provided for by this Code and other federal laws.

**Federal Law** No. 404-FZ of December 28, 2010 amended Item 3 of Article 32 of this Code. The amendments shall **enter into force** on January 15, 2011 **See the Item in the**

### previous wording

**3.** If within two months from the date of the expiry of the time period fixed for following the demand to pay a tax (fee) forwarded to a taxpayer (payer of fees, tax agent) on the basis of the decision on calling to account for making a tax offence, the taxpayer (payer of fees, tax agent) does not pay off (does not remit) in full the sums of arrears specified by this demand whose extent makes it possible to suppose that there is a breach of the legislation on taxes and fees with the signs of a crime, of appropriate penalties and fines, the tax authorities shall be obliged within 10 days as of the date of detecting the said circumstances to send the relevant documents to the investigatory bodies authorised to carry out preliminary investigation of criminal cases on the crimes provided for by **Articles 198 - 199.2** of the Criminal Code of the Russian Federation (hereinafter referred to as investigatory bodies) for the purpose of deciding on the initiation of criminal proceedings.

#### **Article 33.** Duties of Officials of the Tax Bodies

Officials of the tax bodies shall:

- 1) act in strict compliance with this Code and other federal laws;
- 2) realize the rights and duties of the tax bodies within the scope of their competence;
- 3) treat duly and courteously taxpayers, their representatives and other participants of the relations regulated by the legislation on taxes and fees; respect their honour and dignity.

#### **Article 34.** The Authorities of Customs Bodies and Duties of Customs Officials with Respect to Taxes and Fees

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 34 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**1.** The customs bodies of the Russian Federation shall use the rights and perform the duties of tax bodies to collect taxes in connection with the movement of goods across the border of the Customs Union as per the customs legislation of the Customs Union and the customs legislation of the Russian Federation, this Code and other federal laws on taxes, as well as other federal laws.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 2 of Article 34 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**2.** Customs officials shall perform the duties as established by Item 1 of **Article 33** of this Code as well as other duties as per the customs legislation of the Customs Union and the customs legislation of the Russian Federation.

#### **Article 34.1. Abolished**

#### **Article 34.2.** The Powers of the Financial agencies in the Sphere of Taxation

**1.** The Ministry of Finance of the Russian Federation shall give written explanations to taxpayers, the responsible representative of a consolidated group of taxpayers, payers of fees and tax agents on the matters of application of the legislation of the Russian Federation on taxes and fees.

**2.** The financial bodies of the constituent entities of the Russian Federation and municipal formations shall give written explanations to taxpayers and tax agents on the questions of the application of the legislation of the subjects of the Russian Federation on taxes and fees and of the normative legal acts of municipal formations on local taxes and fees.



**3.** The Ministry of Finance of the Russian Federation, financial bodies of the constituent entities of the Russian Federation and of municipal formations shall give written explanations within the scope of authority thereof within two months as of the date of receiving the appropriate request. The said time period may be extended by decision of the head (deputy head) of the appropriate financial body but at the most by one month.

#### **Article 35.** Liability of Tax Bodies, Customs Bodies, and Also Their Officials

**1.** Tax bodies, customs bodies shall be liable for losses inflicted on taxpayers, payers of fees and tax agents as a result of unlawful actions (decisions), actions or inaction of the former as well as unlawful actions (decisions) or inaction of the officials and other employees of those bodies in performing their office duties.

The losses incurred by the taxpayers, payers of fees and tax agents shall be reimbursed at the expense of the federal budget in the procedure envisaged in this Code or other federal laws.

#### **2. Abolished**

**3.** The officials and other employees of the bodies specified in Item 1 of this Article guilty of unlawful actions or the absence of actions shall bear responsibility provided for in the legislation of the Russian Federation.

**Federal Law** No. 404-FZ of December 28, 2010 amended the title of Chapter 6 of this Code. The amendments shall **enter into force** on January 15, 2011 **See the title in the previous wording**

### **Chapter 6. Internal Affairs Bodies. Investigatory Bodies**

**Federal Law** No. 404-FZ of December 28, 2010 amended Article 36 of this Code. The amendments shall **enter into force** on January 15, 2011 **See the Article in the previous wording**

#### **Article 36.** Powers of Internal Affairs Bodies and Investigatory Bodies

**1.** Internal affairs bodies at the request of tax bodies shall participate, jointly with tax bodies, in field tax inspections held by tax bodies.

**2.** In the event of detecting the circumstances requiring the commitment of actions, attributed by this Code to the authority of tax bodies, internal affairs bodies and investigatory bodies shall be obliged within ten-day term, as of the date of detecting said circumstances, to direct materials to an appropriate tax body for deciding on them.

**Federal Law** No. 404-FZ of December 28, 2010 amended Article 37 of this Code. The amendments shall **enter into force** on January 15, 2011 **See the Article in the previous wording**

#### **Article 37.** Liabilities of the Internal Affairs Bodies, Investigatory Bodies and Their Officials

**1.** Internal affairs bodies and investigatory bodies shall be held liable for any losses inflicted on taxpayers, payers of fees and tax agents as a result of their (tax police bodies) unlawful actions (decisions) or absence thereof, likewise unlawful actions (decisions) or the absence of actions on part of the officials and other employees of those bodies in performance of their official duties.

The losses incurred by the taxpayers, payers of fees and tax agents when taking measures provided for by **Item 1 of Article 36** of this Code, shall be reimbursed at the expense

of the federal budget in the procedure envisaged by this Code and other applicable federal laws.

2. The officials and other employees of internal affairs bodies, as well as officials of investigatory bodies, guilty of unlawful actions or the absence thereof shall bear responsibility as per the legislation of the Russian Federation.

## **Section 4. General Rules for the Fulfillment of the Obligation to Pay Taxes and Fees**

### **Chapter 7. Objects of Taxation**

***Federal Law No. 154-FZ of July 9, 1999 amended Article 38 of this Code***

*The amendments shall **enter into force** upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

#### **Article 38.** Object of Taxation

1. Operations in the sale of goods (works, services), property, profit, income, expense or other object having a cost, quantitative or physical characteristic whose existence is linked to the emergence of a tax liability of the taxpayer shall be deemed an object of taxation.

Each tax has an independent object of taxation defined in compliance with part II of this Code and taking account of the provisions of this Article.

2. Property in this Code shall be understood to mean types of objects of civil rights (except for property rights) referred to as property according to the **Civil Code** of the Russian Federation.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 3 of Article 38 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

3. For the purpose of this Code goods shall be any property sold or to be sold. Any other property as defined by in compliance with the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation shall be also classed as goods in order to regulate the relations connected with collection of customs duties.

4. Works for taxation shall be any activity the results of which have tangible expression and may be realized to meet the needs of an organisation and/or natural persons.

5. Services for taxation shall be any activity the results of which do not have tangible expression, are realized and consumed in the process of performance of such activity.

6. As identical commodities (works and services) are recognised for the purposes of this Code commodities (works and services) with similar principal characteristic features. When determining the identity of commodities, insignificant distinctions in their external appearance may be ignored.

When determining the identity of commodities, into account shall be taken their physical characteristics, their standard, functional purpose, country of origin and manufacturer, as well as the latter's business reputation on the market and the used trade mark.

When determining the identity of works (services), the characteristics of the contractor (executor), his business reputation on the market and the trade mark he uses shall also be taken into account.

7. For the purposes of this Code, as similar are recognised those commodities which, while not being identical, still possess similar characteristics and consist of similar components, which makes it possible for them to fulfil one and the same functions and (or) to be commercially interchangeable. When determining the commodities' similarity, account shall be taken of their standard, reputation on the market, trade mark and country of origin.

As similar works (services) are recognised the works (services) which, while not being identical, possess similar characteristics, which makes it possible for them to be commercially and (or) functionally interchangeable. When determining the works' (services') similarity, into account shall be taken their standard, trade mark, reputation on the market, as well as the kind of the works (services), their volume, uniqueness and commercial interchangeability.

**Federal Law No. 154-FZ of July 9, 1999 amended Article 39 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law**

**See the previous text of the Article**

### **Article 39.** Realization [Sale] of Goods, Works (Services)

1. Realization (sale) of goods, works (services) by an organisation or an individual entrepreneur shall be respectively construed as the transfer of title to goods, transfer of results of completed works from one person to another, repayable provision of services by one person for another (including an exchange of goods, works, or services) for a compensation, or, in cases provided for in this Code, the transfer of the right of ownership of goods, of the results of performed works by one person for another person, the rendering of services by one person to another person free of charge.

2. The place and date of actual realization of goods (works, services) shall be determined as per the special parts of this Code.

3. The following shall be not deemed as realization of goods (works, services):

1) performance of transactions in connection with circulation of Russian or foreign currency (unless the purpose of such transactions is numismatics);

2) transfer of fixed assets, intangible assets and (or) other assets by an organisation to its successor (successors) when such organisation is reorganised;

3) transfer of fixed assets, intangible assets and/or other property to non-profit organisations for the performance of the main statutory activity unrelated to business activity;

4) the transfer of assets, if such transfer is of an investment character (in particular, contributions to the authorised (pooled) capital of economic companies and partnerships, contributions under a contract of simple partnership (a contract of joint work), agreement of investment partnership, shares in cooperatives' income funds);

4.1) the transfer of property and/or property rights under a concession agreement in accordance with the **legislation** of the Russian Federation;

5) transfer of assets within the limits of the original contribution to a participant of an economic entity or partnership (its successor or inheritor) when such participant leaves (withdraws) the company or the partnership as well as in distribution of assets of a liquidated economic entity or a partnership between its participants;

6) transfer of assets within the limits of the original contribution to a participant of a simple partnership agreement (joint activity agreement), an agreement of investment partnership or its successor when his share of assets is singled out from the assets in common

ownership of the agreement participants or when such assets are divided;

7) transfer of residential premises in state or municipal houses when they are privatized;

8) withdrawal of property by way of its confiscation, inheritance of property as well as giving into other persons' ownership abandoned things and things or animals with no identified owner, findings and hidden treasures, as per the provisions of the **Civil Code** of the Russian Federation;

8.1) property's transfer to participants of an economic company or partnership when distributing property or property rights of an organisation being liquidated which is a foreign organiser of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi or a market partner of the International Olympic Committee in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation. This provision shall apply if the establishment and liquidation of an organisation which is a foreign organiser of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi or a market partner of the International Olympic Committee in compliance with **Article 3.1** of the cited Federal Law are effected within the period of organisation of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi which is fixed by **Part 1 of Article 2** of the cited Federal Law;

9) other transactions in cases provided for by this Code.

*On the peculiarities of application of Item 3 of Article 39 of the Tax Code of the Russian Federation, see the **Methodological Recommendations** on the application of Chapter 22 "Excise Taxes" of Part 2 of the Tax Code of the Russian Federation (excisable mineral raw materials) **Order** of the Ministry of Taxation of the Russian Federation No. BG-3-03/440 of December 18, 2000*

#### **Article 40.** Principles for Determining the Price of Goods (Works, Services)

*According to **Federal Law** No. 227-FZ of November 18, 2011 the provisions of Article 40 of this Code shall be applied from January 1, 2012 solely to transactions, the income and (or) the outlays from (on) which are declared in conformity with **Chapter 25** of this Code before the day of **entry into force** of the said Federal Law*

**1.** Unless otherwise provided by this Article, for the purposes of taxation the prices of goods, work services shall be those stated by parties to transactions. Until proven otherwise, it shall be assumed that these prices correspond to the level of market prices.

**2.** Tax authorities, during the exercise of control over the calculation of taxes, shall be entitled to verify the correctness of the prices used in transactions only in the following cases:

1) between related persons;

2) commodity swap (barter) transactions;

3) at the time of completing foreign trade transactions;

4) in the case of the movement of prices upwards or downwards by more than 20 per cent of the level of prices applicable by a taxpayer to identical (homogeneous) goods (works, services) within a short period of time.

*According to **Federal Law** No. 147-FZ of July 31, 1998 on Putting Into Force Part I of the Tax Code of the Russian Federation provisions provided for by Item 3 of this Article shall not apply*

*in the estimation of market prices of financial instruments, forward transactions and securities before the enforcement of the Second Part of the Tax Code of the Russian Federation*

**3.** In cases provided for by **Item 2 of this Article**, when the prices of goods, works or services applied by the parties to a transaction deviate upwards or downwards for more than 20 per cent from the market price of identical (homogenous) goods (works or services), the tax body shall have the right to pass a justified decision on the additional charge of tax and a penalty, calculated as if the results of this transaction would have been assessed on the basis of the application of market prices for relevant goods, works or services.

The market price shall be determined with an eye to the provisions of **Items 4-11** of this Article. Premium prices or concessions shall be taken into account, which are usual upon the conclusion of transactions between non-mutually dependent persons. In particular, it is necessary to take into account the discounts caused by:

- seasonal or other swings of consumer demand for goods (works, services);
- the loss of quality or other consumer properties of goods;
- the expiry (or the approach of the date of expiry) of the serviceable life or sale of goods;
- the marketing policy, especially at the time of the sales promotion to markets of new unique goods, and also at the time of the sales promotion to new markets of goods (works, services);
- the sale of experimental models and samples of goods for the purpose of the familiarization of customers with them.

**4.** The market price of goods (works, services) shall be understood as the price resulting from the interaction between supply and demand on the market of identical (or, in the absence of such, similar) goods (works, services) in comparable economic (business) conditions.

**5.** The market of goods (works, service) shall be understood as the sphere of circulation of these goods (works, services) determined based on the ability of the buyer (seller) to realistically purchase (sell) the goods (work, services) in the territory which is the closest with respect to the buyer (to the seller) inside or outside the Russian Federation, without running any significant additional costs.

**6.** Identical goods shall be understood as goods whose characteristic basic features are the same.

Features to be taken into account when determining whether goods are identical, shall include, without being limited to, their physical characteristics, quality, market reputation, the country of origin and the producer. Insignificant differences in the appearance of goods may not be taken into consideration for the purposes of determining whether goods are identical.

**7.** Similar goods shall be understood as goods that short of being identical have similar characteristics and consist of similar components, which allows them to perform the same functions and (or) be commercially interchangeable.

Features to be taken into account when determining whether goods are similar shall include, without being limited to, their quality, availability of a trademark, market reputation, country of origin.

**8.** When determining the market price of goods(works, services) transactions between unrelated persons shall be taken into account. Transactions between related persons can be taken into account in those cases when the relation that exists between these persons did not affect the outcome of such transactions.

**9.** While determining the market prices of goods, works or services, it is necessary to take into account information about transactions made at the time of sale of these goods, works or services in identical (homogenous) goods, works or services in comparable conditions. It is necessary to take into account such terms of transactions as the quantity (volume) of supplied goods (e.g. the size of a lot of goods), the time for the execution of obligations, the terms of

payment, usually applicable in transactions of this kind, and also other reasonable conditions, which may influence prices.

The terms of transactions on the market of identical (and in their absence homogenous) goods, works, or services shall be recognised as comparable, if the difference between such terms either does not influence substantially the price of such goods, works or services or may be taken into account with the aid of adjustments.

*According to **Federal Law No. 147-FZ of July 31, 1998 on Putting Into Force Part I of the Tax Code of the Russian Federation** provisions provided for by Item 10 of this Article shall not apply in the process of determining market prices of financial instruments, forward transactions and securities before the enforcement of the Part II of the Tax Code of the Russian Federation*

**10.** In the absence of transactions in identical (homogenous) goods, works, services on the corresponding market of such goods, works or services or in the absence on this market of the supply of such goods, works or services, and also when it is impossible to determine appropriate prices because of the absence or the inaccessibility of information sources for the determination of a market price, use shall be made of the method of the price of subsequent sale, under which the market price of goods, works, services sold by the seller is assessed as the difference of the price for which such goods, works or services were sold by the buyer of these goods, works or services in the case of their subsequent sale (resale) and the expenses which are usual in similar cases borne by this buyer during the resale (with disregard for the price for which goods, works or services were acquired by the said buyer from the seller) and during the promotion in the market of the goods, works or services acquired from the buyer, and also during the receipt of the profit by the buyer that is usual in the given sphere of activity.

When it is impossible to use the method of the price of subsequent sale (in particular, in the absence of information about the price of goods, works or services later sold by the buyer) use shall be made of the cost method, under which the market price of the goods, works or services sold by the seller is determined as a sum of the effected costs and the profit which is usual for the given sphere of activity. In this case it is necessary to take into account the direct and indirect expenses on the production (acquisition), which are usual in similar cases, and (or) the sale of goods, works or services, the usual expenses on transportation, storage, insurance and other such expenses;

**11.** The information used for determining and recognising the market price of goods (works, services) shall include official sources of information on market prices of goods (works, services), exchange quotations.

**12.** When hearing a case, a court shall be entitled to take into account any circumstances that have a bearing upon the determination of results of a transaction, without being limited to those listed under **Items 4-11** of this Article.

**13.** When goods (works or services) are sold at state-controlled prices (tariffs), fixed in accordance with the legislation of the Russian Federation, the said prices (tariffs) shall be accepted for taxation purposes.

**14.** In determining the market prices of securities and financial instruments of time transactions, the provisions of **Items 3** and **10** of this Article shall be applied in a manner which takes into account the special provisions of **Chapter 23** "Tax on Natural Persons' Income" of this Code and **Chapter 25** "Tax on Profit of Organisations" of this Code.

#### **Article 41.** Principles of Determining Income

Pursuant to this Code, income shall be understood as economic gain in the form of money or in kind, that shall be taken into account, if it can be estimated and to the extent that

this gain can be estimated, and determined in accordance with Chapters "**Tax on Income of Natural Persons**", "Enterprise (Organisation) Income Tax" of this Code.

**Article 42.** Income from Sources Inside and Outside the Russian Federation

1. The incomes of a taxpayer may be attributed to the incomes from the sources in the Russian Federation or to the incomes from the sources beyond the confines of the Russian Federation in accordance with the Chapters "**Tax on Organisations' Profit**" and "**Tax on Income of Natural Persons**" in the present Code.

2. If the provisions of this Code do not allow one to unequivocally classify the income received by a taxpayer as either income from sources inside the Russian Federation, or income from sources outside the Russian Federation, this determination shall be made by the federal executive body authorised to exercise control and supervision in the area of taxes and fees. The share of income that can be attributed to sources inside the Russian Federation and shares that can be attributed to sources in other countries shall be determined in a similar way.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 43 of this Code*

*The amendments shall **enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law*

*See the previous text of the Article*

**Article 43.** Dividends and Interest

1. Any income received by a shareholder (participant) from an organisation through allocation of its after-tax profits (including income in the form of interest on preference shares) to shares (stakes), owned by such shareholder (participant) shall constitute a dividend in proportion to the shares of shareholders (participants) in the authorised (pooled) capital of the organisation.

Dividends also include any incomes received from the sources beyond the confines of the Russian Federation and classed as dividends in accordance with the legislation of foreign states.

2. The following shall not constitute a dividend:

1) payments received by a shareholder (participant) of an organisation in cash or in kind which do not exceed the contribution of this shareholder (participant) to the authorised (pooled) capital of the organisation in the event of a liquidation of said organisation;

2) payments to shareholders (participant) of an organisation in the form of transfer of shares of that organisation into their property;

3) payments to a non-profit organisation for the conduct of its main statutory activity (unrelated to business), made by economic companies whose authorised capital consists in full of the contributions of this non-profit organisation.

3. Interest shall be construed as any income announced (established) in advance, including income in the form of a discount, received on debt obligations of any kinds (irrespective of their form). Interest shall include, among other things, income on cash deposits and debt obligations.

## **Chapter 8. Fulfillment of the Obligation to Pay Taxes and Fees**

**Article 44.** Emergence, Alteration and Termination of Obligation for Payment of a Tax or Fee

1. The obligation to pay a tax or fee shall emerge, alter and terminate on the grounds established by this Code or other acts of legislation on taxes and duties.

2. An obligation to pay a specific tax shall be imposed on a taxpayer/payer of duty with the emergence of grounds that require payment of this tax or duty, as established by the legislation on taxes and duties.

3. An obligation to pay a tax and/or duty shall terminate in the following cases:

1) once the taxpayer, payer of a fee and/or participant in a consolidated group of taxpayers pays the tax and/or the fee, where it is provided for by this Code;

2) **abrogated** from January 1, 2007;

3) with the death of a taxpaying natural person or recognition of him/her as decedent in accordance with the procedure established by the **civil procedural legislation** of the Russian Federation. The liability of the decedent or one recognised as decedent with respect to the taxes cited in **Item 3 of Article 14** and in **Article 15** of this Code shall be repayable by his/her heirs on the account of inheritable estate thereof in the procedure established by the **civil legislation** of the Russian Federation for paying off the testator's debts by the heirs thereof;

4) liquidation of an institutional taxpayer after settling all claims of the budget system of the Russian Federation in accordance with **Article 49** of this Code;

5) appearance of other circumstances which are connected with termination of the obligation to pay the appropriate tax or fee by virtue of the legislation on taxes and fees.

#### **Article 45.** Fulfilment of an Obligation to Pay a Tax or a Fee

1. It shall be the duty of a taxpayer to fulfill the obligation to pay taxes on their own, unless otherwise provided for by the legislation on taxes and duties. The duty of paying organisations profit tax in respect of a consolidated group of taxpayers shall be discharged by the responsible participant in this group, unless otherwise provided for by this Code.

The obligation to pay a tax shall be fulfilled within the time limits established by the legislation on taxes and fees. A taxpayer or, where it is provided for by this Code, a participant in a consolidated group of taxpayers shall have the right to fulfill his obligation to pay taxes ahead of time.

Default on the duty of tax payment or improper discharge of this duty shall serve as a ground for sending a claim for tax payment to the taxpayer (to the responsible participant in a consolidated group of taxpayers) by a tax body or customs agency.

2. In case of failure to pay, or failure to pay the full amount of, tax in due time, the tax debt shall be recovered in the procedure provided for by this Code.

A tax shall be recovered from an organisation and an individual businessman in the procedure provided for by **Articles 46** and **47** of this Code. A tax shall be collected from a natural person who is not an individual businessman in the procedure provided for by **Article 48** of this Code.

A tax shall be recovered in the judicial procedure:

1) from an organisation that has opened the personal account;

2) for the purpose of recovering arrears not paid off within over three months by organisations which under the **civil legislation** of the Russian Federation are dependent (branch) companies (enterprises), from the appropriate parent (dominating, participating) companies (enterprises) in the cases when the proceeds from selling commodities (carrying out works and rendering services) by dependent (branch) companies (enterprises) are entered to the formers' bank accounts, as well as by organisations which are under the civil legislation of the Russian Federation parent (dominating, participating) companies (enterprises), from dependent (branch) companies (enterprises) when proceeds from selling commodities (carrying out works or rendering services) by the parent (dominating, participating) companies (enterprises) are entered to the formers' bank accounts;



3) from an organisation or an individual businessman, if their obligation to pay tax is based upon changing by a tax authority of the legal qualification of a transaction made by such taxpayer or the status or nature of such taxpayer's activity.

4) from an organisation or an individual businessman, if their liability for the payment of the tax has arisen in accordance with the results of a check by the federal executive power body, authorised for the exertion of control and supervision in the area of taxes and fees, of the fullness of calculation and payment of taxes in connection with making transactions between mutually interdependent persons.

**3.** A tax obligation shall be considered fulfilled by the taxpayer or, where it is established by this Code, by a participant in a consolidated group of taxpayers unless otherwise provided for by **Item 4** of this Article:

1) from the time an order to remit the tax in question to the budget system of the Russian Federation onto the appropriate account of the Federal Treasury from a taxpayer's bank account is presented to the bank, provided that the monetary balance of the taxpayer's account as of the date of payment is sufficient to make the payment;

1.1) from the moment of the handover by the natural person to the bank of the instruction on the transfer into the budgetary system of the Russian Federation to the corresponding account of the Federal treasury without the opening of the account with the bank of the money resources given to the bank by the natural person subject to their sufficiency for the transfer;

2) from the time of showing on the personal account of the organisation, that has opened the personal account, of the operation of remitting the appropriate monetary funds to the budget system of the Russian Federation;

3) from the date of entering by a natural person to a bank or cashier's office of the local government authority or to the federal postal communication office monetary funds in cash for remittance to the budget system of the Russian Federation onto the appropriate account of the Federal Treasury;

4) from the date of rendering by a tax authority in compliance with this Code of a decision to set off the amounts of taxes, penalties or fines, paid or recovered in excess, on account of discharging the duty of paying appropriate tax;

5) from the date of deducting the amount of tax by a tax agent, if the duty of calculation and deduction of tax from a taxpayer's monetary funds is imposed upon the tax agent;

6) from the day of making the declaration payment in accordance with the **federal law** on the simplified procedure for declaring incomes by natural persons.

**4.** The duty of paying tax shall not be deemed discharged in the following cases:

1) withdrawal by a taxpayer or return by a bank to a taxpayer of an unexecuted order to remit the appropriate monetary funds to the budget system of the Russian Federation;

2) withdrawal by a taxpaying organisation that has opened the personal account or return to a taxpayer by the Federal Treasury agency (by other authorised agency engaged in opening and keeping personal accounts) of an unexecuted order to remit the appropriate monetary funds to the budget system of the Russian Federation;

3) return by a local government authority or by a federal postal communication agency to a taxpaying natural person of the monetary funds in cash accepted for their remittance to the budget system of the Russian Federation;

4) taxpayer's failure to show in the order to remit the amount of tax the correct number of the Federal Treasury account and correct denomination of the payee's bank, this entailing non-remittance of this amount to the budget system of the Russian Federation onto the appropriate

Federal Treasury account;

5) if on the date of presenting by a taxpayer to the bank (to the Federal Treasury agency or other authorised agency engaged in opening and keeping personal accounts) an order to remit monetary funds on account of paying tax there are other claims not satisfied by this taxpayer with respect to his account (personal account) which has to be satisfied in top-priority order, or if the balance of this account (personal account) is not sufficient for satisfying all claims.

**5.** The duty of paying tax shall be discharged using the currency of the Russian Federation, unless otherwise provided for by this Code. The amount of tax calculated in foreign currency where it is provided for by this Code shall be converted into the currency of the Russian Federation at the official exchange rate of the Central Bank of the Russian Federation as of the date when the tax is paid.

**6.** Failure to discharge the duty of paying tax shall serve as a ground for taking measures of compulsory discharge of the duty to pay tax provided for by this **Code**.

**7.** An order to remit tax to the budget system of the Russian Federation onto the appropriate Federal Treasury account shall be completed by a taxpayer in compliance with the rules for completing such order. The said rules shall be established by the Ministry of Finance of the Russian Federation by approbation of the Central Bank of the Russian Federation.

Should a taxpayer detect errors in drawing up an order to remit tax not entailing non-remittance of this tax to the budget system of the Russian Federation onto the appropriate Federal Treasury account, the taxpayer shall be entitled to file with the tax authority at the place of his registration an application in respect of the error made, attaching thereto the documents proving his payment of the said tax and its remittance to the budget system of the Russian Federation onto the appropriate Federal Treasury account, containing the request to specify the ground for making such payment, type and pertinence thereof, tax period and the taxpayer's status.

A joint revision of the taxes paid by a taxpayer may be effected on the proposal of a tax authority or a taxpayer. The results of the revision shall be legalised in the **form** of a certificate to be signed by the taxpayer and the authorised official of the tax authority.

A tax authority shall be entitled to demand of a bank a copy of a taxpayer's order to remit tax to the budget system of the Russian Federation onto the appropriate account of the Federal Treasury drawn up by the taxpayer on a paper medium. The bank shall be obliged to present to the tax authority a copy of the said order within five days as of the date of receiving the demand of the tax authority.

In the case provided for by this Item the tax authority on the basis of the taxpayer's application and the report on a joint revision of the estimations of taxes, fees, penalties and fines where it has been effected shall render a **decision** on specifying the date of making by the taxpayer the actual tax payment to the budget system of the Russian Federation onto the appropriate Federal Treasury account. In so doing, the tax authority shall re-calculate the penalties set with respect to the amount of tax for the period from the date of its actual payment to the budget system of the Russian Federation onto the appropriate Federal Treasury account up to the date of rendering by the tax authority of the decision to specify its payment.

A tax authority shall notify a taxpayer of the adopted decision as to tax payment's specification within five days from the date when this decision is adopted.

**8.** The rules provided for by this Article shall likewise apply to fees, penalties or fines and shall extend to payers of fees, tax agents and the responsible participant in a consolidated group of taxpayers.

**Article 46.** Collection of Taxes, Fees, as Well as Penalties and Fines, from the Monetary Funds Kept on Bank Accounts of a Taxpayer (Payer of a Fee) Being an Organisation, an Individual Businessman or a Tax Agent Being an Organisation or an Individual Businessman, as well as at the Expense of its Electronic Money Resources

**1.** In case of failure to pay, or failure to pay the full amount of, tax within the established time period, the tax obligation shall be discharged in a compulsory order by levying execution against the monetary funds of the taxpayer (tax agent) being an organisation or an individual businessman kept on bank accounts and its electronic money resources.

**1.1.** In the event of non-payment or incomplete payment in due time of the tax to be paid by the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records) in connection with execution of the agreement of investment partnership (except for tax on organisations' profits arising in connection with participation of the given partner in an agreement of investment partnership), the duty of paying this tax shall be discharged by enforcement by way of levying execution against the monetary assets kept on the investment partnership's accounts.

If there are no assets on an investment partnership's accounts or they are insufficient, execution shall be levied against the assets kept on the accounts of managing partners. In so doing, execution shall be levied in the first turn against the monetary assets kept on the accounts of the managing partner responsible for keeping tax records.

If there are no assets on the accounts of managing partners or they are insufficient, execution shall be levied against the monetary assets kept on the partners' accounts in proportion to the share of each of them in the partners' common property estimated as of the date of the debt's origination.

**2.** A tax shall be collected on the strength of a **decision** of the tax authority (hereinafter referred to in this Article as a decision on collection) by forwarding on a paper medium or in electronic form to the bank, where a taxpayer (tax agent) being an organisation or an individual businessman has opened accounts, an order of the tax authority to withdraw the required monetary funds from the accounts of the taxpayer (tax agent) being an organisation or an individual businessman and remit them to the budget system of the Russian Federation.

The procedure for forwarding to a bank the instructions of a tax authority in electronic form, as regards writing off and remittance to the budget system of the Russian Federation of monetary assets from accounts of a taxpayer (tax agent) being an organisation or individual businessman, as well as instructions of the tax body on the transfer of electronic money resources of the tax bearer (tax agent) organisation or individual entrepreneur, shall be established by the Central Bank of the Russian Federation by approbation of the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**3.** A **decision** on collection shall be taken after the expiry of the time period fixed by **application** for tax payment, but at the latest two months after the expiry of the said time period. A decision on collection made after the expiry of the said time limit shall be deemed ineffective and shall not be subject to fulfilment. Should this be the case, the tax authority can file a claim with a court for collection of the tax amount due to be paid from the taxpayer (tax agent) being an organisation or individual businessman. The statement of claim may be filed with a court within six months after the expiry of the time period for satisfying the demand for tax payment. The time period for filing the claim missed for sound reasons may be restored by court.

Where it is impossible to hand in a decision on collection to a taxpayer (tax agent)

against the receipt thereof or in any other way showing the date of its being received, the decision on collection shall be sent by registered mail and shall be deemed received upon the expiry of six days as of the date of sending the registered mail.

**4.** An order of a tax authority to remit tax amounts to the budget system of the Russian Federation shall be forwarded to the bank where the taxpayer (tax agent) being an organisation or an individual businessman has its accounts and shall be subject to unconditional fulfillment by the bank in the order of priority established by the **civil legislation** of the Russian Federation.

**5.** An order of a tax authority to remit a tax shall indicate those accounts of the taxpayer (tax agent) being an organisation or an individual businessman from which the tax is to be remitted, and the amount to be remitted.

Taxes may be collected from rouble settlement (current) and (or) foreign currency accounts of a taxpayer (tax agent) being an organisation or an individual businessman or, if the funds kept on rouble (settlement) accounts are insufficient, from foreign currency accounts thereof.

Collection of taxes from foreign currency accounts of a taxpayer (tax agent) being an organisation or an individual businessman shall be effected in the amount equivalent to the amount payable in roubles at the exchange rate of the Central Bank of the Russian Federation on the date of sale of the foreign currency. When taxes are collected from foreign currency accounts, the head of the tax authority (or his deputy) shall forward to the bank, along with the order of the tax authority to remit the amount of tax, an order for the bank to sell the foreign currency of the taxpayer (tax agent) being an organisation or an individual businessman at the latest on the following day. The outlays connected with the sale of foreign currency shall be made at the expense of the taxpayer (tax agent).

A tax shall not be collected from a taxpayer's or tax agent's deposit account unless the term of the deposit agreement has expired. Where there is such a deposit agreement, the tax authority shall have the right to issue an order for the bank to remit funds from the deposit account to the settlement (current) account of the taxpayer or the tax agent upon the expiry of the deposit agreement, if the order of the tax authority for this bank to remit the amount of tax has not been fulfilled by that time.

**6.** An order of the tax authority to remit the amount of tax shall be executed by the bank at the latest within one business day after the day when the said order was received by it, if the amount of tax is collected from rouble accounts, or at the latest within two business days, if the amount of tax is collected from foreign currency accounts, if this does not break the order of payments established by the **civil legislation** of the Russian Federation.

Should the balance of the accounts of a taxpayer (tax agent), as of the day when the bank received an order from the tax authority to remit a tax, be insufficient to pay off the tax debt or nil, the order shall be executed as money arrives on such accounts at the latest within one business day after each such arrival onto rouble accounts, and at the latest within two business days after each such arrival onto foreign currency accounts, if it does not break the order of payments established by the **civil legislation** of the Russian Federation.

**6.1.** In case of the insufficiency or absence of money resources on accounts of the tax bearer (tax agent) organisation or individual entrepreneur the tax body shall be empowered to recover the tax at the expense of electronic money resources.

The recovery of the tax at the expense of the electronic money resources of the tax bearer (tax agent) organisation or individual entrepreneur shall be made by way of directing to the bank in which the electronic money resources are present of the instruction of the tax body on the transfer of electronic money resources into the account with the bank of the tax bearer (tax agent) organisation or individual entrepreneur.

The instruction of the tax body on the transfer of electronic money resources shall contain the indication of payment details of the corporate electronic instrument of payment of the tax bearer (tax agent) organisation or individual entrepreneur with the use of which the transfer of electronic money resources shall be carried out, indication of the sum subject to the transfer, as well as payment details of the account of the tax bearer (tax agent) organisation or individual entrepreneur.

Tax recovery may be made at the expense of the balances of electronic money resources in roubles, and in case of their insufficiency at the expense of the balances of electronic money resources in a foreign currency. During the recovery of the tax at the expense of the balances of electronic money resources in a foreign currency and the indication in the instruction of the tax body on the transfer of electronic money resources of the currency account of the tax bearer (tax agent) organisation or individual entrepreneur the bank shall transfer the electronic money resources to the aforementioned account.

During the recovery of the tax at the expense of the balances of electronic money resources in a foreign currency and indication in the instruction of the tax body on transfer of electronic money resources of the rouble account of the tax bearer (tax agent) organisation or individual entrepreneur the head (deputy head) of the tax body simultaneously with the instruction of the tax body on the transfer of electronic money resources shall direct the instruction to the bank on the sale not later than on the next day of the foreign currency of the tax bearer (tax agent) organisation or individual entrepreneur. The expenses connected with the sale of the foreign currency shall be reimbursed at the expense of the tax bearer (tax agent). The bank shall transfer the electronic money resources into the rouble account of the tax bearer (tax agent) organisation or individual entrepreneur in the sum equivalent to the sum of payment in roubles at the rate of the Central Bank of the Russian Federation established on the date of the transfer of electronic money resources.

In case of the insufficiency or absence of electronic money resources of the tax bearer (tax agent) organisation or individual entrepreneur on the day of the reception by the bank of the instruction of the tax body on the transfer of electronic money resources such instruction shall be executed according to the reception of electronic money resources.

The instruction of the tax body on the transfer of electronic money resources shall be carried out by the bank not later than one operational day following the day of the reception by it of the aforementioned instruction if the recovery of the tax is made at the expense of the balances of electronic money resources in roubles, and not later than two operational days if the recovery of the tax is made at the expense of the balances of electronic money resources in a foreign currency.

**7.** In case of the insufficiency or absence of money resources on accounts of the tax bearer (tax agent) organisation or individual entrepreneur or its electronic money resources or in the absence of the information on the accounts of the tax bearer (tax agent) organisation or individual entrepreneur or the information on payment details of its corporate electronic instrument of payment used for transfers of electronic money resources the tax body shall be empowered to recover the tax at the expense of other property of the tax bearer (tax agent) organisation or individual entrepreneur according to **Article 47** of the present Code.

As regards organisations profit tax in respect of a consolidated group of taxpayers, a tax authority is entitled to collect the tax on account of other property of one or several participants in this group, if there are no monetary assets on bank accounts of all the participants in the cited consolidated group of taxpayers, or if they are insufficient, or if there is no information about their accounts.

**7.1.** Levying of execution against the property of the parties to an agreement of

investment partnership in compliance with **Article 47** of this Code shall be only allowed if there are no assets on the accounts of the investment partnership, managing partners and partners or they are insufficient.

**8.** In collecting tax, a tax authority can resort to suspending bank accounts of a taxpayer (tax agent) being an organisation or an individual businessman or the suspension of the transfers of electronic money resources in accordance with the procedure and under the terms established by **Article 76** of this Code.

**9.** The provisions contained in this Article shall also apply to the collection of penalty interest for untimely payment of taxes.

**10.** The rules of this Article shall be also applicable to collection of a fee or fines in the cases provided for by this Code.

**11.** The provisions of this article shall apply when collecting organisations profit tax in respect of a consolidated group of taxpayers, appropriate penalties and fines on account of the monetary assets kept on bank accounts of participants in this group subject to the following specifics:

1) the tax shall be recovered on account of the monetary assets kept on the bank accounts in the first turn out of the monetary assets of the responsible participant in the consolidated group of taxpayers;

2) if the monetary assets kept on bank accounts of the responsible participant in the consolidated group of taxpayers are insufficient for recovering the tax sum total or there are no monetary assets on them, the remaining tax amount which is not recovered shall be collected on account of the monetary assets of the rest of this group's participants kept with banks in sequence, and, in so doing, the tax authority shall independently establish an order of such recovery on the basis of the information about taxpayers which is available to it. As the ground for recovering the tax in this instance shall be deemed the demand forwarded to the responsible participant in the consolidated group of taxpayers. If the monetary assets kept on bank accounts of a participant in a consolidated group of taxpayers are insufficient when recovering the tax in the procedure provided for by this subitem or there are no monetary assets on them, the remaining non-recovered sum shall be recovered out of the monetary assets of any other participant in this group kept with banks;

3) in the event of making payment of the tax, particularly in part, by one of the participants in a consolidated group of taxpayers, the procedure for recovering the paid part thereof shall be terminated;

4) the rights and guarantees provided for by this article in respect of taxpayers shall extend to the participant in a consolidated group of taxpayers in respect of which the decision has been rendered to recover organisations profit tax for the consolidated group of taxpayers;

5) the decision on such recovery shall be rendered in the procedure established by this article after the expiry of the time period fixed in the demand to pay tax forwarded to the responsible participant in the consolidated group of taxpayers but at latest in six months after the expiry of the cited time period. The decision on the recovery adopted after the expiry of the cited time period shall be deemed invalid and is not subject to execution. On such occasion, a tax authority may file with the court at the place of registration of the responsible participant in a consolidated group of taxpayers an application for recovering tax concurrently from all the participants in the consolidated group of taxpayers. Such application may be filed with the court within six months after the expiry of the time period for the tax recovery fixed by this article. If the time period for filing the application is missed for a sound reason, it may be restored by court;

6) the decision on the recovery adopted with respect to the responsible participant or other participant in a consolidated group of taxpayers, actions or omission to act of tax

authorities and of their officials when carrying out the recovery procedure may be disputed by such participants on the grounds connected with violation of the recovery procedure.

**Article 47.** Collection of Taxes and Fees, as Well as of Penalties and Fines, at the Expense of Other Property of a Taxpayer (Tax Agent) Being an Organisation or an Individual Businessman

1. In the instance provided for by Item 7 of Article 46 of this Code, the tax authority shall be entitled to collect a tax at the expense of the property, including ready cash, of a taxpayer being an organisation or an individual businessman within the limits of the amounts indicated in the **collection letter** for payment of the tax adjusted for the amounts already levied in accordance with **Article 46** of this Code.

A tax shall be collected at the expense of the property of a taxpayer (tax agent) being an organisation or an individual businessman on the strength of a decision made by the head of the tax authority (deputy head) by forwarding the appropriate resolution to the court bailiff within three days as of the time of rendering such decision, for execution in accordance with the procedure provided for by the **Federal Law** on Executive Procedure subject to the specifics stipulated by this Article.

The **decision** to recover tax from the property of a taxpayer (tax agent) being an organisation or an individual businessman shall be rendered within one year of the expiry of the **time period** for fulfilment of the demand for tax payment. The decision to recover tax on account of the property of a taxpayer (tax agent) being an organisation or individual businessman adopted after the expiry of the cited term shall be deemed invalid and not subject of execution. In such case, a tax authority may make an application with a court for recovering from the taxpayer (tax agent) being an organisation or individual businessman the sum of tax to be paid. An application may be filed with a court within two years as from the date of expiry of the time period for satisfying the claim to pay tax. The time for filing the application missed for a sound reason may be restored by a court.

2. The ruling to collect taxes at the expense of property of a taxpayer (tax agent) being an organisation or an individual businessman must contain the following:

- 1) the full name of the official and the name of the tax authority that issued said decision;
- 2) the date and reference number of the resolution of the head of the tax authority (deputy head) to collect the tax at the expense of taxpayer's or tax agent's property;
- 3) the name and address of the taxpayer or tax agent being an organisation, or the full name, passport data, address of the permanent residence of the taxpayer being an individual businessman or the tax agent being an individual businessman against whose property execution is levied;
- 4) the operative part of the resolution of the head of the tax authority (deputy head) to collect taxes at the expense of the property of the taxpayer (tax agent) being an organisation or an individual businessman;
- 5) the date of entry into force of the resolution of the head of the tax authority (deputy head) to collect taxes at the expense of the property of a taxpayer (tax agent) being an organisation or an individual businessman;
- 6) the date of the ruling indicated above.

3. The resolution on collection of a tax shall be signed by the head of the tax authority (deputy head) and shall bear the stamp of the tax authority.

4. The collection actions shall be performed, and the orders contained in the resolution executed, by the court bailiff within two months after the receipt of said resolution.

5. Collection of taxes at the expense of property of a taxpayer (tax agent) being an organisation or an individual businessman shall be performed in series in respect of the

following:

1) ready cash and monetary funds kept in banks against which execution has not been levied in compliance with **Article 46** of this Code;

2) property which is not immediately used in manufacturing products (goods), particularly, securities, foreign currency valuables, non-production premises, automobiles, interior design items of offices;

3) finished products (goods), as well as other material valuables which are not used and (or) not intended for direct usage in production;

4) raw materials and materials intended for direct involvement in production, as well as machinery, equipment, buildings, structures and other fixed assets;

5) property transferred to other persons for possession, use or disposal on a contractual basis without transferring the ownership of this property, if such agreements have been terminated or recognised ineffective in accordance with the established procedure in order to secure the fulfillment of a tax obligation;

6) other property, except for that intended for everyday use by an individual businessman or his family members, determined in compliance with the **laws** of the Russian Federation.

**5.1.** The tax to be paid by the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records) in connection with execution of the agreement of investment partnership (except for tax on organisations' profits arising in connection with participation of the given partner in the agreement of investment partnership) shall be recovered on account of the partners' common property.

If there is no common property of the partners or it is insufficient, execution shall be levied against the property of managing partners. In so doing, execution shall be levied in the first turn against the property of the managing partner responsible for keeping tax records.

If there is no property of managing partners or it is insufficient, execution shall be levied against the partners' property in proportion to the share of each of them in the partners' common property estimated as of the date of the debt's origination.

**6.** If a tax is collected at the expense of property of a taxpayer (tax agent) being an organisation or an individual businessman, the tax obligation shall be deemed fulfilled from the time the property of a taxpayer (tax agent) being an organisation or an individual businessman is sold and the tax debt of the taxpayer (tax agent) being an organisation or individual businessman is paid off from the sale proceeds.

**7.** Tax (customs) officials shall not have the right to purchase the property of a taxpayer (tax agent) being an organisation or an individual businessman that is sold in execution of a decision to collect the tax debt at the expense of the property of the taxpayer (tax agent) being an organisation or an individual businessman.

**8.** The provisions stipulated by this Article shall also apply in the case of exaction of a penalty for the untimely payment of a tax, as well as of fines in the instances provided for by this Code..

**9.** The provisions contained in this Article shall be also applicable for collecting a fee at the expense of property of a fee payer being an organisation or an individual businessman.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 10 of Article 47 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**10.** The provisions provided for by this Article shall also apply in the case of collection of taxes by customs agencies with due regard to the provisions established by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.



**11.** The provisions of this article shall apply when recovering organisations profit tax in respect of a consolidated group of taxpayers, appropriate penalties and fines on account of the property of this group's participants, subject to the following specifics:

1) the tax shall be recovered on account of the property of participants in the consolidated group of taxpayers in the first turn out the cash money and the monetary assets of the responsible participant in this group kept with banks against which execution has not been levied in compliance with **Article 46** of this Code;

2) if the responsible participant in a consolidated group of taxpayers does not have enough (has no) cash money and monetary assets kept with banks against which execution has not been levied in compliance with **Article 46** of this Code, the tax shall be recovered from other participants in this group on account of the cash money and monetary assets kept with banks against which execution has not been levied in compliance with Article 46 of this Code;

3) if the participants in a consolidated group of taxpayers do not have enough (have no) cash money or monetary assets kept with banks against which execution has not been levied in compliance with **Article 46** of this Code, the tax shall be recovered on account of other property of the responsible participant in this group in the order established by **Subitems 2-6 of Item 5** of this article;

4) if the responsible participant in a consolidated group of taxpayers does not enough property for discharging the duty of paying organisations profit tax in respect of the consolidated group of taxpayers, appropriate penalties and fines, the tax shall be recovered on account of other property of other participants in this group in the order established by **Subitems 2-6 of Item 5** of this article.

**Federal Law** No. 324-FZ of November 29, 2010 reworded Article 48 of this Code. The new wording shall **enter into force** upon the expiry of one month from the date of the **official publication** of the said Federal Law and shall **extend** to the legal relations involved in collection of taxes, fees, penalties and fines in respect of which claims for their payment are forwarded after the date when the said Federal Law **enters into force**

**Article 48.** Collection of a Tax, Fee, Penalty or Fine on Account of the Property of a Taxpayer (Fee Payer) Being a Natural Person Who Is Not an Individual Businessman

**1.** In the event of non-discharge, when due, of the duty of paying a tax, fee, penalty or fine by a taxpayer (fee payer) being a **natural person** who is not an individual businessman (hereinafter referred to in this article as a natural person), the tax authority (customs authority) that has forwarded a **demand** for payment of the tax, fee, penalty or fine is entitled to file a claim with a court for collection of the tax, fee, penalty or fine on account of the property, including funds on **bank accounts**, the electronic money resources the transfers of which shall be carried out with the use of personified electronic instruments of payment, and cash, of this natural person within the limits of the amounts specified in the claim to pay the tax, fee, penalty or fine, subject to the specifics established by this article.

An application for collection of a tax, fee, penalty or fine on account of the property of a natural person (hereinafter referred to in this article as an application for collection) shall be filed in respect of all the demands for payment of the tax, fee, penalty or fine whose term of execution has expired and which are not met by this natural persons, as of the date of filing by a tax authority (customs authority) of the application for collection with court.

The cited application for collection shall be filed by a tax authority (customs authority) with court, if the total amount of a tax, fee, penalty or fine to be collected from a natural person

exceeds 1 500 roubles, except as provided for by **Paragraph Three of Item 2** of this article.

A copy of an application for collection shall be forwarded by a tax authority (customs authority) at the latest on the date when it is filed with court to the natural person who the taxes, fees, penalties and fines are to be collected from.

**2.** An application for collection shall be filed with a court of law by a tax authority (customs authority) within six months as of the date of expiry of the time period for satisfying the demand to pay a tax, fee, penalty or fine, unless otherwise provided for by this item.

If within three years from the date of expiry of the time period for satisfying the earliest demand to pay a tax, fee, penalty or fine, accounted by a tax authority (customs authority) when estimating the total amount of the tax, fee, penalty or fine to be collected from a natural person such amount of the tax, fee, penalty or fine exceeds 1500 roubles, the tax authority (customs authority) shall file an application for collection with court within six months from the date when the cited amount exceeded 1 500 roubles.

If within three years from the date of expiry of the time period for satisfying the earliest demand to pay a tax, fee, penalty or fine, accounted by a tax authority (customs authority) when estimating the total amount of the tax, fee, penalty or fine to be collected from a natural person, such amount of the tax, fee, penalty or fine did not exceed 1500 roubles, the tax authority (customs authority) shall file with court an application for collection within six months as from the date of expiry of the cited three-year term.

The time period for filing an application for collection missed for a sound reason may be restored by court.

**3.** Cases on collection of a tax, fee, penalty or fine on account of a natural person's property shall be tried in compliance with the civil procedural **legislation** of the Russian Federation.

A claim for collection of a tax, fee, penalty or fine on account of the property of a natural person may be filed by a tax authority (customs authority) by way of action proceedings at the latest in six months from the date when a court issues a ruling on reversal of a court order.

The time period for filing an application for collection missed for a sound reason may be restored by court.

An application for collection may have attached thereto a petition of a tax authority (customs authority) for arresting the respondent's property to secure the claim.

**4.** A tax, fee, penalty or fine shall be collected on account of a natural person's property on the basis of an effective judicial decision in compliance with the **Federal Law** on Executive Proceedings, subject to the specifics provided for by this article.

**5.** A tax, fee, penalty or fine shall be collected on account of a natural person's property successively in respect of the following:

1) monetary assets kept on bank accounts and the electronic money resources the transfers of which shall be carried out with the use of personified electronic instruments of payment;

2) monetary assets in cash;

3) property transferred on a contractual basis for possession, use or disposal to other persons without transfer thereto the ownership of this property, if such contracts are dissolved or declared invalid in the established procedure to secure the discharge of the duty to pay a tax, fee, penalty or fine;

4) other property, except for that which is intended for daily personal use by a natural person or family members thereof, which is defined in compliance with the **legislation** of the Russian Federation.

**6.** In the event of collecting a tax, fee, penalty or fine on account of the property of a natural person, other than monetary assets, the duty of paying the tax, fee, penalty or fine shall

be deemed discharged from the time when such property is sold and arrears are settled on account of the proceeds from it. Penalties shall not be charged for failing to remit taxes and fees in due time from the date of arresting the cited property and up to the date when the proceeds are remitted to the budget system of the Russian Federation.

**7.** Tax officials (customs officials) are not entitled to acquire the property of a **natural person** to be sold by way of execution of judicial acts on collection of a tax, fee, penalty or fine on account of a natural person's property.

**Federal Law No. 154-FZ of July 9, 1999 amended Article 49 of this Code**

*The amendments shall **enter into force** upon the expiry of one month from the day of the official publication of the said Federal Law*

**See the previous text of the Article**

**Article 49.** Fulfillment of Obligation to Pay Taxes and Fees in the Event of Liquidation

**1.** The obligation to pay taxes and fees (interest, fines) of an organisation undergoing liquidation shall be fulfilled by the liquidation commission of such an organisation from the funds of such an organisation, including proceeds from the sale of its assets.

**2.** Should the funds of an organisation in liquidation, including proceeds from the sale of its assets for the purpose of fulfilling an obligation to pay taxes and fees, due penalties and fines, be insufficient for full discharge of such obligation, the outstanding debt should be paid by the founders (participants) of this organisation in the procedure and to the extent established by the legislation of the Russian Federation.

**3.** The priority of fulfillment of the obligation to pay taxes and fees in case of liquidation of an organisation vis-a-vis settlements with other creditors of such organisation shall be specified by civil law of the Russian Federation.

**4.** If an organisation being liquidated has to its credit excessively paid or excessively collected taxes or fees (penalties and fines), the said sums of money shall be offset by a tax body on account of the repayment of arrears of the liquidated organisation in respect of taxes, fees and debts in the order established by this Code.

The amount of the excessively paid or excessively collected taxes and fees (penalties and fines) subject to offset shall be distributed in proportion to arrears of other taxes, fees and debts of the organisation to be liquidated in respect of penalties and fines payable (recoverable) to the budget system of the Russian Federation which are calculated and paid under the control of tax authorities.

If an organisation being liquidated has no indebtedness for the discharge of the duty of paying taxes and fees, and also of paying penalties and fines, the amount of the taxes and fees (penalties and fines) excessively paid by this organisation or excessively recovered from it shall be repaid to this organisation in the procedure established by this Code at the latest in one month as of the day of filing the application by the taxpaying organisation.

**Federal Law No. 306-FZ of November 27, 2010 amended Item 5 of Article 49 of this Code.** The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**5.** The provisions envisaged by this Article shall also be applicable in the event of payment of taxes in connection with the movement of goods across the customs border of the Customs Union.

**Article 50.** Fulfillment of Obligations to Pay Taxes and Fees (Penalties and Fines) in the Event of Re-Organisation of a Legal Entity

**1.** Obligations to pay taxes and fees of a re-organised legal entity shall be fulfilled by its successor (successors) in accordance with the procedure set out in this Article.

**2.** Fulfillment of an obligation to pay taxes and fees of a reorganised legal entity shall be the responsibility of its successor (successors) irrespective of whether or not the successor (successors) were aware before the reorganisation was completed of facts and (or) circumstances of failure to fulfill or improper fulfillment of an obligation to pay taxes and fees by the re-organised legal entity. In this case the legal successor (legal successors) shall pay all the penalties due to the liabilities which have passed to him.

The successor(s) to a reorganised legal entity shall also be liable for all the fines owed by the latter for tax offenses committed prior to completion of the reorganisation process. The legal successor (legal successors) of a reorganised legal entity shall enjoy all rights and discharge all duties in the order prescribed for taxpayers by this Code, when he performs the duties of the payment of taxes and fees, vested in it by this Article.

**3.** Re-organisation of a legal entity shall not change the deadline for fulfillment of its obligation to pay taxes and fees by a successor (successors) to such legal entity.

**4.** In the case of merger of several legal entities, the legal entity resulting from such merger shall be recognised as a successor with respect to the obligation to pay taxes and fees of each of such legal entities.

**5.** In the case of accession of one legal entity to another legal entity, the accessing legal entity shall be recognised as a successor to the obligation to pay taxes and fees of the accessed legal entity.

**6.** In the case of division of a legal entity into several legal entities, the legal entities resulting from such division shall be recognised as successors with respect to the obligation to pay taxes of the divided organisation.

**7.** Should there be several successors, the share of each of them in the fulfillment of the obligation to pay taxes and fees of the re-organised legal entity shall be determined in accordance with the procedure envisaged by civil legislation.

If the division balance sheet does not make it possible to determine the share of a successor in the reorganised legal entity, or rule out the possibility of complete fulfillment of an obligation to pay taxes and fees by any one of the successors, or if such re-organisation was aimed at failure to fulfill the obligations to pay taxes then, pursuant to a court decision, the newly emerged legal entities may be liable jointly and severally for fulfillment of the obligation to pay taxes of the reorganised legal entity.

**8.** In the case of a separation from a legal entity, no succession to the re-organised legal entity with respect to its obligation to pay taxes (penalties and fines) shall arise. If as a result of separation from the legal entity of one or more legal entities the taxpayer or payer of fees cannot fulfill the obligation to pay taxes (penalties and fines) in full, then, pursuant to a court decision, the separated legal entities may jointly and severally fulfill the obligation to pay taxes (penalties and fines).

**9.** In the event of re-organisation of one legal entity into a new one, the legal entity resulting from such re-organisation shall be recognised as a successor to the obligation to pay taxes of the re-organised legal entity.

**10.** The amount of tax (penalties or fines) excessively paid by a legal entity or excessively recovered from it before its re-organisation shall be offset by a tax authority against the fulfilment by a successor (successors) to the re-organised legal entity of the obligation to pay off arrears of other taxes and fees or penalties and fines for a tax offence of the re-organised legal entity. Such offset shall be performed at the latest within 30 days of the day when such re-organisation was completed in the procedure established by this Code subject of the specifics provided for by this Article.

The amount of tax or fee (penalty or fine) to be offset which had been excessively paid by

a legal entity or excessively recovered from it before re-organisation shall be distributed in proportion to arrears of other taxes, fees and debts of the reorganised legal entity in respect of penalties and fines payable (recoverable) to the budget system of the Russian Federation whose calculation and payment is under control of the tax authorities.

If the reorganised legal entity has no debts for the duty of tax payment, and also of the payment of penalties and fines, the amount of excessively paid tax (penalty, fine) by this legal entity or excessively recovered from it shall be repaid to its legal successor (legal successors) within one month of the day the legal successor (legal successors) files an application in the order established by **Chapter 12** of this Code. In this case the amount of the tax (penalty, fine) paid excessively by the legal entity or excessively recovered from it before its reorganisation shall be repaid to the legal successor (legal successors) of the reorganised legal entity in accordance with the share of each legal successor, which is assessed on the basis of the dividing balance.

**abrogated** from January 1, 2007.

**11.** The rules provided for in this Article shall also be applicable to fulfillment of obligations with respect to the fee payable as a legal entity is reorganised.

**12.** The rules stipulated by this Article shall also apply when it is necessary to determine a legal successor or successors of a foreign organisation reorganised in keeping with the legislation of a foreign state.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 13 of Article 50 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**13.** The provisions envisaged by this Article shall also be applicable in the event of payment of taxes in connection with the movement of goods across the customs border of the Customs Union.

**Federal Law No. 154-FZ of July 9, 1999 amended Article 51 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law**

**See the previous text of the Article**

#### **Article 51.** Fulfillment of Obligations to Pay Taxes and Fees of a Missing or Disabled Natural Person

**1.** The obligation to pay taxes and fees of a natural person recognised as missing by court shall be fulfilled by a person authorised by a body of trusteeship and guardianship.

The person authorised by a body of trusteeship and guardianship shall pay the entire amount of taxes and fees unpaid by the taxpayer recognised missing, as well as interest and penalties due from the taxpayer as of the date when he was recognised missing. Such amounts shall be paid from the funds of the natural person recognised missing.

**2.** The duty of payment of taxes and fees by a natural person who is recognised by a court of law as legally incompetent shall be discharged by his guardian at the expense of the monetary funds of this legally incompetent person. The guardian of the natural person recognised by a court of law as legally incompetent shall be obliged to pay all the amount of taxes and fees unpaid by the taxpayer or the payer of the duty, and also the due penalties and fines as on the day when the person was acknowledged as legally incompetent.

**3.** Fulfillment of the obligation to pay taxes and fees of natural persons recognised missing or incapable, as well as payment of interest and penalties due from them, shall be stopped by the appropriate tax body if such natural persons have insufficient funds (no funds)

for fulfillment of these obligations.

In the case of the absence of a decision passed in the established procedure with regard to the revocation of the decision on recognising the natural person missing or incapable, the previously stopped fulfillment of the obligation to pay taxes and fees shall be resumed.

**4.** Persons vested under this Article with the duty of the payment of taxes and fees by natural persons, recognised as missing or legally incompetent, shall enjoy all rights and perform all the duties in the order prescribed by this Code for the taxpayers and payers of fees with an eye to the special features stipulated by this Article. When the said persons discharge the duties vested by this Article and are brought to account for the commission of tax offences they shall not have the right to pay the fines stipulated by this Code at the expense of the person recognised as missing or legally incompetent.

## **Article 52.** Procedure for Tax Computation

**1.** A taxpayer independently computes the amount of tax to be paid for a tax period proceeding from the tax base, tax rate and tax privileges, unless otherwise provided for by this Code.

**2.** Where it is provided for by the legislation of the Russian Federation on taxes and fees, the duty of computation of the sum of tax may be imposed upon a tax authority or tax agent.

If the duty of computing the amount of tax is imposed upon a tax authority, the tax authority shall forward to a taxpayer a tax notification at the latest 30 days before the payment date.

**3.** A tax notification shall cite the sum of tax to be paid, an estimation of the tax base, as well as the payment time.

A tax notice may cite data on several taxes to be paid.

The **form** of a tax notification shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**4.** A tax notification may be transferred to the head of an organisation (to a legal or authorised representative thereof) or to a natural persons (to a legal or authorised representative thereof) in person against the receipt thereof, sent by registered mail or transmitted in electronic form via telecommunication channels. Where a tax notification is sent by registered mail, it shall be deemed received upon the expiry of six days as from the date when it is sent.

The formats of, and procedure for forwarding, a tax notification to a taxpayer in electronic form via telecommunication channels shall be established by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**5.** The amount of organisations profit tax to be estimated in respect of a consolidated group of taxpayers shall be estimated by the responsible participant in this group on the basis of the data available to the latter, including those which are provided by other participants in the consolidated group.

## **Article 53.** Tax Base and Tax Rates, Amounts of Fees

**1.** A tax base represents a value, physical or other parameter of a taxable item. A tax rate represents the amount of tax levied on a unit of measurement of a tax base. A tax base and the procedure for determining it, as well as tax rates with respect to federal taxes and amounts of fees with respect to federal fees shall be established by this Code.

**abrogated** from January 1, 2007.

**2.** The tax base and the procedure for determining it with regard to regional and local taxes shall be established by this Code. Tax rates for regional and local taxes shall be

established by laws of the member territories of the Russian Federation, regulations of municipal formations within the limits established by this Code.

#### **Article 54.** General Issues of Tax Base Assessment

**1.** Taxpayer organisations shall assess the tax base according to the results of each tax period on the basis of the data in the accounting books and (or) other documented data concerning the items subject to taxation or associated with taxation.

If mistakes (distortions) in the tax base assessment made in the previous tax (reporting) periods are revealed in the current tax (reporting) period, the tax base and amount of tax shall be reassessed for the period when such mistakes (distortions) were made.

Where it is impossible to identify the period when mistakes (distortions) were made, the tax base and the amount of tax shall be re-assessed for the tax (reporting) period when the mistakes (distortions) were detected. A taxpayer is entitled to re-calculate the tax base and the amount of tax for the tax (accounting) period in which errors (distortions) pertaining to previous tax (accounting) periods are detected, as well as when the errors (distortions) made have caused an excessive tax payment.

**2. Individual entrepreneurs**, private notaries and solicitors/barristers who have founded solicitor's studies shall assess the tax base on the results of each tax period on the basis of profit and loss and business operations accounting in the **procedure** determined by the Ministry of Finance of the Russian Federation.

**3.** Other **individual taxpayers** shall assess the tax base on the basis of the data obtained from organisations and (or) natural persons as to the income amounts paid to them, on taxable objects, as well as data of their own records of received incomes and taxable objects kept in any form.

**4.** the rules provided for by **Items 1 and 2** of this Article shall likewise extend to tax agents.

**5.** In the cases provided for by this Code the tax authorities shall calculate the tax base on the basis of the results of each tax period on the basis of the data available to them.

#### **Article 55.** Tax Period

**1.** A tax period shall be a year or any other period of time with regard to a taxpayer's liabilities for individual taxes after the end of which the tax base shall be determined and the due amount of tax assessed. The tax period may consist of one or several reporting periods.

**2.** If an **organisation** was established after the beginning of a calendar year, the first tax period for such organisation shall be the time period from the date of establishment to the end of that year. The date of establishment of the organisation shall be the date of state registration of such organisation.

If an organisation was established between December 1 and December 31, the first tax period for such organisation shall be the time period between the date of its establishment and the end of the year following the year of its establishment.

**3.** If an organisation was liquidated (reorganised) before the end of a calendar year, the last tax period for such organisation shall be the time period between the beginning of that year and the date when the liquidation (reorganisation) was completed.

If an organisation established after the beginning of a calendar year was liquidated (reorganised) before the end of this year, its tax period shall be the period of time between the date of its establishment and the date of liquidation (reorganisation).

If an organisation was established during the period of time between December 1 and December 31 and liquidated (reorganised) until the end of the calendar year following the year of its establishment, its tax period shall be the period of time from the date of establishment until

the date of liquidation (reorganisation).

The rules set out in this part shall not apply to organisations from which one or several organisations are separated, or which access one or several organisations.

**4.** The rules set out in **Parts 2** and **3** of this Article shall not apply to those taxes and fees for which the tax period is established for a calendar month or quarter. In such cases, when an organisations is established, liquidated, reorganised, individual tax periods shall be changed with approval of the tax body at the place of registration of the taxpayer.

**5. Abrogated** from January 1, 2007.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 56 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

#### **Article 56.** Establishment and Use of Benefits Regarding Taxes and Fees

**1.** Benefits with regard to taxes and fees shall be construed as privileges granted to individual categories of taxpayers and payers of fees and envisaged by the tax and fee legislation as compared with other taxpayers and payers of fees; such privilege includes the possibility not to pay a tax or a fee or to pay a smaller amount thereof.

Norms of law on taxes and fees which define grounds, procedure for and terms of application of benefits with regard to taxes and fees shall not be of an individual nature.

**2.** A taxpayer may refuse to use a benefit, or stop using it for one or more tax periods, unless otherwise provided by this Code.

**3.** Benefits regarding federal taxes and fees shall granted and withdrawn by this Code.

Benefits regarding regional taxes shall be granted and withdrawn by this Code and (or) by the laws of the subjects of the Russian Federation on taxes.

Benefits regarding local taxes shall be granted and withdrawn by this Code and (or) by the normative legal acts of representative bodies of municipal formations on taxes (by the laws of the cities of federal importance Moscow and St.-Petersburg on taxes).

*Federal Law No. 154-FZ of July 9, 1999 amended Article 57 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

#### **Article 57.** Deadlines for Paying Taxes and Fees

**1.** Deadlines for paying taxes and fees shall be established for each tax and fee. Any change in the established deadline for paying a tax or a fee shall be allowed only as provided in this Code.

**2.** When a tax or fee is paid after the expiration of the established deadline, the taxpayer or the payer of a fee shall be subject to payment of interest in the manner and under the terms as provided in this Code.

**3.** Payment deadlines for taxes and fees shall be defined as a calendar date or a period of time in years, quarters, months and days, and also as a reference to an event which is to take place, or an action which is to be committed. The deadlines for performance of actions by participants of the relations regulated by the legislation on taxes and fees shall be established by this Code as applicable to each such action.

**4.** When the tax base is calculated by a tax body, the duty of tax payment shall arise after the reception of a tax notice.



## **Article 58.** Procedure for Paying Taxes and Fees

**1.** Taxes shall be paid by making a lump sum payment of the entire amount of tax or in any other procedure provided for by this Code and other legislative acts applicable to taxes and fees.

**2.** The amount of tax subject to payment shall be paid (transferred) by a taxpayer or a tax agent within fixed periods of time.

**3.** Under this Code may be provided a preliminary tax payment within a tax period, that is, advance payment. The duty of making advance payments shall be deemed discharged in the procedure which is similar to the tax payment.

In the event of making advance payments at a later time than that, established by the legislation on taxes and fees, penalties shall be imposed in respect of the amount of untimely paid advance payments in the procedure provided for by **Article 75** of this Code.

Breaches of the procedure for calculation and (or) making of advance payments may not be deemed a ground for calling a person to account under the legislation on taxes and fees.

**4.** Taxes shall be paid in cash or in non-cash form.

In the absence of a bank, taxpayers or tax agents being natural persons may pay taxes through the cashier's office of a local self-government body or through a federal postal communications office.

If this is the case, the local self-government body or the federal postal communication office shall be obliged:

to accept monetary funds on account of tax payment, to remit them correctly and in due time to the budget system of the Russian Federation onto the appropriate Federal Treasury account in respect of every taxpayer (tax agent). In so doing, monetary funds shall be accepted free-of-charge;

to keep records of the monetary funds accepted on account of tax payment and remitted to the budget system of the Russian Federation in respect of every taxpayer (tax agent);

to issue to taxpayers (tax agents), when accepting monetary funds, receipts proving the acceptance of these monetary funds. The form of the receipt issued by a local self-government body shall be endorsed by the federal executive body authorised to exercise control and supervision in the sphere of taxes and fees;

to present to the tax authorities (to officials of the tax authorities) by requests thereof the documents proving the acceptance from taxpayers (tax agents) monetary funds on account of tax payment and their remittance to the budget system of the Russian Federation.

The cash accepted by a local self-government body from a taxpayer (tax agent) shall be subject to entering to a bank or a federal postal communications agency within five days as of the date of their acceptance for remittance to the budget system of the Russian Federation onto the appropriate Federal Treasury account.

If because of a natural calamity or other act of God the monetary funds accepted from a taxpayer (tax agent) cannot be entered in due time to a bank or a federal postal communications agency for their remittance to the budget system of the Russian Federation, the said time period shall be extended pending the removal of such circumstances.

A local self-government body or a federal postal communications agency shall be liable under the legislation of the Russian Federation for failure to discharge, or the improper discharge of, the duties provided for by this Item.

The imposition of punitive sanctions shall not relieve a local self-government body or a federal postal communication office of the duty of remitting to the budget system of the Russian Federation the monetary funds accepted from taxpayers (tax agents) on account of payment and remittance of tax amounts.

**5.** A specific procedure for paying a tax shall be established according to this Article as

applied to each tax.

The procedure for paying federal taxes shall be established by this Code.

The procedure for paying regional and local taxes shall be established accordingly by the laws of the subjects of the Russian Federation and regulatory legal acts of the representative bodies of municipal formations in accordance with this Code.

**6.** A taxpayer shall be obliged to make tax payment within one month as of the date of receiving a tax notice, if a longer time period for the tax payment is not specified by this tax notice.

**7.** The rules provided for by this Article shall likewise apply to the procedure for paying fees (penalties and fines).

**8.** The rules provided for by **Items from 2 to 6** of this Article shall likewise apply to the procedure for making advance payments.

#### **Article 59.** Recognising Arrears and Debts on Penalties and Fines as Bad and Writing Them Off

**1.** Arrears and debts on penalties and fines to be paid by some taxpayers, payers of fees and tax agents shall be deemed bad if their payment and/or recovery proved to be impossible in the following instances:

1) liquidation of an organisation in compliance with the **legislation** of the Russian Federation - as regards arrears and debts on penalties and fines which are not paid off because of insufficiency of an organisation's property for it and/or because it is impossible for founders (participants) of the cited organisation to pay them off within the limits and in the procedure established by the **legislation** of the Russian Federation;

2) declaring an individual businessman bankrupt in compliance with **Federal Law** No. 127-FZ of October 26, 2002 on Insolvency (Bankruptcy) - as regards arrears and debts on penalties and fines which are not paid off because of insufficiency of the debtor's property;

3) death of a natural person or declaring him/her deceased in the procedure established by the **civil procedural legislation** of the Russian Federation - as regards all taxes and fees or, as regards the taxes cited in **Item 3 of Article 14** and **Article 15** of this Code, in the amount exceeding the cost of all inheritable property, in particular when inheritance is transferred into the ownership of the Russian Federation;

4) adoption by a court of an act making a tax authority incapable of recovering arrears and debts on penalties and fines because of the expiry of the time period fixed for their recovery, including when it issues a ruling on the refusal to restore the missed time period for filing an application with a court for recovery of arrears and debts on penalties and fines;

5) in other cases provided for by the legislation of the Russian Federation on taxes and fees.

**2.** The following bodies shall be deemed competent to make decisions on declaring arrears and debts on penalties and fines as bad and on writing them off:

1) tax authorities at the location of an organisation or place of residence of a natural person (except as provided for by **Subitems 2 and 3** of this Item) - in the circumstances stipulated by **Subitems 1-3 of Item 1** of this article;

2) tax authorities at the place of registration of a taxpayer, payer of fees or tax agent (except as provided for by **Subitem 3** of this item) - in the circumstances provided for by **Subitems 4 and 5 of Item 1** of this article;

**Federal Law** No. 306-FZ of November 27, 2010 amended **Subitem 3 of Item 2 of Article 59** of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

3) customs authorities determined by the federal executive power body authorised in

respect of customs affairs - as regards the taxes, penalties and fines to be paid in connection with movement of commodities across the customs border of the Customs Union.

**3.** Laws of constituent entities of the Russian Federation and normative legal acts of representative bodies of municipal entities may establish additional grounds for declaring arrears of regional and local taxes and debts on penalties and fees related to these taxes as bad.

*The provisions of Item 4 of Article 59 of this Code (in the wording of **Federal Law No. 229-FZ of July 27, 2010**) shall **apply** to the sums of a tax, fee, penalty and fine which are written off the accounts of taxpayers, payers of fees and tax agents but are not remitted by banks to the budget system of the Russian Federation before the date when this Federal Law **enters into force***

**4.** The sums of taxes, fees, penalties and fines written off the bank accounts of taxpayers, payers of fees and tax agents but not remitted to the budget system of the Russian Federation shall be declared as bad and shall be written off in compliance with this article, if at the time of adoption of the decision on declaring the cited sums as bad and on their writing off the appropriate banks are liquidated.

**Federal Law No. 306-FZ of November 27, 2010** amended Item 5 of Article 59 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**5.** A procedure for writing off arrears and debts on penalties and fines declared as bad, as well as a list of documents proving the circumstances provided for by **Item 1** of this article, shall be endorsed by the **federal executive power body** authorised to exercise control and supervision in respect of taxes and fees and by the **federal executive power body** authorised in respect of customs affairs (as regards the taxes, fees and fines to be paid in connection with movement of commodities across the customs border of the Customs Union).

**6.** The rules provided for by this article shall likewise apply when writing off bad debts on the interest provided for by **Chapter 9**, as well as by **Article 176.1** of this Code.

#### **Article 60.** Obligations of Banks on the Execution of Orders to Remit Taxes and Fees

**1.** Banks shall be obliged to execute a taxpayer's order to remit taxes to the budget system of the Russian Federation onto the appropriate Federal Treasury account (hereinafter referred to in this Article as taxpayer's order), as well as an order of the tax authorities to remit taxes to the budget system of the Russian Federation (hereinafter referred to in this Article as tax authority's order) at the expense of monetary funds of the taxpayer or tax agent in the order established by the **civil legislation** of the Russian Federation.

**2.** An order of a taxpayer or an order of a tax authority shall be executed by the bank within one trading day following the day when such order is received, unless otherwise provided for by this Code. No service fee shall be charged for such operations.

When a natural person files with a separate subdivision of a bank not having the correspondent account (control account) an order to remit tax, the time period established by Paragraph One of this Item for execution by the bank of the taxpayer's order shall be extended by the time of delivery in the established procedure of such order by the federal postal communication office to a separate subdivision of the bank with the correspondent account (control account) but by five trading days at most.

**3.** Provided there are monetary balances on the **account** of a taxpayer, banks shall not have the right to delay the execution of a taxpayer's order or a tax agent's order.

**3.1.** Where it is impossible to execute a taxpayer's order or a tax agent's order within the time period established by this Code because of the absence (insufficiency) of monetary funds on the correspondent account of a bank opened with an institution of the Central Bank of the Russian Federation, the bank shall be obliged within the day following the date of expiry of the time period for execution of the order established by this Code to report its failure to execute (its partial execution) of the taxpayer's order to the tax authority at the bank's location and to the taxpayer, and its failure to execute (its partial execution) of the tax agent's order to the tax authority which has sent this order and to the tax authority at the location of the bank (of its separate subdivision).

**4.** Banks shall be held liable for a failure to perform or undue performance of the obligations stipulated in this **Article** as per this Code.

The application of measures of responsibility shall not release the bank of the duty of transferring the amount of the tax to the budget system of the Russian Federation. In the case of the bank's default on the said duty within the fixed time, this bank shall be liable to measures of recovery of the non-transferred sums of the tax or the due at the expense of pecuniary means in an order similar to that stipulated by **Article 46** of this Code. Measures of recovery of such sums of tax or duty at the expense of other assets shall be applied in the procedure provided for by **Article 47** of this Code.

**4.1.** Repeated failure to perform the said obligations during one calendar year shall provide grounds for a tax service body to file a request with the Central Bank of the Russian Federation that the licence for making banking operations be withdrawn.

**4.2.** The claim for remittance of tax to the budget system of the Russian Federation (hereinafter referred to in this article as a claim for tax remittance) must be forwarded to a bank in electronic form via telecommunication channels at the latest in three months from the date of detecting the tax amount which has not been remitted to the budget system of the Russian Federation and of a tax authority drawing up the document in respect of detecting the tax amount which is not remitted to the budget system of the Russian Federation.

As a claim for tax remittance shall be deemed a bank notice of the non-remitted amount of tax, as well as of the duty to remit this tax amount in due time.

The formats of claims for tax remittance, as well as a procedure for forwarding this claim in electronic form, shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**5.** The rules established by this Article shall also apply to banks' obligations to execute orders of tax agents or payers of fees, and shall extend to the remittance of fees, penalties and fines to the budget system of the Russian Federation.

**6.** The rules established by this Article shall likewise apply to execution by a bank of orders of local government bodies and of federal postal communication offices to remit to the budget system of the Russian Federation onto the appropriate Federal Treasury account the monetary funds accepted from taxpaying natural persons (tax agents and payers of fees).

**7.** When banks execute orders to pay back to taxpayers, tax agents and payers of fees the amounts of excessively paid (collected) taxes, penalties and fines, no service fee shall be charged for such operations.

## **Chapter 9. Changes in Deadlines for Payment of Taxes and Dues, as Well as Penalties and Fines**

*According to **Federal Law No. 147-FZ** of July 31, 1998 the provisions of Part One of this Code*

*shall not be applied to the relations regulated by **Federal Law No. 83-FZ of July 9, 2002 on the Financial Improvement of Agricultural Commodity Producers***

**Article 61.** General Terms for Changing the Deadline for Paying Taxes or Fees, as well as Penalties and Fines

**1.** A change in the deadline for paying a tax or a fee shall be construed as postponement of the established deadline for paying the tax or the fee or any part thereof until a later date.

**2.** A change in the deadline for paying taxes and fees shall be allowed in the procedure established by this Chapter.

The deadline for paying tax and/or fee may be changed with respect to the entire amount of tax and/or fee payable or a part thereof (hereinafter referred to in this chapter as the amount of debt) with interest accruing on the outstanding liability (hereinafter referred to in this Chapter as the outstanding liability), unless otherwise provided for in this Chapter.

A change in the deadline for paying the state duty shall be made subject to the specifics provided for by **Chapter 25.3** of this Code.

**3.** A change in the deadline for paying a tax or fee shall be made in the form of a deferral, an installment plan, or an investment tax credit.

**3.1.** The person claiming for changes in the deadline for paying a tax or fee (hereinafter referred to in this chapter as the person concerned) is entitled to file, concurrently with an application for deferment in payment of a tax and/or fee or for payment thereof by installments, an application for granting an investment tax credit.

When considering an application of the person concerned for deferment in payment of a tax and/or fee or for payment thereof by installments and an application for granting an investment tax credit, the body authorised to make decisions on changing the deadlines for paying taxes and fees is entitled to offer the cited person other terms of allowing a deferment in payment of tax and/or fee or payment thereof by installments and of granting an investment tax credit provided for by this chapter which shall be applied with the approbation of the person concerned.

**4.** A change in the deadline for fulfilling the obligation to pay taxes and fees shall not annul the existing tax or fee obligation, nor shall it give rise to a new one.

**5.** The change in the deadline for paying taxes and fees may be made by decision of the bodies cited in **Article 63** of this Code, secured by a pledge of property in compliance with **Article 73** of this Code or by suretyship in compliance with **Article 74** of this Code, unless this Chapter provides otherwise.

**6.** The term of payment of the taxes provided for by special tax regimes shall be changed in the order prescribed by this Chapter.

The provisions of this chapter shall also apply when allowing postponement of payment of a penalty or fine or their payment by installments.

**7. Abrogated** from January 1, 2007.

**8.** The term for the payment of a tax and a fee, as well as a penalty and fine, shall be changed by the tax bodies in accordance with the **procedure**, defined by the federal executive power body authorised to exert control and supervision in the area of taxes and fees.

**9.** The operation of this chapter shall not extend to tax agents.

**Article 62.** Circumstances Ruling out Changes in the Deadline for Payment of Tax or

## Fee

1. The deadline for paying a tax and/or fee may not be changed, if with respect to the person concerned:

1) a criminal case has been initiated upon the signs of a crime in connection with abuse of the tax legislation;

**Federal Law** No. 306-FZ of November 27, 2010 amended Subitem 2 of Item 1 of Article 62 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

2) proceedings in a tax or administrative offence concerning taxes and fees or customs business as regards the taxes payable in connection with movement of commodities across the customs border of the Customs Union have been under way;

3) there are sufficient grounds to believe that the person would use such change to conceal his monetary assets or other property subject to taxation, or such person is going to leave the Russian Federation for good to find a permanent residence elsewhere.

4) within three years before the date when this person files an application for changing the deadline for payment of a tax and/or fee the body cited in **Article 63** of this Code adopted a decision to terminate operation of a previously allowed deferment in payment, or payment by installments, or previously granted investment tax credit in connection with violation of the terms of an appropriate change in the deadline for paying the tax or fee.

2. In the presence of circumstances specified in **Item 1** of this Article, no decision to change the deadline for fulfilling a a tax and/or fee obligation shall be made, and if passed, such decision shall be cancelled.

Within three business days after this decision has been ruled ineffective, the person concerned and the tax service body at the place of registration of that person shall be given a written notice thereof.

The person concerned shall have the right to appeal the decision in accordance with the procedure established by this Code.

3. In respect of organisations profit tax to be paid for a consolidated group of taxpayers the time for the tax payment shall not be changed.

### **Article 63.** The Bodies Authorised to Take Decisions on the Change of the Terms of the Payment of Taxes and Fees

1. The bodies whose jurisdiction covers the decision-making on the change of the terms of the payment of taxes and fees (hereinafter referred to as the authorised bodies) include:

1) for federal taxes and fees - the federal executive body authorised to exercise control and supervision in the area of taxes and fees (except for the case stipulated by **Subitems 3, 4 6** and **7** of this Item, **Items 2, 4** and **5** of this Article);

2) for regional and local taxes - the tax bodies in the place of location (residence) of the interested person (except as provided for by Subitem 7 of this item). Decisions on the change of the terms of tax payment shall be taken by agreement with the respective financial bodies of the subjects of the Russian Federation and the municipal entities (except for the case stipulated by **Item 3** of the present Article);

**Federal Law** No. 306-FZ of November 27, 2010 amended Subitem 3 of Item 1 of Article 62 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than

upon the expiry of one month from the day of the official publication of the said Federal Law

3) with respect to taxes payable in connection with the movement of commodities across the customs border of the Customs Union - the federal executive body authorised in the customs area or the customs bodies authorised by it;

4) for the state duty - the bodies (officials) authorised in accordance with **Chapter 25.3** of this Code to make legally relevant actions payable by the state duty;

5) **abrogated** from January 1, 2010.

6) for tax on natural persons' income to be paid by natural persons who are not individual businessmen, as regards the part thereof which is not taxed by tax agents when received - the tax authorities at the place of these persons' residence. Decisions on changing the deadlines for paying tax on the cited income shall be adopted in respect of the sums which are subject to entering onto budgets of constituent entities of the Russian Federation and local budgets with the approbation of financial authorities of appropriate constituent entities of the Russian Federation and municipal entities;

7) for tax on organisations' profit at the tax rate fixed for entering the cited tax to budgets of constituent entities of the Russian Federation and for regional taxes as regards changing the deadlines for paying the cited taxes in the form of an investment tax credit - the bodies appropriately authorised by the legislation of constituent entities of the Russian Federation.

**2.** If in accordance with the **budget legislation** of the Russian Federation the federal taxes and fees are subject to the entry to the federal budget and/or the budgets of the subjects of the Russian Federation and the local budgets, the terms of the payment of such taxes and fees (except for the state duty) shall be changed on the basis of decisions taken by the authorised bodies cited in Item 1 of this Article in respect of the sums subject to the entry to the budgets of the subjects of the Russian Federation and the local budgets by agreement with the financial bodies of the respective subjects of the Russian Federation and of municipal entities.

**3.** If in accordance with the legislation of the subjects of the Russian Federation regional taxes are liable to the entry to the budgets of these subjects and/or the local budgets, the terms of the payment of such taxes shall be changed on the basis of the tax bodies in the place of the location (residence) of the interested persons in respect of the sums subject to the entry to:

the budgets of the subjects of the Russian Federation - by agreement with the financial bodies of the respective subjects of the Russian Federation;

the local budgets - by agreement with the financial bodies of the respective municipal entities.

**4.** In the case provided for by Paragraph Two of **Item 1 of Article 64** of this Code a decision to change the time of paying federal taxes and fees shall be adopted by the Government of the Russian Federation.

**5.** Where it is provided for by **Article 64.1** of this Code, the decision on changing the time for paying federal taxes shall be adopted by the minister of finance of the Russian Federation.

#### **Article 64.** Procedure and Conditions for Allowing Tax Deferment or Payment of Tax and Charge by Instalments

**1.** Tax deferment or payment of tax by instalments means changing the time of tax payment for the reasons stated in this Chapter, for a period of one year at most respectively, with the one-time or step-by-step payment of the arrears.

Deferment in payment or payment by instalments of federal tax, as regards the part thereof to be remitted to the federal budget, for a time period over one year and three years at most may be granted by decision of the Government of the Russian Federation.

Where it is provided for by **Article 64.1** of this Code, postponement of payment of federal taxes or their payment by installments within the time period of five years at most may be allowed by decision of the minister of finance of the Russian Federation.

**2.** A deferment in tax payment or its payment by installments may be allowed to the person concerned whose financial status makes impossible its payment in due time but where there are sufficient grounds to believe that the cited person will be able to pay such tax within the time period for which the deferment in payment or payment by installments is allowed, where there is at least one of the following grounds:

1) damage has been caused to this person as a result of a natural calamity, technogenic catastrophe or other acts of God;

2) failure to grant budget appropriations and/or limits of budget liabilities to the person concerned or their untimely granting thereto and/or failure to bring (untimely bringing of) limit amounts for financing the outlays of a person concerned being the recipient of budget assets in a volume which is sufficient for discharge in due time by this person of the duty of tax payment, as well as failure to remit (untimely remittance) of monetary assets to the person concerned from the budget, in the amount sufficient for discharging by this person in due time the duty of tax payment, in particular on account of payment for services rendered, works carried out and commodities supplied by this person for meeting state or municipal needs;

3) the threat of emergence of the signs of insolvency (bankruptcy) of the person concerned in case of tax payment as a lump sum;

4) a **natural person's** property status (without regard to the property against which execution may not be levied under the legislation of the Russian Federation) makes it impossible to pay the tax as a lump sum;

5) the production and/or sale of commodities, works or services by a person concerned is of seasonal nature;

**Federal Law** No. 306-FZ of November 27, 2010 amended Subitem 6 of Item 2 of Article 64 of this Code. The amendments shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

6) where there are grounds for allowing deferment in payment or payment by installments of taxes which are subject to payment in connection with movement of commodities across the customs border of the Customs Union established by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**2.1.** Where there are the grounds cited in **Subitems 1, 3 - 6** of Item 2 of this article, deferment in tax payment or its payment by installments may be allowed to an organisation at most to the amount of its net wealth value and to a natural person at most to the amount equal to the property cost thereof, except for the property against which execution may not be levied under the legislation of the Russian Federation.

**3.** Tax or fee deferment or payment of a tax or fee by instalments may be allowed with respect to one or several taxes and charges.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 4 of Article 64 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**4.** If a tax deferment or payment of tax by instalments is allowed for reasons stated in **subitems (3), (4) and (5) of Item 2** of this Article, the amount of arrears accrues interest in accordance with a rate equal to 1/2 the **refinancing rate** of the Central Bank of the Russian Federation effective during the period when tax deferment or payment of tax by instalments is allowed, unless otherwise prescribed by the customs legislation of the Customs Union and the customs legislation of the Russian Federation with respect to the taxes/charges payable in



connection with the movement of goods across the customs border of the Customs Union.

If a deferment (payment by instalments) is allowed for reasons as per **subitems 1) and 2) of Item 2** of this Article, the amount of the arrears does not accrue interest.

**5.** An **application** for allowing deferment in tax payment or its payment by installments shall be filed by a person concerned with an appropriate authorised body. A copy of the cited application within a five-day term as from the date when it is filed with the authorised body shall be forwarded by the person concerned to the tax authority at the place of registration thereof. The following documents shall be attached to an application for allowing deferment in tax payment or its payment by installments:

1) reference note of the tax authority at the place of this person's registration in respect of the status of settlements thereof as to taxes, fees, penalties and fines;

2) reference note of the tax authority at the place of this person's registration containing a list of all bank accounts opened for the cited person;

3) reference notes of banks about monthly turnovers for each month from the six months preceding the cited application's filing on this person's bank accounts, as well as about the availability of the settlement documents thereof placed in an appropriate card-index of outstanding settlement documents or about their absence in this card-index;

4) reference notes of banks about the balance of monetary assets on all bank accounts of this person;

5) list of this person's contractors which are debtors thereof citing the prices of the contracts made with appropriate contractors which are debtors thereof (amount of other liabilities and grounds for their occurrence) and the time for their execution, as well as copies of these contracts (of the documents proving the presence of other grounds for the occurrence of a liability);

6) this person's obligation which provides for the observance within the time period of changing the term of the tax payment the conditions under which the decision on allowing deferment in tax payment or its payment by installments is taken, as well as the time schedule for paying off debts proposed by such person;

7) documents proving the availability of the grounds for changing the time of tax payment which are cited in **Item 5.1** of this Article.

**5.1.** To an **application** for allowing deferment in tax payment or its payment by installments on the grounds cited in Subitem 1 of Item 2 of this article shall be attached an opinion about the actual occurrence of acts of God serving as a ground for filing this application in respect of the person concerned, as well as a report on assessment of the damage caused to this person as a result of the cited circumstances drawn up by the executive power body (state body, local self-government body) or by the organisation authorised in respect of civil defence, protection of the population and territories against emergency situations.

To an application for allowing deferment in tax payment or its payment by installments to a person concerned that is the recipient of budget assets on the ground cited in **Subitem 2 of Item 2** of this article shall be attached a document issued by a financial authority and/or the chief administrator (administrator) of budget assets containing data on the amount of budget appropriations and/or limits of budget liabilities which are not granted (are not granted in due time) to the cited person and/or on the amount of the limit volume of financing outlays which are not provided (are not provided in due time) to this person in the extent sufficient for this person's discharge in due time of the duty of tax payment.

To an application for allowing postponement in tax payment or its payment by installments on the ground cited in Subitem 2 of Item 2 of this article to a person concerned to which budget monetary assets have not been remitted (have not been remitted in due time) in the volume sufficient for discharge by this person in due time the duty of tax payment, in particular on account of the services rendered, works carried out and commodities supplied by

this person for meeting the state or municipal needs, shall be attached the document of the budget assets' recipient containing data on the amount of monetary assets which has not been remitted (has not been remitted in due time) to this person from the budget in the extent sufficient for discharge by this person of the duty of tax payment, or a document issued by the state or municipal customer containing data on the amount of monetary funds that has not been remitted (has not been remitted in due time) to this person in the extent sufficient for discharging by such person in due time the duty of tax payment on account of payment for the services rendered (works carried out or commodities supplied) for meeting state or municipal needs.

The availability of the ground cited in **Subitem 3 of Item 2** of this article shall be established on the basis of the results of analysis of the financial status of an economic agent carried out by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees in compliance with the methods approved by the federal executive power body authorised to exercise the functions of formulation of state policy and normative legal regulation in respect of insolvency (bankruptcy) and financial improvement.

To an application for allowing deferment in tax payment or its payment by installments on the ground cited in Subitem 4 of Item 2 of this article shall be attached data on a natural person's movable and immovable property (except for the property against which execution may not be levied in compliance with the **legislation** of the Russian Federation).

To an application for allowing deferment in tax payment or its payment by installments on the grounds cited in Subitem 5 of Item 2 of this article shall be attached a document drawn up by a person concerned which proves that in the total income derived from the sale of such person's commodities (works, services) the share of the income thereof derived from the branches and kinds of activities included in the list of branches and kinds of activities of a seasonal nature endorsed by the Government of the Russian Federation constitutes at least 50 per cent.

**5.2.** A person concerned in an **application** thereof for allowing deferment in tax payment or its payment by installments shall undertake to pay the interest added to the amount of debt in compliance with this chapter.

**5.3.** A person concerned shall file at the request of an authorised body documents concerning the property which can be put in pledge or a surety commitment.

**6.** A decision to allow a tax deferment or payment by instalments or to withhold permission is taken by the authority within 30 days from receipt of the petition.

Upon the request of a person concerned the authority may take a decision to suspend (for the period while the petition for a tax deferment or payment of tax by instalments is being considered) the payment of arrears by the person concerned. A copy of such decision is filed by the person concerned with the local tax authority within five days of the passage of such decision.

A decision on allowing deferment in tax payment or its payment by installments shall be adopted by an authorised body at the time fixed by Paragraph One of this item with the approbation of financial authorities in compliance with **Article 63** of this Code.

#### **7. Abrogated.**

**8.** A decision to allow a tax deferment or payment of tax by instalments shall mention the amount of arrears, tax or charge that the petitioner seeks to defer or pay by instalments, the time and procedure of payment of the amount of arrears and accrued interest, and in appropriate cases documents concerning the property that is the subject of pledge or the guarantee.

A decision to allow a deferment or payment by instalments mentions the date when such decision takes effect. The penalty payable for the entire period from the date appointed for tax or fee payment to the effective date of such decision is included in the amount of arrears if such payment date precedes the effective date of such decision.

If a deferment or payment by instalments is allowed against a property pledge, the decision to allow such deferment (payment by instalments) takes effect only after an agreement is effected on a property pledge in the manner prescribed by **Article 73** of this Code.

Paragraph 4 is **abrogated**.

**9.** A permission to defer payment or pay by instalments may not be withheld unreasonably.

Paragraph 2 is **abrogated**.

A decision to deny a deferment or payment by instalments may be appealed by a concerned person in the manner prescribed by the legislation of the Russian Federation.

**10.** A copy of a decision allowing or denying a deferment or payment by instalments is sent by the proper authority within three days of passage of such decision to the person concerned and to the local tax authority at the place of residence of such person.

**11. Abolished** from January 1, 2004.

**12.** Additional reasons and other conditions for allowing a deferment or payment by instalments of regional and local taxes and charges, fees and penalties accordingly may be prescribed by the laws of the subjects of the Russian Federation and by normative legal acts of representative bodies of municipal formations.

**13.** The rules of this Article shall also apply to the procedure and conditions for granting deferment or instalment plans for the purposes of paying fees, unless otherwise stipulated by the legislation of the Russian Federation on taxes and fees.

#### **Article 64.1.** Procedure for and Terms of Allowing Postponement of Payment of Federal Taxes or Payment Thereof by Installments

*According to **Federal Law No. 224-FZ of November 26, 2008** decisions on changing the term for payment of federal taxes, in cases provided for in this Article, may be adopted before January 1, 2010*

**1.** A postponement of payment of one or several federal taxes or payment thereof by installments, as well as of penalties and fines related to federal taxes, may be allowed by decision of the minister of finance of the Russian Federation subject to the specifics provided for by this Article.

The postponement of payment or payment by installments provided for by Paragraph One of this Item may be allowed if the amount of an organisation's debt as of the first day of the month when an application for allowing a postponement or payment by installments (hereinafter referred to in this Article as application) exceeds 10 billion roubles and its one-time repayment poses a danger of unfavourable socio-economic effects.

**2.** The organisation claiming for a postponement or payment by installments in the procedure provided for by this Article shall file with the Ministry of Finance of the Russian Federation an application with the following documents attached thereto:

1) reference note of a tax authority in respect of the state of settlements related to taxes, fees and fines;

2) a probable time schedule of debt repayment;

3) documents and data proving the danger of unfavourable socio-economic effects caused by a one-time debt repayment;

4) consent in writing given by an organisation to divulgence of data constituting a tax secret which are connected with consideration of the organisation's application.

**3.** A copy of the application shall be forwarded by an organisation to the tax agency at the place of registration thereof.

**4.** A decision in respect of the application of an organisation shall be adopted within one

month as of the date when it is received.

The decision on postponement or payment by installments in respect of the amounts to be entered to budgets of constituent entities of the Russian Federation and/or local budgets shall be coordinated with fiscal bodies of the Russian Federation and/or a municipal entity.

**abrogated** from January 1, 2010.

**5.** Interest shall be accrued on the amount of debt in respect of which the decision has been rendered on postponement of payment or payment by installments at the rate which is equal to one half of the **refinancing rate** of the Central Bank of the Russian Federation effective within the period for which postponement of payment or payment by installments is allowed.

The postponement of payment or payment by installments provided for by this Article may be allowed without granting any kind of security thereto.

**Article 65. Abrogated** from January 1, 2007.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 66 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

**Article 66. Investment Tax Credit**

**1.** An investment tax credit constitutes a tax rescheduling arrangement under which an **organisation** is allowed, if there are the grounds referred to in **Article 67** of this Code for the following, to reduce its tax payments during a certain period and to a certain extent, with a subsequent gradual payment of the amount of the credit and of the accrued interest.

An investment tax credit may be granted to an organisation with respect to tax on its profits, and also with respect to regional and local taxes.

An investment tax credit may be granted for a one to five year period.

The investment tax credit may be given for the term of up to ten years on the basis indicated in **Subitem 6 of Item 1 of Article 67** of this Code.

**2.** An organisation that receives an investment tax credit may reduce its appropriate tax payments during the effective period of the investment tax credit agreement.

Each payment of the corresponding tax for which an investment tax credit has been extended is reduced during each reporting period until the amount that is retained by the organisation as a result of all such reductions (accumulated amount of credit) becomes equal to the credit amount prescribed by an appropriate agreement. The specific manner of reducing tax payments shall be determined in the concluded contract on the investment tax credit.

If an organisation effects more than one investment tax credit agreement effective at the time of the next tax payment, the accumulated credit amount is determined separately for each of these agreements. The accumulated amount of the credit is increased initially for the earliest agreement; when this accumulated amount of the credit becomes equal to the credit size stated in such agreement, the organisation may increase the accumulated amount of the credit in accordance with the next-in-line agreement.

**3.** In each reporting period (irrespective of the number of investment tax credit agreements) the amounts that reduce an organisation's tax payments may not exceed 50 per cent of amount of appropriate tax payments as calculated under general rules if there were no investment tax credits in existence. The amount of credit accumulated during a tax period may not exceed 50 per cent of the amount payable by the organisation as tax during this tax period. If the accumulated sum of credit exceeds the maximum amounts for which it is possible to reduce the tax and which are fixed by this Item for such reporting period, the difference between

this amount and the maximally admissible amount shall be shifted to the next reporting period. The provisions of this paragraph shall be applied, unless envisaged otherwise by the contract on the investment tax credit, concluded on the basis indicated in **Subitem 6 of Item 1 of Article 67** of this Code.

If an organisation incurs losses in a reporting period that is part of a larger tax period or losses during an entire tax period, an excessive amount of credit accumulated in a tax period is carried forward to the next tax period and is recognised as an accumulated amount of credit during the first reporting period of the new tax period.

#### **Article 67.** Procedure and Conditions of Granting Investment Tax Credits

**1.** An investment tax credit may be granted to an **organisation** if it must pay the appropriate tax provided one of the following applies:

1) such organisation conducts research, development, testing and evaluation works or modernizes its production facilities, including a modernization effort aimed at creating jobs for disabled persons or protection of the environment from industrial pollution and/or improves energy efficiency of production of commodities, carrying out works, rendering services;

2) such organisation is engaged in introducing new equipment or innovations, including the creation of new or improvement of existing technologies and the creation of new kinds of raw and other materials;

3) such organisation is fulfilling a very important order relating to the socio-economic development of a region or is rendering very important services to the population;

4) such organisation is engaged in executing a state defence order;

5) making investments on the part of this organisation in the creation of objects with the highest class of energy efficiency, including apartment houses, and/or qualified as renewable sources of energy and/or qualified as objects producing thermal energy, electric energy with efficiency ratio greater than 57 percent and/or other objects, technologies with a high energy efficiency according to the list endorsed by the Government of the Russian Federation.

6) inclusion of such an organisation in the register of residents of a zone for territorial development in accordance with **Federal Law** on zones for territorial development in the Russian Federation and about modification of separate acts of the Russian Federation.

**2.** An investment tax credit is granted:

1) for reasons specified in **Subitems 1 and 5 of Item 1** of this Article, for an amount of credit equal to 100 per cent of the value of the equipment acquired by the organisation concerned provided this equipment is used for the purposes specified in this Subitem;

2) for reasons specified in **Subitems 2 - 4** of Item 1 of this Article, for amounts of credit that are determined by agreement between the proper authority and the concerned organisation.

3) on the basis indicated in **Subitem 6 of Item 1** of this article, - for the credit sum constituting no more than 100 per cent of the sum of the expenses on capital investments on acquisition, construction, additional equipment, reconstruction, modernisation, technical re-equipment of the amortized property intended and used for the performance by residents of zones for territorial development of investment projects in accordance with **Federal Law** on zones for territorial development in the Russian Federation and about modification of separate acts of the Russian Federation.

**3.** Reasons entitling an organisation to an investment tax credit must be documented by such organisation.

4. An investment tax credit is granted to an organisation if such organisation files an appropriate **petition**; an agreement of due format is concluded to this effect between a respective authority and the organisation. In the cited application an organisation shall undertake to pay the interest added to the amount of debt in compliance with this Chapter.

The format of an investment tax credit is prescribed by the authorised body that takes a decision to grant an investment tax credit.

An organisation is entitled to file an application with an appropriate authorised body for granting an investment tax credit or an application for allowing deferment in tax payment or its payment by installments.

5. A decision to grant or deny an organisation an investment tax credit is taken by a proper authority by approbation of the financial bodies in compliance with **Article 63** of this Code within 30 days of the receipt of such organisation's petition. An organisation's having one or several investment tax credit agreements may not be an obstacle to effecting another such agreement with this organisation for other reasons.

In the absence of the circumstances indicated in **Item 1 of Article 62** of this Code the authorised body shall not be empowered to refuse to the interested person in providing the investment tax credit on the basis indicated in **Subitem 6 of Item 1** of this article in the limits of the sum of the expenses of such a person on capital investments in the acquisition, construction, additional equipment, reconstruction, modernisation, technical re-equipment of the amortised property intended and used for the performance by residents of zones for territorial development of investment projects in accordance with **Federal Law** on Zones for Territorial Development in the Russian Federation and on Amending Separate Acts of the Russian Federation, for the term indicated in the application of the interested person, taking into account the restrictions established by **Article 66** of this Code.

6. An investment tax credit agreement shall mention the manner of reducing tax payments, the amount of the credit (and specify the tax covered by the granted investment tax credit), the duration of the agreement, the interest that accrues on the credit, the procedure for repayment of the principal amount and interest accrued, documents relating to the property that is used as pledge or security, responsibilities of the parties. If an investment tax credit is granted on the security of property, an agreement of property pledge shall be made in the procedure provided for by **Article 73** of this Code.

An investment tax credit agreement shall contain provisions against the sale or transfer for possession, use or disposal, throughout the duration of the agreement, of equipment or other property the purchase of which was the reason for this organisation's effecting such agreement; otherwise, the conditions of such sale (transfer) are laid down.

Interest charged on the credit may not be lower than 1/2 and higher than 3/4 of the **refinancing rate** of the Central Bank of the Russian Federation, unless otherwise provided for by this article.

If the investment tax credit is given on the basis indicated in **Subitem 6 of Item 1** of this article interest upon the sum of debts shall not be charged.

A copy of the agreement is filed by the organisation at the local tax authority within five days of the conclusion of such agreement.

7. Laws of constituent entities of the Russian Federation in respect of organisations' profit tax (as regards the sum of such tax which is subject to remittance to budgets of constituent entities of the Russian Federation) and in respect of regional taxes, and regulatory legal acts of representative bodies of municipal entities in respect of local taxes, may establish other grounds

and terms of granting an investment tax credit, including the validity term of an investment tax credit and interest rate on the sum of the credit.

*See the Article in the previous wording*

**Article 68.** Termination of Operation of Deferment, Payment by Instalments or Investment Tax Credit

**1.** The operation of a tax deferment, payment-by-instalments arrangement or investment tax credit is terminated upon the expiration of the duration of appropriate decision or agreement or it may be terminated before the expiration of such period in cases prescribed by this Article.

**2.** The operation of a tax deferment, payment-by-instalments arrangement or investment tax credit terminates early if the entire tax or fee amount due and appropriate interest are paid before the expiration of the agreed-upon period.

**3.** The operation of a tax credit or investment tax credit may be terminated early by a court decision if the person concerned violates the conditions of a tax deferment or payment-by-instalments arrangement, the operation of the tax deferment or payment-by-instalments arrangement may be terminated prior to the maturity date by decision of the authority that took the original decision to reschedule the period of repayment of a tax and fee.

**4.** If the operation of a tax deferment or payment-by-instalments arrangement is terminated prior to the maturity date, the person concerned shall, where it is provided for by **Item 3** of this article, within one month of receipt of the appropriate decision, pay up the entire amount of arrears plus the penalty for each calendar day beginning on the day following the date of receipt of such decision through the date of full payment of such amount.

An outstanding amount of arrears is defined as the difference between the amount of arrears named in the decision to grant a deferment (payment-by-instalments arrangement) plus the interest calculated in accordance with the decision to grant a deferment (payment-by-instalments arrangement) for the period of operation of the deferment (payment-by-instalments arrangement) and the actually paid amounts and interest.

**5.** Notice that it has been decided to terminate a deferment or payment-by-instalments arrangement or to terminate a tax credit agreement or investment tax credit agreement is given by the appropriate authority to the person concerned by registered mail within five days of the adoption of such decision. A notice of the repeal of the decision on the delay or instalment plan shall be deemed to be received upon the expiry of six days after the date of sending a registered letter.

A copy of such decision is sent within the same deadlines to the local tax authority at the place where the person concerned is registered.

**6.** An authority's decision to terminate early a deferment or payment-by-instalments arrangement may be appealed by the person concerned at a court of law in a manner prescribed by the legislation of the Russian Federation.

**7.** The operation of an investment tax credit agreement may be terminated prior to the maturity date as agreed upon by the parties or by a court decision.

**8.** If throughout the duration of a tax credit agreement or an investment tax credit agreement the organisation that enters into such agreement fails to comply with the contractual conditions of sale or transfer for possession, use or disposal of equipment or other property the purchase of which caused the conclusion of such agreement, such agreement shall be terminated by court decision. If so, the organisation shall, within one month of the receipt of

such decision, pay all outstanding tax amounts that have not yet been paid under the agreement, plus appropriate penalties and interest on outstanding tax amounts accruing every calendar day while the investment tax credit agreement is in operation based on the refinancing rate of the Central Bank of the Russian Federation in effect during the period from the conclusion to the termination of such agreement.

**9.** If an organisation that is granted an investment tax credit for reasons stated in **Subitem 3 of Item 1 of Article 67** of this Code, is in breach of obligations the investment tax credit is contingent upon, such agreement shall be terminated early by a decision of an arbitration court. If so, during an agreed-upon period but in any case within three months of the date of termination of the agreement, the organisation shall pay up the entire amount of outstanding tax and interest on this amount that accrues each calendar day while the agreement is effective based on a rate equal to the **refinancing rate** of the Central Bank of the Russian Federation.

**10.** The interest provided for by this chapter which is to be paid by the person concerned, in case of failure to meet the date for its payment, shall be recovered in a procedure similar to that for recovering interest provided for by **Article 176.1** of this Code.

**11.** If the organisation that received the investment tax credit on the basis indicated in **Subitem 6 of Item 1 of Article 67** of this Code, breached its obligations in connection with the performance of which the particular investment tax credit was received not later than in three months from the date of the dissolution of the contract on the investment tax credit it shall be obliged to pay all the sum of the tax not paid, as well as the interest for such a sum that are accrued for each calendar day beginning from the day following the day of the cancellation of the contract, to the day of the payment of tax. The interest rate shall be assumed equal to the rate of refinancing of the Central Bank of the Russian Federation in effect on such days.

## **Chapter 10. Demand to Pay Taxes and Fees**

### **Article 69. Demand to Pay a Tax or Fee**

**1.** As a demand to pay a tax shall be deemed a notice sent to a taxpayer concerning an outstanding amount of tax, as well as such taxpayer's obligation to pay an outstanding amount of tax within an established period of time.

**2.** A demand to pay a tax or fee is presented to a payer of tax or fee if such payer has not fully discharged his/her arrears.

Where there are arrears of organisations profit tax in respect of a consolidated group of taxpayers, the demand to pay the tax shall be forwarded to the responsible participant in this group.

**3.** A demand to pay a tax or fee is presented to a payer of tax or fee introspectively of whether such payer is brought to account on charges of violation of tax or fee legislation.

**Federal Law** No. 404-FZ of December 28, 2010 amended Item 4 of Article 69 of this Code. The amendments shall **enter into force** from January 15, 2011 **See the Item in the previous wording**

**4.** A demand to pay a tax or fee shall contain information concerning the amount of arrears relating to the tax or fee, the penalty having accrued by the time the demand is presented, the statutory deadline for the discharge of the obligation to pay the tax or fee, the



deadline for the fulfilment of the demand, and the measures for the recovery of the tax and the security of the discharge of the duty of tax payment that are applicable if a taxpayer fails to comply with such demand.

In all cases such demand shall contain detailed data explaining why the tax or fee is collected and a reference to the provisions of the legislation on taxes and fees that establishes the duty of the payer of tax or fee to pay the tax.

If the sum of arrears detected as a result of a tax inspection makes it possible to suppose that there is a breach of the legislation on taxes and fees with the signs of a crime, the demand to be forwarded must contain a warning to the effect that the tax authority will be obliged, in case of failure to pay in full the sums of arrears, penalties and fines in due time, to forward to the investigatory bodies the corresponding documents for the purpose of deciding on the initiation of criminal proceedings.

A demand to pay tax has to be fulfilled within 8 days as of the date of receiving the said demand, unless a longer time period for the tax payment is specified in this demand.

**5.** A demand to pay a tax is presented to a payer of tax or fee by the tax authority with which the taxpayer is registered. The **form** of a demand is established by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

**6.** A demand to pay tax may be delivered to the chief executive officer (or such officer's statutory or authorised deputy) of an **organisation** or to an individual (or such individual's statutory or authorised representative) against a receipt, sent by registered mail or transmitted in electronic form via telecommunication channels. Where the cited demand is sent by registered mail, it shall be deemed received upon the expiry of six days as from the date when the registered mail is sent.

The formats of and procedure for forwarding a taxpayer a demand to pay tax in electronic form via telecommunication channels shall be established by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**7. Abrogated** from January 1, 2004.

**8.** The rules provided for by this Article shall likewise apply to demands to pay fees, penalties or fines and shall extend to the demands to be sent to payers of fees and to tax agents.

**9. Abrogated** from January 1, 2007.

#### **Article 70.** Deadlines for Presenting a Demand to Pay a Tax or Fee

**1.** A demand to pay a tax must be presented to a taxpayer (the responsible participant in a consolidated group of taxpayers) at the latest in three months as of the date of detecting arrears in payment thereof, unless otherwise prescribed by **Item 2** of this Article.

When detecting arrears in tax payment, the tax authority shall draw up the document according to the **form** endorsed by the federal executive body authorised to exercise control and supervision in the sphere of taxes and fees.

**2.** A demand to pay tax that is presented to a taxpayer (the responsible participant in a consolidated group of taxpayers) on the basis of the results of a tax inspection shall be sent to him within ten days as of the date of such decision's entry into force.

**3.** The rules provided for by this Article shall also apply to the terms of forwarding a demand to pay a fee, as well as penalties and fines.

**4.** The rules established by this Article shall also apply to deadlines for sending to a tax agent a demand to remit tax.

**See the Article in the previous wording**

**Article 71.** Effects of Changing an Obligation to Pay a Tax or Fee

If the obligation of a taxpayer, tax agent or payer of fee relating to payment of this tax or fee changes following presentation of a demand to pay tax, fee, penalties or fines, the tax authority shall forward to the said persons a revised demand.

**Chapter 11. Methods of Enforcement of Obligations Relating to Payment of Taxes and Fees**

**Article 72.** Methods of Enforcement of Obligations Relating to Payment of Taxes/Charges

1. Obligations to pay taxes or charges may be enforced by the following methods: property pledge, guarantee, penalty, suspension of operations in bank accounts and attachment of a taxpayer's property.

*Customs Code of the Russian Federation No. 61-FZ of May 28, 2003 amended Item 2 of Article 72 of this Code. The amendments shall enter into force from January 1, 2004*

2. The current chapter prescribes methods for the enforcement of obligations relating to the payment of taxes or charges, and the procedure and conditions of the application of such methods.

3. **Abrogated** from January 1, 2007.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 73 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

**Article 73.** Property Pledge

1. Where it is provided for by this Code, the obligation to pay taxes and charges may be secured by a **pledge**.

2. A property pledge is formalized in an agreement effected between the tax authority and the pledger. The latter may be the taxpayer or payer of fees him/her/itself or a third person.

3. If a taxpayer or payer of fees fails to fulfil an obligation relating to the payment of a tax or fee due and penalty, the pledgee tax authority enforces this obligation from the value of the pledged property in the manner prescribed by the civil law of the Russian Federation.

4. The subject of pledge may be property that is pledgeable under civil law unless this Article prescribes otherwise.

Property pledged under an agreement between the tax authority and pledger may not be the subject of pledge under another agreement.

5. The pledger may continue to have possession of the pledged property or transfer it at the pledger's expense to the tax authority (pledgee), and the latter is responsible for preservation of the pledged property.

6. Any transactions with pledged property, including transactions undertaken for the repayment of arrears, may only be undertaken by agreement with the pledgee.

7. Legal relations arising out of a pledge as a method of enforcement of a tax obligation are subject to civil law rules unless otherwise prescribed by the legislation on taxes and fees.

**Article 74.** Guarantee

1. If times are changed for the fulfilment of obligations to pay taxes and charges and in

other cases provided for by this Code, the obligation to pay taxes and charges may be secured by a guarantee.

2. If a taxpayer fails to pay when due the amount of tax or fee due and penalty, the guarantor is obligated before the tax authority to fully fulfil the taxpayer's tax obligation.

An agreement is **effected** in accordance with civil law between the tax authority and the guarantor to formalize the guarantee.

3. If the taxpayer fails to meet his/her guaranteed tax obligations, the guarantor and the taxpayer bear joint and several liability. The forced exaction of the tax and due penalties from the warrantor shall be effected by a tax body through legal proceedings.

4. Having fulfilled the obligations under the agreement, the guarantor is entitled to recover from the taxpayer the paid amounts, interest on these amounts and the losses incurred because of the guarantor's having fulfilled the assumed obligations.

5. A legal entity or individual may act as a guarantor. One tax obligation may be guaranteed by several guarantors.

6. Legal relations arising out of a guarantee as a method of enforcement of a tax obligation are subject to the provisions of civil law of the Russian Federation unless otherwise prescribed by the legislation on taxes and fees.

7. The rules of this Article shall also apply to guarantees/security with regard to payment of fees.

#### **Article 75.** Penalty Interest

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 75 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

1. A penalty as established by this Article is an amount of money which a payer of tax shall pay in the case of an overdue payment of the amounts of taxes or fees, including taxes to be paid in connection with the transfer of goods across the customs border of the Customs Union in later period of payments in compared with that established by legislation on taxes and fee.

2. The amount of penalty interest is paid over and above the amounts of tax or charge due and irrespectively of the application of other methods to enforce the obligation to pay a tax or charge and liability for the violation of tax or fee legislation.

3. Penalty interest is calculated for each calendar day of delay in fulfillment of obligation to pay a tax or a fee, beginning on the day following the statutory deadline for the payment of a tax or charge, unless otherwise provided for by **Chapters 25** and **26.1** of this Code.

No penalties shall be charged on the amount of arrears which a taxpayer (a participant in a consolidated group of taxpayers against which the measures involved in the tax recovery by enforcement have been taken in compliance with Article 46 of this Code) could not repay because, by decision of a tax body, the tax payer's property has been arrested or, by court decision, security measures have been taken in the form of suspension of operations on the taxpayer's bank accounts (on the bank accounts of the participant in the consolidated group of taxpayers against which in compliance with **Article 46** of this Code the measures involved in the tax recovery by enforcement have been taken), imposition of an arrest upon the taxpayer's monetary assets or property (upon the monetary assets or property of the participant in the consolidated group of taxpayers). In this case, penalties shall not be charged for the whole period of the said circumstances' operation. The filing of an **application** for granting a delay (an instalment plan) or an investment tax credit shall not stay the addition of penalties to the amount of the tax subject to payment.

4. The penalty interest for each day of delay is calculated in percentage points of the outstanding amount of tax or charge due.

The penalty interest rate is equal to 1/300 of the effective **refinancing rate** of the Central Bank of the Russian Federation.

5. Penalty interest may be paid simultaneously with the payment of a tax or charge or following full payment of such tax or charge.

6. Collection of penalty interest may be enforced from the taxpayer's bank account or from the taxpayer's other property in the manner prescribed by **Articles 46 - 48** of this Code.

Enforced collection of penalties from **organisations** and individual businessmen shall be effected in the procedure provided for by **Articles 46** and **47** of this Code, while from **natural persons** who are not individual businessmen it shall be done in the procedure provided for by **Article 48** of this Code.

Compulsory collection of penalties from organisations and individual businessmen in the instances provided for by **Subitems from 1 to 3 of Item 2 of Article 45** of this Code shall be effected in the judicial procedure.

7. The rules provided for by this Article shall likewise extend to payers of fees, tax agents and a consolidated group of taxpayers.

8. Penalties shall not be charged for arrears which a taxpayer (payer of fee or tax agent) has as a result of his following the written explanations as to the procedure for calculation and payment of tax (fee) and as to other issues of application of the legislation on taxes and fees which are given to him or to an indefinite group of persons by a financial, tax or other authorised state power body (by an authorised official of this body) within the scope of their authority (the said circumstances shall be established, if there is the appropriate document of such body which by its meaning and contents pertains to the tax (reporting) periods when the arrears emerged, regardless of the date of issuing such document).

The provision contained in this Item shall not apply if the said written explanations are based upon incomplete or unreliable information supplied by a taxpayer (payer of a fee or tax agent).

#### **Article 76.** Suspension of Transactions on the Bank Accounts, as well as Transfers of Electronic Money Resources of Organisations and Individual Businessmen

1. Suspension of operations through bank accounts and transfers of electronic money resources shall be used for the purpose of ensuring the execution of a decision to recover a tax, fee, penalty and/or fine, unless otherwise stipulated by **Item 3** of this Article and **Subitem 2 of Item 10 of Article 101** of this Code.

Suspension of operations through bank accounts means that the bank suspends all debit operations on an account, unless otherwise prescribed by **Item 2** of this Article.

Suspension of transactions on an account shall not extend to payments which under the **civil legislation** of the Russian Federation are to be made prior to discharging the duty of paying taxes and fees, as well as to transactions of writing off monetary funds on account of paying taxes (making advance payments), fees, insurance contributions, relevant penalties and fines, and of their remittance to the budget system of the Russian Federation.

The suspension of the transfers of electronic money resources means the termination by bank of all operations involving the reduction of the balance of electronic money resources unless envisaged otherwise by Item 2 of this Article.

2. A **decision** on the suspension of transactions of a taxpaying organisation on its bank accounts and transfers of its electronic money resources shall be taken by the chief (deputy

chief) of the tax body who has sent the demand for paying tax, penalty or fine in case of the taxpaying organisation's default on execution of this demand.

With this, a decision to suspend transactions of a taxpaying organisation on its bank accounts and transfers of its electronic money resources may not be taken before rendering a decision on tax collection.

Suspension of operations on bank accounts of a taxpaying organisation in the case provided for by this Item shall mean termination by a bank of debit transactions on this account within the limits of the amount specified in the decision on suspending transactions of the taxpaying organisation on the bank accounts, unless otherwise provided for by **Paragraph Three of Item 1** of this Article.

The suspension of transfers of electronic money resources of the tax bearer organisation in the case envisaged by this Item means the termination by the bank of the operations involving a reduction of the balance of electronic money resources within the limits of the sum indicated in the decision of the tax body.

The suspension of transactions of a taxpaying organisation on a currency account thereof opened with a bank as it is provided for by this item means termination by the bank of expenditure transactions on this account within the limits of the amount of foreign currency equivalent to the amount in roubles cited in the decision on suspending transactions of the taxpaying organisation on bank accounts according to the exchange rate of the Central Bank of the Russian Federation established on the starting date of the suspension of transactions on the currency account of this taxpayer.

The suspension of transfers of electronic money resources in a foreign currency of the tax bearer organisation in the case envisaged by this Item means the termination by the bank of the operations involving reduction of the balance of electronic money resources within the limit of the sum of the foreign currency equivalent to the sum indicated in the decision of the tax body of the sum in roubles at the rate of the Central Bank of the Russian Federation established on the date of the commencement of the action of the suspension of the transfer of electronic money resources in a foreign currency of the aforementioned tax bearer.

**2.1.** The decisions on suspension of operations on bank accounts and electronic monetary assets' remittance for the purpose of securing payment of taxes and fees by the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in the article as the managing partner responsible for keeping tax records) in connection with execution of the agreement of investment partnership shall be rendered by the head (deputy head) of the tax authority at the location of such managing partner.

For the purpose of securing the duty of paying taxes and fees by the managing partner responsible for keeping tax records in connection with execution of an agreement of investment partnership (except for the tax on organisations' profits arising in connection with participation of the given partner in the agreement of investment partnership) shall be suspended in the first turn operations on bank accounts and remittance of electronic monetary assets of the investment partnership.

If there are no assets on accounts of an investment partnership or they are insufficient, the decision on suspending operations on bank accounts or remittance of electronic monetary assets may be rendered in respect of the accounts of managing partners.

If there are no assets on accounts of managing partners or they are insufficient, the decision on suspending operations on bank accounts and remittance of electronic monetary assets of the partners may be adopted in respect of the partners' accounts to the amount which is proportionate to the share of each of them in the partners' common property estimated as of the date of the debt's origination.

The decision on suspending operations on bank accounts and on the remittance of electronic monetary assets of managing partners and partners may not be taken earlier than the adoption of the decision on tax recovery out of the assets kept on bank accounts of the cited persons.

**3.** A decision on the suspension of transactions of a taxpaying organisation on its bank accounts and transfers of its electronic money resources may be also taken by the chief (or deputy chief) of a tax authority, if this taxpaying organisation failed to submit a tax declaration to the tax authority within ten days upon the expiry of the fixed term of filing such declarations.

In this case, the suspension of transactions on accounts and transfers of electronic money resources may be repealed by decision of a tax authority at the latest within one day following the date of submission of a tax declaration by this taxpayer.

**4.** A decision to suspend transactions of a taxpaying organisation on its bank accounts and transfers of its electronic money resources shall be delivered by a tax authority to a bank on a paper medium or in electronic form.

A decision to repeal the suspension of transactions on bank accounts of a taxpaying organisation and transfers of its electronic money resources shall be delivered to the bank's representative by an official of the tax authority against his/her receipt at the location of this bank, or shall be sent to the bank in an electronic form or in some other way showing the date when it is received by the bank at the latest on the day following the date when such decision is adopted.

The **procedure** of the direction to the bank in electronic form of the decision of the tax body on the suspension of operations on the accounts of the tax bearer organisation with the bank and transfers of its electronic money resources or the decision on the cancellation of the suspension of operations on accounts of the tax bearer organisation with the bank and transfers of its electronic money resources shall be laid down by the Central Bank of the Russian Federation in coordination with the federal body of the executive power authorised for the control and supervision in the field of taxation and revenues.

A **form** of and **procedure** for sending to the bank a decision of a tax authority on suspending transactions on bank accounts and transfers of its electronic money resources of a taxpaying organisation and a decision on repealing the suspension of transactions on bank accounts of a taxpaying organisation on a paper medium shall be established by the federal executive body authorised to exercise control and supervision in the sphere of taxes and fees.

A copy of a decision of a tax authority on suspending transactions on the bank accounts of a taxpaying organisation and transfers of its electronic money resources and a decision on repealing the suspension of transactions on bank accounts of a taxpaying organisation shall be delivered to the taxpaying organisation against the receipt thereof or in other way showing the date of receiving by the taxpaying organisation a copy of the appropriate decision at the latest on the day following the date when such decision is rendered.

**5.** The bank must inform the tax body in electronic form about the balance of monetary means of the taxpayer-organisation on the accounts in the bank, the operations on which have been suspended, as well as about the balances of the electronic money resources the transfer of which is suspended, within three days after the day of receipt of the decision of that tax body on suspending the operations on the accounts of the taxpayer-organisation in the bank. Formats of notifying by a bank about the balance of monetary assets on the bank accounts of a taxpaying organisation, as well as a procedure for forwarding the cited notice in an electronic form, shall be endorsed by the Central Bank of the Russian Federation by approbation of the federal executive power body authorised to exercise control and supervision in respect of taxes and fees and about transfers of its electronic money resources.

*See the recommended form of the **Reference** about Account (Accounts) Balance of the*

*Organisation (Individual Entrepreneur, Private Notary, a Lawyer Who Has Founded a Legal Office) approved by **Order** of the Federal Tax Service No. MM-3-06/178@ of March 30, 2007*

**6.** A decision of a tax authority on suspending transactions on the bank accounts of a taxpaying organisation, transfers of its electronic money resources shall be subject to unconditional execution by the bank.

**7.** Suspension of a taxpaying organisation's transactions on its bank accounts and transfers of its electronic money resources shall be in effect as of the time of receiving by the bank a decision of a tax authority to suspend such transactions, such transfers and up to receiving by the bank a tax authority's decision to repeal suspension of operations on the accounts of the taxpaying organisation opened with the bank, decisions of the tax body on the cancellation of the suspension of transfers of its electronic money resources.

The date and time of receiving by a bank of a tax authority's decision to suspend transactions on bank accounts of a taxpaying organisation and transfers of its electronic money resources shall be stated in the notice of delivery or in the receipt proving the achieving such decision. When sending to a bank a decision to suspend transactions of a taxpaying organisation on bank accounts thereof in an electronic form, the date and time of its receiving by the bank shall be determined in the procedure established by the Central Bank of the Russian Federation by approbation of the federal executive body authorised to exercise control and supervision in the sphere of taxes and fees.

If after adoption of the decision to suspend operations on the bank accounts of a taxpaying organisation the denomination of the taxpaying organisation and/or requisite elements of the taxpaying organisation's bank account where operations were suspended by this decision of the tax authority have changed, the cited decision shall also be subject to execution by the bank in respect of the taxpaying organisation that has changed its denomination and of operations on the account whose requisite elements have been changed.

In case after the making of the decision on the suspension of transfers of electronic money resources of the tax bearer organisation the name of the tax bearer organisation and (or) payment details of the corporate electronic instrument of payment of the tax bearer organization with the bank changed the transfers of electronic money resources with the use of which are suspended according to such a decision of the tax body the aforementioned decision shall be subject to the performance by the bank also concerning the tax bearer organization that changed its name and transfers of electronic money resources with the use of the corporate electronic instrument of payment that has such changed payment details.

**8.** Suspension of transactions on bank accounts of a taxpaying organisation and transfers of its electronic money resources shall be reversed by **decision** of a tax authority at the latest within one day following the date of receiving by the tax authority of the documents (copies thereof) proving the fact of collecting tax, penalties or a fine.

**9.** Where the total amount of a taxpaying organisation's monetary funds on the accounts, where transactions are suspended on the basis of a tax authority's decision, exceeds the amount specified in this decision, this taxpayer shall be entitled to file an application with the tax authority for reversal of the suspension of transactions on its bank accounts, specifying the accounts where there are enough monetary funds for executing the decision on the tax collection.

A tax authority shall be obliged within a two-day term as of the date of receiving the taxpayer's application specified in Paragraph One of this Item to decide on reversing the suspension of transactions on accounts of the taxpaying organisation, as regards the excess of the amount of monetary funds specified by the decision of the tax authority on suspending transactions on bank accounts of the taxpaying organisation.

If the documents proving the availability of monetary funds on the accounts specified in

this application, are not attached to the said application, the tax authority shall be entitled, prior to deciding on the reversal of suspension of transactions on accounts within the day following the day of receiving such taxpayer's application, to send to the bank where the said accounts are opened by the taxpayer an enquiry for the balance of monetary funds on these accounts. A notice of the balance of monetary assets on a taxpayer's bank account shall be forwarded by a bank in electronic form using the established format at the latest on the following day after the date when a request of a tax authority is received.

After receiving from the bank information about the availability of monetary funds on a taxpayer's bank accounts in the amount sufficient for execution of the decision on collection, the tax authority shall be obliged within two days to decide on the reversal of suspension of transactions on accounts of a taxpaying organisation, as regards the excess of the amount of monetary funds specified in the tax authority's decision to suspend transactions on the taxpaying organisation's bank accounts.

**9.1.** The suspension of operations on a taxpaying organisation's bank account shall be reversed where it is provided for by Items 3, 7-9 of this article and by Item 10 of Article 101 of this Code, as well as on the grounds provided for by other federal laws.

If operations on a taxpaying organisation's bank accounts are suspended on the grounds provided for by other federal laws, it shall not be required for a tax authority to adopt a decision to reverse the suspension of such operations.

**9.2.** In the event of a tax authority's failure to meet the deadline for reversing the decision on suspending transactions on accounts of a taxpaying organisation opened with a bank or the deadline for handing in to the bank's representative (for forwarding to the bank) the decision on reversing the suspension of transactions on bank accounts of the taxpaying organisation, interest shall be accrued on the amount of monetary funds in respect of which the suspension extended, to be paid to a taxpayer for each calendar day while this deadline is not observed.

In the event of wrongful adoption by a tax authority of the decision to suspend operations on a taxpaying organisation's bank account, interest shall be added to the amount of monetary funds in respect of which the cited decision of the tax authority operated, this to be paid to the cited taxpaying organisation for each calendar day starting from the date when a bank receives the decision to suspend operations on the taxpayer's account up to the date when the bank receives the decision to reverse the suspension of operations on the taxpaying organisation's accounts.

The interest rate shall be taken as equal to the **refinancing rate** of the Central Bank of the Russian Federation which was in effect during the days of wrongful suspension of operations on a taxpaying organisation's accounts while a tax authority was failing to meet the deadline for reversal of the decision to suspend operations on bank accounts of the taxpaying organisation or the deadline for handing in to a bank representative (for forwarding to a bank) the decision to reverse suspension of operations on bank accounts of the taxpaying organisation.

**9.3.** The provisions of **Items 9, 9.1 and 9.2** of this Article shall be also applied in the case of the suspension of transfers of electronic money resources of the tax bearer organisation.

**10.** A bank shall not be held liable for the losses borne by a taxpaying organisation as a result of suspending its bank transactions and transfers of its electronic money resources by decision of a tax authority.

**11.** The rules established by this Article shall likewise apply to suspension of transactions on bank accounts of a tax agent being an organisation and a payer of a fee being an organisation, on the bank accounts of taxpaying individual businessmen, tax agents and payers of fees, on bank accounts of private notaries (solicitors/barristers who have founded solicitor's studies) being taxpayers and tax agents, as well as concerning the suspension of transfers of electronic money resources of the aforementioned persons.



**12.** Where there is a decision to suspend operation on bank accounts of a taxpaying organisation and transfers of its electronic money resources, as well as on accounts of the persons cited in Item 11 of this Article, the bank is not entitled to open accounts for this organisation and these persons and to empower such an organisation with the right to use new corporate electronic instruments of payment for transfers of electronic money resources.

**13.** The rules established by this article shall apply subject to the specifics provided for by this item in respect securing payment of organisations profit tax for a consolidated group of taxpayers.

Operations of participants in a consolidated group of taxpayers on bank accounts thereof shall be suspended in the same order in which a tax authority levies execution against the monetary assets kept on bank accounts in compliance with **Item 11 of Article 46** of this Code.

Decisions on suspending operations on bank accounts of the responsible participant in a consolidated group of taxpayers and other participants in this group may be also adopted in the procedure provided for by this article in the event of non-presentation of the tax declaration for organisations profit tax in respect of the consolidated group of taxpayers to a tax authority within 10 days upon the expiry of the time period fixed for presentation of such declaration. On such occasion, decisions on suspending operations on bank accounts may be adopted concurrently in respect of all the participants in this group.

#### **Article 77.** Attachment of Property

**1.** Attachment of property as a method of enforcement of a decision to collect a tax, penalties and fines is an action by a tax or customs authority to restrict the taxpaying organisation's or another obligated person's ownership rights relating to his property; such action requires the consent of a prosecutor.

Property is attached if a taxpaying organisation fails to fulfil in due time a demand to pay a tax, penalties and fines or if the tax or customs authorities have sufficient reason to believe that the indicated person is likely to take measures aimed at hiding him/herself or concealing his/her property.

**2.** Attachment of property may be full or partial.

A full attachment of property is a restriction of rights of a taxpaying organisation with respect to its attached property, and the possession and use of such property is performed only under the supervision or with permission of the tax or customs authority that executes the attachment.

A partial attachment is a restriction of rights of a taxpaying organisation with respect to its attached property, and the possession, use and disposal of such property is performed only under the supervision or with permission of the tax or customs authority that executes the attachment.

**3.** An attachment may be used only to ensure the collection of a tax, penalties and fines at the expense of a taxpaying organisation in accordance with **Article 47** of this Code.

**3.1.** For the purpose of securing the duty of paying taxes and fees by the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records) in connection with execution of the agreement of investment partnership (except for the tax on organisations' profits arising in connection with participation of the given partner in the agreement of investment partnership) the partners' common property, as well as the common property of all the managing partners, may be arrested.

The decision on arresting may be adopted in respect of the partners' common property or, if there is no such property or it is insufficient, in respect of the property of all the managing

partners (in so doing, such decision shall be adopted in the first turn in respect of the property of the managing partner responsible for keeping tax records).

The decision on arresting the partners' common property shall be rendered by the head (deputy head) of the tax authority at the location of the managing partner responsible for keeping tax records.

The decision on arresting the partners' common property and the property of managing partners may not be adopted earlier than the decision on recovering tax on account of the property of the cited persons.

**4.** A taxpaying **organisation** may have all its property attached.

**5.** Only that property may be attached that is necessary and sufficient for the fulfilment of the demand to pay tax, penalties and fines.

**6.** A decision to attach a taxpaying organisation's property shall be made by the chief officer (deputy chief officer) of the tax or customs authority. Such decision takes the form of a resolution.

**7.** Attachment of a taxpaying organisation's property requires the presence of witnesses. The authority that conducts the seizure shall not be able to deny the right to the taxpaying organisation to attend the attachment procedure.

Their rights and obligations shall be explained to the persons who participate in the attachment procedure as witnesses, experts, and also to the taxpaying organisation (its representative).

**8.** An attachment may not be made at night-time except for cases that brook no delay.

**9.** Prior to an attachment the officers to make the attachment shall show the taxpaying organisation (its representative) the decision to make the attachment, a document stating the prosecutor's approval and documents confirming their authority.

**10.** An attachment is put on record. The attachment record or a list attached to the record shall contain a list and description of the property to be attached; the record shall have an accurate description of the attached assets, their quantity and individual characteristics, and if feasible, their value.

All assets to be attached shall be demonstrated to the witnesses and to the taxpaying organisation (its representative).

**11.** The chief officer (deputy chief officer) of the tax or customs authority that orders the attachment of property determines where the attached assets shall be kept.

**12.** Attached property may not be alienated (with the exception of alienation supervised or permitted by the customs or tax authority that makes the attachment), embezzled or concealed. Failure to observe the established procedures for possession, use and disposal of the attached property may result in liability of guilty persons in accordance with **Article 125** of this Code and/or other federal laws.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 13 of Article 77 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

**13.** A decision to attach property shall be **repealed** by a duly authorised tax or customs officer as the obligation to pay tax, penalties and fines terminates.

A decision to attach property shall be effective from the time when the attachment is made until the repeal of the attachment decision by a duly authorised officer of the tax or customs authority that takes the decision to make the attachment or until a higher-level tax or customs authority or a court of law overrules such decision.

A tax (customs) authority shall notify a taxpayer of reversal of the decision to arrest property within five days from the date when this decision is adopted.

**14.** The rules of this Article shall also apply to attachment procedures in relation to organisations acting as a tax agent and organisation paying fees, as well as the responsible participant in a consolidated group of taxpayers.

**15.** The rules established by this article shall apply subject to the specifics provided for by this article in respect of securing payment of organisations profit tax for a consolidated group of taxpayers.

The property of participants in a consolidated group of taxpayers shall be arrested in the same order in which a tax authority follows the procedure for levying execution against the property of a taxpayer in compliance with **Item 11 of Article 47** of this Code.

## **Chapter 12. Offset and Refund of Overpaid or Over Collected Amounts**

### **Article 78. Offset or Refund of Overpaid Amount of Tax, Fee, Penalty and Fine**

**1.** The amount of overpaid tax shall be set off against the taxpayer's future liabilities for the same tax or other taxes, the repayment of arrears of other taxes, debts on penalties and fines for tax offences or shall be refunded to the taxpayer according to the procedure established in this Article.

*Paragraph two of Item 1 of Article 78 of this Code (in the part providing for a set-off (refund) of the amounts of excessively collected federal, regional and local taxes and fees in respect of the appropriate types of taxes and fees and in respect of the appropriate penalties and fines) shall **enter into force** from January 1, 2008*

The set-off of overpaid federal taxes and fees, as well as of regional and local taxes, shall be effected in respect of the appropriate types of taxes and fees, as well as in respect of penalties charged with regard to the appropriate taxes and fees.

**2.** The set off or refund of overpaid tax shall be made by the tax authority at the place of registration of the taxpayer without interest accruing on this amount, unless otherwise established by this Article.

**3.** The tax authority shall notify the taxpayer of each case of overpaid tax that becomes known to the tax authority and specify the overpaid amount at the latest 10 days after the date when such overpayment was identified.

In case of disclosing the facts testifying to possible excessive payment of tax, the tax authority or taxpayer may propose to conduct joint checking of calculations concerning taxes, fees, penalties and fines.

Paragraph 3 is **abrogated**.

**4.** The setoff of overpaid tax against the forthcoming taxpayers' liabilities in respect of this or other taxes shall be made on the strength of a written petition of the taxpayer by decision of a tax authority.

A decision to set off the amount of excessively paid tax against the forthcoming taxpayers' liabilities shall be passed by a tax authority within ten days of the receipt of the taxpayer's application or after the date of signing by the tax authority and this taxpayer the report of a joint check-up of the taxes paid by him, if such joint check-up has been conducted.

**5.** Amounts of excessively paid tax against the repayment of arrears of other taxes and debts on penalties and (or) fines to be paid or recovered in the cases provided for by this Code shall be independently set off by the tax authorities.

In the case provided for by this Item a decision to set off the amount of excessively paid

tax shall be rendered by a tax authority within 10 days as of the date of detecting the fact of excessive tax payment, or as of the date of signing by the tax authority and a taxpayer the report of a joint check-up of taxes paid by him, if such joint check-up has been conducted, or as of the date of entry into force of a court decision.

The provision contained in this Item shall not prevent a taxpayer from submitting to a tax authority an application in writing for setting off the amount of excessively paid tax against the repayment of arrears (debts in respect of penalties and fines). In this case, a decision of a tax authority to set off the amount of excessively paid tax against the repayment of arrears and debts in respect of penalties and fines shall be taken within 10 days as of the date of receiving the said application by the taxpayer, or as of the date of signing by the tax authority and this taxpayer the report of the joint check-up of taxes paid by him, if such joint check-up has been conducted.

**6.** The amount of excessively paid tax shall be subject to repayment on the basis of a taxpayer's application in writing within one month as of the date of receiving such application by a tax authority.

The amount of excessively paid tax shall only be repaid to a taxpayer if he has arrears of other taxes of the appropriate type or debts in respect of the appropriate penalties, as well as fines, to be recovered in the instances provided for by this Code, after setting off the amount of excessively paid tax against the repayment of the arrears (the debts).

**7.** An application for setting off or repaying the amount of excessively paid tax may be filed within three years as of the date of paying the said amount unless otherwise provided for by this Code.

**8.** A decision to repay the amount of excessively paid tax shall be rendered by a tax authority within 10 days as of the date of receiving a taxpayer's application for repayment of the excessively paid tax or as of the date of signing by the tax authority and this taxpayer the report of a joint check-up of taxes paid by him, if such check-up has been conducted.

Prior to the expiry of the time period established by Paragraph One of this Item, an order to repay the amount of the excessively paid tax drawn up on the basis of a tax authority's decision to repay this amount of tax shall be subject to sending by the tax authority to a territorial agency of the Federal Treasury for making the repayment to the taxpayer in compliance with the **budget legislation** of the Russian Federation.

**9.** A tax authority shall be obliged to notify a taxpayer in writing of a rendered decision to set off (repay) the amounts of excessively paid tax or a decision to deny the set-off (the repayment) thereof within five days as of the date of rendering the appropriate decision.

The said decision shall be personally delivered to the head of an organisation, a natural person or a representative thereof against their receipt or in other way proving the fact and date of receiving it.

The sums of organisations profit tax paid in excess in respect of a consolidated group of taxpayers are subject to setting off (repayment) to the responsible participant in this group in the procedure established by this article.

In the event of termination of the validity term of an agreement on forming a consolidated group of taxpayers, the sums of organisations profit tax in respect of the consolidated group of taxpayers which are not subject to setting off (which are not set-off) against the arrears of this group are subject to setting off (repayment) to the organisation which is the responsible participant in the consolidated group of taxpayers on the basis of an application thereof.

The sum of profit tax in respect of a consolidated group of taxpayers paid in excess shall not be repaid to the responsible participant in the consolidated group of taxpayers, if it has arrears of other taxes of appropriate kind or debts on appropriate penalties, as well as on fines

to be recovered as provided for by this Code.

**10.** If there is a default on repayment of the amount of excessively paid tax with the time period established by **Item 6** of this Article, the tax authority shall charge interest on the amount of excessively paid tax which is not repaid at the established time, to be paid to the taxpayer for each calendar day of such default.

The interest rate shall be taken as equal to the **refinancing rate** of the Central Bank of the Russian Federation effective on the days, when there is a default on such repayment in due time.

**11.** The territorial agency of the Federal Treasury which has repaid the amount of excessively paid tax shall notify the tax authority of the date of such repayment and of the amount of monetary funds repaid to the taxpayer.

**12.** If the interest provided for by **Item 10** of this Article is not paid to a taxpayer in full, the tax authority shall render a decision on repayment of the remaining amount of interest estimated on the basis of the date of actual repayment to the taxpayer of the amounts of excessively paid tax within three days as of the date of receiving a notice of a territorial agency of the Federal Treasury of the date of such repayment and of the amount of monetary funds repaid to the taxpayer.

Upon the expiry of the time period established by Paragraph One of this Item, an order to repay the remaining amount of interest drawn up on the basis of a tax authority's decision to repay this amount shall be subject to sending by the tax authority to a territorial agency of the Federal Treasury for making the repayment.

**13.** The amount of excessively paid tax and charged interest shall be set off or repaid using the currency of the Russian Federation.

**14.** The rules established by this Article shall likewise apply to setting off or repaying the amounts of excessive advance payments, excessively paid fees, penalties and fines and shall extend to tax agents, payers of fees and the responsible participant in a consolidated group of taxpayers.

The provisions of this Article in respect of repayment or set-off of excessively paid amounts of the state duty shall apply subject to the specifics established by **Chapter 25.3** of this Code.

#### **Article 79.** Refund of Overpaid Tax, Fee, Penalty and Fine

**1.** An overpaid amount of tax shall be refundable to the taxpayer in the procedure provided for by this Article.

*Paragraph two of Item 1 of Article 79 of this Code (as regards the part thereof providing for set-off (repayment) of the collected amounts of excessively paid federal, regional and local taxes and fees in respect of the appropriate types of taxes and fees, as well as in respect of the appropriate penalties and fines) shall **enter into force** from January 1, 2008*

The amount of excessively paid tax shall be only refunded to a taxpayer if he has arrears of other taxes of the appropriate type or debts in respect of the appropriate penalties, as well as in respect of fines to be recovered in the instances provided for by this Code, after setting off this amount against the repayment of the said arrears (debts) in compliance with **Article 78** of this Code.

**2.** A decision to refund the amount of excessively paid tax shall be rendered by a tax authority within 10 days as of the date of receiving a taxpayer's application in writing for refunding the amount of excessively paid tax.

Prior to the expiry of the time period established by Paragraph One of this Item, an order

to refund the amount of excessively paid tax drawn up on the basis of a tax authority's decision to refund this tax amount shall be subject to sending by the tax authority to a territorial agency of the Federal Treasury for making the repayment to the taxpayer in compliance with the **budget legislation** of the Russian Federation.

**3.** An application for refunding the amount of excessively paid tax may be filed by a taxpayer with a tax authority within one month as of the date when the taxpayer learned about the fact of excessive collection of tax from him or as of the date of entry into force of a court decision.

The statement of claim may be filed with a court within three years counting from the day when a person learnt or should have learnt about the fact of excessive tax collection.

If the fact of excessive tax collection is established, a tax authority shall render a decision on refunding the amount of excessively paid tax, as well as the interest charged on this amount in the procedure provided for by **Item 5** of this Article.

**4.** A tax authority, upon establishing the fact of excessive tax collection, shall be obliged to notify the taxpayer thereof within 10 days as of the date of establishing this fact.

The said report shall be personally delivered to the head of an organisation, natural person or representative thereof against the receipt or in other way proving the fact of receiving it.

**5.** The amount of excessively paid tax, together with the interest charged on it, shall be refundable within one month as of the date of receiving a taxpayer's application in writing for refunding the amount of excessively paid tax.

Interest on the amount of excessively collected tax shall be charged as of the date following the date of collection thereof up to the date of its actual repayment.

The interest rate shall be taken as equal to the **refinancing rate** of the Central Bank of the Russian Federation effective on these days.

**6.** The territorial agency of the Federal Treasury which has refunded the amount of excessively paid tax and the interest charged on this amount shall notify the tax authority of the date of such refunding and the amount of monetary funds refunded to the taxpayer.

**7.** If the interest provided for by **Item 5** of this Article is not paid to a taxpayer in full, the tax authority shall render a decision on repayment of the remaining amount of interest estimated on the basis of the date of actual repayment to the taxpayer of the amounts of excessively paid tax within three days as of the date of receiving a notice of a territorial agency of the Federal Treasury of the date of such repayment and the amount of monetary funds repaid to the taxpayer.

Prior to the expiry of the time period established by Paragraph One of this Item, an order to refund the remaining amount of interest drawn up on the basis of a tax authority's decision to repay this amount shall be subject to sending by the tax authority to a territorial agency of the Federal Treasury for making the repayment.

**8.** The amount of excessively paid tax and charged interest shall be refunded using the currency of the Russian Federation.

**9.** The rules established by this Article shall likewise apply to setting off or repaying the amounts of excessive advance payments, excessively paid fees, penalties and fines and shall extend to tax agents, payers of fees and the responsible participant in a consolidated group of taxpayers.

The provisions of this Article in respect of repayment or set-off of excessively paid amounts of the state duty shall apply subject to the specifics established by **Chapter 25.3** of this Code.

The sums of organisations profit tax in respect of a consolidated group of taxpayers which are recovered in excess from the participants in this group are subject to setting off for

(repayment to) the responsible participant in the consolidated group of taxpayers.

*Federal Law No. 154-FZ of July 9, 1999 amended the title of Section 5 of this Code  
The amendments shall **enter into force** upon the expiry of one month from the day of the  
official publication of the said Federal Law  
See the previous text of the title*

## **Section 5. Tax Declaration and Tax Control**

*Federal Law No. 154-FZ of July 9, 1999 amended the title of Chapter 13 of this Code  
The amendments shall **enter into force** upon the expiry of one month from the day of the  
official publication of the said Federal Law  
See the previous text of the title*

## **Chapter 13. Tax Declaration**

### **Article 80. Tax Return**

**1.** A tax return means a taxpayer's written statement or a statement drawn up in electronic form and transmitted via telecommunication channels with an electronic digital signature used therein concerning taxable objects, incomes generated and expenditures incurred, sources of income, tax base, tax benefits and calculated amount of tax and (or) other data serving a basis for calculation and payment of tax.

A tax return shall be filed by every taxpayer for each tax due from such taxpayer, unless otherwise provided for by the tax legislation.

An advance payment calculation means a taxpayer's written statement or a statement drawn up in electronic form and transmitted via telecommunication channels with an electronic digital signature used therein concerning the calculation base, privileges used, calculated amount of the advance payment and (or) other data serving as a basis for calculation and making of the advance payment. An advance payment calculation shall be submitted in the cases provided for by this Code as applied to every specific tax.

A fee calculation means a written statement or a statement drawn up in electronic form and transmitted via telecommunication channels with an electronic digital signature used therein of a fee payer concerning taxable objects, tax base, privileges used, calculated fee amount and (or) other data serving as a basis for calculation and payment of the fee, unless otherwise provided for by this Code. A fee estimation shall be submitted in the cases provided for by **Part Two** of this Code as applied to every fee.

A tax agent shall submit to the tax authorities the calculations provided for by Part Two of this Code. The said calculations shall be submitted in the procedure established by **Part Two** of this Code as applied to a specific tax.

**2.** Tax declarations (computations) on those taxes, on which the taxpayers are relieved of the duty to pay them in connection with the application of special tax regimes, shall not be submitted to the tax bodies, as regards the activities whose exercise involves application of special tax treatments or the property used for exercising such activities.

A person recognised as a taxpayer for one or several taxes, who does not perform any operations as a result of which movement of monetary funds takes place on his accounts in the banks (in the organisation's cashier's office) and who has no taxable objects for these taxes, shall submit a uniform (simplified) tax declaration on the given taxes.

The **form** for a uniform (simplified) tax declaration and the procedure for filling it out shall be approved by the federal executive power body authorised to exercise control and supervision

in respect of taxes and fees with the approbation of the Ministry of Finance of the Russian Federation.

The uniform (simplified) tax declaration shall be submitted to the tax body at the organisation's location, or at the place of the natural person's residence not later than on the 20th day of the month, following the expired quarter, six months, nine months or calendar year.

**3.** The tax declaration (the computation) shall be submitted to the tax body at the place of the taxpayer's (the fee payer's or the tax agent's) recording in accordance with the established form on a paper medium, or in accordance with the established formats in electronic form, together with the documents that shall be attached to the tax declaration (to the computation) in conformity with this Code. Taxpayers have the right to submit the documents which, in conformity with this Code, shall be attached to the tax declaration (to the computation) in electronic form.

*The provisions of paragraph two of Item 3 of Article 80 of this Code (in the wording of **Federal Law No. 268-FZ of December 30, 2006**) shall be applied till January 1, 2008 with respect to the taxpayers, an average-listed number of whose workers for 2006 exceeds 250 persons*

Taxpayers, the average listed number of whose workers for the preceding calendar year exceeded one hundred, as well as newly created organisations (including by reorganisation), the number of whose workers exceeds the above-said limit, **shall submit** tax declarations (computations) to the tax body in accordance with the established formats in electronic form, unless a different procedure for submitting information, classed as a **state secret**, is envisaged in the legislation of the Russian Federation.

*The taxpayers, an average-listed number of whose workers for 2006 exceeds 250 persons, shall submit information on the average-listed number for 2006 to the tax body at the location of the organisation (at the residence of the individual businessman) within one month from the day of **entry into force** of Federal Law No. 268-FZ of December 30, 2006*

Information on an average-listed number of workers for the preceding calendar year shall be presented by the taxpayer to the tax body not later than on January 20 of the current year, and if the organisation is created (reorganised) anew - no later than on the 20th day of the month following that month, in which the organisation was created (reorganised). This information shall be submitted in the **form**, approved by the federal executive power body authorised to exert control and supervision in the area of taxes and fees, to the tax body at the location of the organisation (at the place of residence of the individual businessman).

*Paragraph four of Item 3 of Article 80 of this Code (so far as it is submit all the tax declarations (computations) at the place of recording as major taxpayers) shall enter into force from January 1, 2008*

Taxpayers classed in conformity with **Article 83** of this Code as major taxpayers, shall submit all tax declarations (computations), which they are obliged to submit in conformity with this Code, to the tax body at the place of their recording as major taxpayers in accordance with the established formats in electronic form, unless a different order for submitting information, classed as **state secret**, is stipulated in the legislation of the Russian Federation.

Forms for the tax declarations (computations) shall be supplied by the tax bodies free of charge.

**4.** The tax return (calculation) may be submitted by a taxpayer (payer of fee or tax agent) to the tax authority personally or through a representative thereof, sent by mail in electronic form



with an inventory of enclosure attached thereto or transmitted over telecommunication lines.

The tax body has no right to refuse to accept a tax declaration (computation), submitted by the taxpayer (by the payer of fees or by the tax agent) in accordance with the established form (the established format), and is obliged, at the taxpayer's request (at the request of the payer of fees or of the tax agent), to make on the copy of the declaration (of the computation) a mark on its acceptance and the date of its receipt if the tax declaration (the computation) is received on a paper medium, or to hand to the taxpayer (to the payer of the fee or to the tax agent) a receipt slip on its acceptance in electronic form - if the tax declaration (the computation) is received along telecommunications channels.

When sending a tax return (calculation) by mail, the date of its submission shall be deemed the date of sending such mail with an inventory of enclosure attached thereto. When sending a tax return (calculation) over telecommunication lines, the date of its sending shall be deemed the date of submission thereof.

Paragraph 4 is **abrogated**.

**5.** A tax return (calculation) shall be submitted indicating the taxpayer's identification number, unless otherwise provided for by this Code.

A taxpayer (payer of fee or tax agent) or a representative thereof shall sign the tax return (calculation), thus proving the reliability and completeness of the data shown in the tax return (calculation).

If the reliability and completeness of the data contained in a tax return (calculation), in particular with the use of an electronic digital signature when submitting a tax return (calculation) in electronic form, is confirmed by an authorised representative of a taxpayer (payer of fee or tax agent), the ground for such representation (denomination of the document proving the authority to sign the tax return (calculation)) shall be specified in the tax return (calculation). With this, a copy of the document proving the representative's authority to sign the tax declaration (calculation) shall be attached to the tax declaration.

When submitting a tax declaration (calculation) in electronic form, a copy of the document proving the representative's authority to sign the tax declaration (calculation) may be presented in electronic form via telecommunication channels.

**6.** A return (calculation) shall be submitted at the time established by the legislation on taxes and fees.

**7.** Forms of and a procedure for completing forms of tax declarations (calculations), as well as formats of and a procedure for submitting tax declarations (calculations) in electronic form shall be approved by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees by approbation of the Ministry of Finance of the Russian Federation.

*See the Uniform **Requirements** for the Forms of Tax Declarations and Other Documents Serving as a Ground for the Assessment and the Payment of Taxes and Charges approved by **Order** of the Federal Tax Service No. MM-3-13/20@ of January 24, 2008*

Paragraph 2 is **abrogated**.

The federal executive power body authorised to exercise control and supervision in respect of taxes and fees shall not be entitled to include into a form of the tax return (calculation), and tax authorities shall not be entitled to demand of a taxpayer (payer of fee or tax agent) to include into a tax return (calculation), data which are not connected with calculation and (or) payment of taxes and fees, except for the following:

- 1) document type: primary (correcting) one;
- 2) denomination of tax authority;
- 3) location of organisation (of its separate subdivision) or place of residence of natural person;

4) full name of natural person or full denomination of organisation (of its separate subdivision);

5) taxpayer's contact telephone number.

**8. Abrogated** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the Federal Law No. 306-FZ of November 27, 2010.

**9.** The specifics of submitting tax returns while executing products' division agreements shall be defined by **Chapter 26.4** of this Code.

**10.** The features of the performance of the duty to submit tax declarations by way of making a declaration payment shall be determined by the **federal law** on the simplified procedure for declaring incomes by natural persons.

**11.** The specifics of filing with a tax authority of the tax declaration of a consolidated group of taxpayers shall be defined by **Chapter 25** of this Code.

### **Article 81.** Amending Tax Return

**1.** If a taxpayer detects in the tax return filed by him with a tax authority a failure to show, or incomplete showing of, data, as well as errors causing an understatement of the tax amount to be paid, such taxpayer shall be obliged to make the necessary amendments to the tax return and to submit to the tax authority a more precise tax return in the procedure established by this Article.

Should a taxpayer detect in the tax return filed by him with a tax authority unreliable data, as well as errors not causing the understatement of the tax amount to be paid, the taxpayer shall be entitled to make the necessary amendments to the tax return and to submit to the tax authority a revised tax return in the procedure established by this Article. With this, a revised tax declaration submitted upon the expiry of the established time period for filing the return shall not be deemed submitted in defiance of this time period.

**2.** If the revised tax return is filed with a tax authority prior to the expiry of the time period for filing a tax return, it shall be deemed submitted on the date of filing the revised tax return.

**3.** If the revised tax return is filed with a tax authority after the expiry of the time period for filing a tax return but before the expiry of the time period for tax payment, the taxpayer shall be exempted from responsibility, if the revised tax declaration had been submitted prior to the time when the taxpayer learned about detecting by a tax authority the fact of failure to show, or of incomplete showing of, data in the tax return, as well as errors causing an understatement of the payable tax amount or about ordering to conduct a on-site tax check.

**4.** If the revised tax declaration is filed with a tax authority after the expiry of the time period for filing a tax return and of the time period for paying tax, the taxpayer shall be exempted from liability in the event of the following:

1) submitting a revised tax declaration prior to the time when a taxpayer learned about the detecting by a tax authority a failure to show, or incomplete showing of, data in the tax return, as well as errors causing the understatement of the payable tax amount or about ordering a field tax inspection in respect of this tax for this period on condition that prior to submitting the revised tax declaration he had paid the deficient tax amount and penalties corresponding to it;

2) submitting the revised tax return after conducting an on-site tax inspection for the appropriate tax period which has not resulted in detecting a failure to show, or incomplete showing of, data in the tax return, as well as errors causing an understatement of the payable amount of tax.

**5.** The revised tax declaration shall be filed by a taxpayer with the tax authority at the place of his registration.

A revised tax declaration (calculation) shall be filed with a tax authority according to the form effective during the time period in respect of which the appropriate amendments are made.

**6.** In the event of detecting by a tax agent in the calculation filed by him with a tax authority the fact of failure to show, or incomplete showing of, data, as well errors causing understatement or overstatement of the amount of tax to be remitted, the tax agent shall be obliged to make the necessary amendments and to file with the tax authority a revised calculation in the procedure established by this Article.

A revised calculation to be submitted by a tax agent to a tax authority only has to contain data on those taxpayers in respect of which facts of failure to show, or of incomplete showing of, data, as well as errors causing understatement of tax amount, are detected.

The provisions provided for by **Items 3** and **4** of this Article, which concern exemption from liability, shall likewise apply in respect of tax agents when they submit revised estimations.

**6.1.** Where the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records) have presented to the parties of the agreement of investment partnership a copy of the emendated estimate of the financial result of the investment partnership, the taxpayers paying tax on organisations' profits and tax on incomes of natural persons in connection with their participation in the agreement of investment partnership are bound to file an emendated tax declaration (estimate).

The emendated tax declaration (estimate) must be filed with the tax authority at the place of registration of a party to an agreement of investment partnership at latest fifteen days prior to the date when a copy of the emendated estimation of the financial result of the investment partnership was transferred thereto.

With this, if an emendated tax declaration (estimation) is filed with the tax authority at the time cited in Paragraph Two of this item, a party to an agreement of investment partnership which is not the managing partner responsible for keeping tax records shall be released from responsibility.

If a party to an agreement of investment partnership appeals against acts or decisions of a tax authority which have changed the financial result of the investment partnership, he is bound to present an emendated tax declaration (estimate) at latest in fifteen days as from the date when the superior tax authority adopted a decision based on the results of his appeal's consideration.

**7.** The rules provided for by this Article shall likewise apply in respect revised calculations of fees and shall extend to payers of fees.

## **Chapter 14. Tax Control**

*According to **Federal Law No. 229-FZ of July 27, 2010** tax inspections and other tax control activities (including those connected with tax inspections) which are not completed before the date of the said Federal Law's **entry into force** shall be held in the procedure effective before the date of this Federal Law's entry into force. The results of the cited tax inspections and other tax control activities shall be formalized in the procedure effective before the date when the said Federal Law enters into force*

### **Article 82. General Provisions on Tax Control**

**1.** As tax control shall be deemed the activities of the authorised bodies involving the exercise of control over observance by taxpayers, tax agents and payers of fees of the legislation on taxes and fees in the procedure established by this Code.

Tax control shall be exercised by tax officials within their scope of competence by conducting tax audits, obtaining explanations from taxpayers, tax agents and payers of fees, verifying accounting and reporting data, examining premises and territories used for generating income (profit), as well as in other forms provided for in this Code.

Specifics of exercising tax control, when implementing agreements on production sharing, shall be determined by **Chapter 26.4** of this Code.

## **2. Abolished**

**Federal Law** No. 404-FZ of December 28, 2010 amended Item 3 of Article 82 of this Code. The amendments shall **enter into force** from January 15, 2011 **See the Item in the previous wording**

**3.** The tax bodies, the customs agencies, the internal affairs bodies and investigatory bodies shall inform one another in the order, defined by the agreements between them, about the available materials on breaches of the legislation on taxes and fees and tax offences, about measures taken to thwart them, about the tax inspections carried out by them, and also exchange with each other necessary information with the aim of fulfilling their tasks.

**4.** In the exercise of tax control no allowance shall be made for the collection, storage, use and spread of information about a taxpayer (payer of fees or tax agent), received in violation of the provisions of the **Constitution** of the Russian Federation, this Code, the federal laws, and also in contravention of provision on the observance of the non-disclosure status information that constitutes a professional secret of other persons, in particular a **legal secret** or an **audit secret**.

## **Article 83.** Registration of Organisations and Natural Persons

**1.** For purposes of tax control, organisations and natural persons shall be subject to registration with the tax authorities in accordance with the location of the **organisation**, location of its separate units, place of residence, if the taxpayer is a **natural person**, or at the location of immovable and movable property thereof and for other reasons envisaged by this Code.

Organisations having set-part subdivisions within them which are located on the territory of the Russian Federation are subject to registration with tax authorities at the location of each set-apart subdivision.

The Ministry of Finance of the Russian Federation shall have the right to determine the **specific features** of registration of major taxpayers with the tax authorities, as well as of the organisations that have obtained the status of participants in the project involving scientific research works, development and commercialization of their results in compliance with the **Federal Law** on the Skolkovo Innovation Centre.

The specific features of the record-keeping of foreign organisations and foreign citizens shall be fixed by the Ministry of Finance of the Russian Federation.

Specifics of taxpayers' registration, when implementing agreements on production sharing, shall be determined by **Chapter 26.4** of this Code.

**2.** Registration of taxpayers shall be performed regardless of the availability of circumstances, with which this Code associates the emergence of an obligation to pay a tax or fee.

**3.** The registration with the tax authorities of a Russian organisation at its location, the location of an affiliate or representative office thereof, of a foreign non-profit non-governmental organisation at the place of exercising its activities on the territory of the Russian Federation through a subsidiary office thereof, as well as of an individual businessman at the place of residence thereof, shall be effected on the basis of the data contained in the Uniform State Register of Legal Entities and the Uniform State Register of Individual Businessmen

respectively.

**4.** The registration with the tax authorities of a Russian organisation at the location of its set-apart subdivisions (except for an affiliate or a representative office) shall be effected by tax authorities on the basis of the reports presented (forwarded) by this organisation in compliance with **Item 2 of Article 23** of this Code.

The registration (de-registration) with tax authorities of a foreign organisation at the place of exercising its activities on the territory of the Russian Federation through set-apart subdivisions thereof shall be effected on the basis of such organisation's application for registration (de-registration), unless otherwise provided for by **Item 3** of this article. An application for registration shall be filed by a foreign organisation with a tax authority at the latest in 30 calendar days as from the date when it starts to exercise its activities on the territory of the Russian Federation. When filing an application for registration (de-registration), a foreign organisation, concurrently with the cited application, shall file with the tax authority the documents which are required for registration (de-registration) thereof with the tax authority and whose list is endorsed by the Ministry of Finance of the Russian Federation.

If several set-apart subdivision of an organisation are located in the same municipal entity, the cities of federal importance Moscow and Saint-Petersburg or on territories which are within the scope of operation of different tax authorities, the organisation may be registered by the tax authority at the location of one of its set-apart subdivisions independently determined by this organisation. Data on the tax authority chosen by it shall be cited by the organisation in the **notice** to be presented (forwarded) by a Russian organisation to the tax authority at its location and by a foreign organisation to the tax authority chosen by it.

**4.1.** When an organisation, which is a foreign market partner of the International Olympic Committee in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation (except for official broadcasting companies), exercises activities within the framework of discharging the obligations of a market partner of the International Olympic Committee through its separate unit within the period of at most six months which includes the time period while the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi are held fixed by **Part 2 of Article 2** of the cited Federal Law, such organisation shall be registered on basis of a notice forwarded by this organisation to a tax authority.

When an organisation, which is an official broadcasting company in compliance with **Article 3.1** of the cited Federal Law, exercises activities within the framework of a contract made with the International Olympic Committee or an organisation authorised by it, through a separate unit within the period of at most twelve months, which includes the time period while the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi are held fixed by **Part 2 of Article 2** of the cited Federal Law, such organisation shall be registered on the basis of a notice forwarded by this organisation to a tax authority.

The form of a notice serving as a basis for registration with a tax authority of an organisation which is a foreign market partner of the International Olympic Committee and/or of an official broadcasting company shall be endorsed by the **federal executive power body** authorised to exercise control and supervision in respect of taxes and fees.

**5.** Paragraph 1 is **abrogated**.

The organisation or natural person's registration and de-registration with the tax body at the location of immovable property and/or transport means owned by them, shall be carried out on the basis of information conveyed by the bodies specified in **Article of 85** of the present Code. The organisation is subject to the registration with the tax bodies at the location of

immovable property, belonging to it by right of property, right of economic management or of operative management.

*On the Forms of Documents Used in the Registration and De-Registration of Russian Organisations and Natural Persons, see **Order of the Federal Tax Service No. SAE-3-09/826** of December 1, 2006*

In the purposes of this Article the location of immovable property recognises:

1) for sea, river and air transport vehicles - the place (port) of registry or the place of state registration, and in the absence of such - the place of location (residence) of the owner of property;

2) for transport vehicles, which are not mentioned in **Subitem 1** of this Item - the place of state registration and in the absence of such the place of location (residence) of the owner of property;

3) for other real estate - the actual location of this estate.

**5.1.** The rules provided for by **Item 5** of this article shall likewise apply in respect of the immovable property and transport vehicles that are state or municipal property and which form part of organisations' property (in particular, under a concession agreement) in respect of which the rights of possession, use and disposal or the rights of possession and disposal of are granted to these organisations.

**6.** The registration of a notary engaged in private practice shall be carried out by the tax body at the place of his residence on the basis of information conveyed by the bodies specified in **Article 85** of this Code.

The registration of a solicitor/barrister shall be carried out by the tax body at the place of his residence on the basis of the information conveyed by the solicitor's/barrister's chamber of the Russian Federation subject in accordance with **Article 85** of this Code.

**7.** Registration with tax authorities of natural persons other than private entrepreneurs shall be performed by the tax office at the place of residence of the natural person on the basis of information provided by bodies listed in **Items 1 - 6** and **8 of Article 85** of this Code, or on the basis of a natural person's application.

**7.1.** Natural persons whose place of residence is determined for the purposes of taxation at the place of a natural person's stay shall be entitled to file an **application** with the tax authority at the place of their stay for their tax registration.

**8.** In the cases stated in **paragraph 2 of Item 5, Items 7** and **7.1** of this Article, the tax authority shall immediately **notify** the natural person in question of the registration of the said person.

**9.** Should a taxpayer experience any difficulties with determining the place of registration, the decision shall be made by the tax authority.

**10.** The tax bodies on the basis of available data and information on taxpayers shall be obliged to ensure their registration (de-registration) and keeping records about taxpayers.

**See the Article in the previous wording**

**Article 84.** The Procedure for Registration and De-registration of Organisations and Natural Persons. Identification Number of the Taxpayer

**1.** Organisations and natural persons shall be registered and deregistered with the tax authorities on the grounds provided for by this Code, and the data on them kept by tax authorities shall be amended, in the **procedure** established by the Ministry of Finance of the Russian Federation.

When registering natural persons, their personal data shall be also included in the information about the cited persons:

- full name;
- date and place of birth;
- gender;
- place of residence;
- data of the passport or other document certifying taxpayer's identity;
- data on citizenship.

**2.** A tax authority is obliged to register a natural person on the basis of this natural person's **application** within five days as from the day the cited application is received by the tax authority and within the same time period to issue the **certificate** of registration with the tax authority thereto (if the cited certificate has not been issued before) or a **notice** of registration with the tax authority.

A tax authority is obliged to register a Russian organisation at the location of a set-apart subdivision thereof (except for an affiliate or a representative office thereof) within five days as from the date of receiving a **report** of this organisation in compliance with **Item 2 of Article 23** of this Code; a Russian organisation at the location of an affiliate or representative office thereof, a foreign non-profit non-governmental organisation at the place where it exercises its activities on the territory of the Russian Federation through a subsidiary office thereof on the basis of the data contained in the Uniform State Register of Legal Entities, a foreign organisation at the place where it exercises its activities on the territory of the Russian Federation through a different set-apart subdivision - within five days as from the date of receiving from this organisation an **application** for registration and all necessary documents and within the same time period to issue to the Russian organisation and foreign organisation a **notice** of registration with the tax authority and the **certificate** of registration with the tax authority respectively.

The tax authority registering a newly established Russian organisation or an individual businessman is obliged to issue to the Russian organisation the certificate of registration with the tax authority and to the individual businessman the certificate of registration with the tax authority (if the cited certificate has not been issued before) and the notice of registration with the tax authority proving registration with the tax authority of the natural person as an individual businessman.

A tax authority is obliged to register or deregister an organisation or a natural person at the location of the immovable property and/or transport vehicles owned by them, as well as notaries engaged in private practice and lawyers, at the place of residence thereof within five days as from the date of receiving the data reported to the bodies cited in **Article 85** of this Code. A tax authority is obliged within the same time period to issue or to send by registered mail to the cited persons the certificate of registration with the tax authority and/or the notice of registration (the notice of de-registration) with the tax authority.

A tax authority is obliged to register (to deregister) an organisation or a natural person on other grounds provided for by this Code within five days as from the date of receiving an appropriate application or the data reported by the bodies cited in **Article 85** of this Code and within the same time period to issue the notice of registration (the notice of de-registration) with the tax authority.

**3.** Any changes in the data on Russian organisations, subsidiary offices of foreign non-profit non-governmental organisations on the territory of the Russian Federation or individual businessmen are subject to registration with tax authorities accordingly at the location of the Russian organisation, at the location of a branch or representative office of a Russian

organisation, at the place where a foreign non-profit non-governmental organisation exercises its activities on the territory of the Russian Federation through a branch thereof or at the place of residence of an individual businessman on the basis of the data contained accordingly in the Uniform State Register of Legal Entities and the Uniform State Register of Individual Businessmen.

Any changes in the data on set-part subdivisions (except for affiliates and representative offices) of Russian organisations are subject to registration by tax authorities at the location of such set-apart subdivisions on the basis of the reports presented (forwarded) by a Russian organisation in compliance with **Item 2 of Article 23** of this Code.

Any changes in the data on foreign organisations (including those on affiliates, representative offices and other set-apart subdivisions, except for the subsidiary offices cited in Paragraph One of this item) are subject to registration by tax authorities at the location of the cited set-part subdivisions on the basis of an application of a foreign organisation drawn up according to the form established by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees. A foreign organisation, concurrently with filing such application, shall submit the documents which are required for such data's registration with the tax authority and whose list is endorsed by the Ministry of Finance of the Russian Federation.

Any changes in the data on natural persons who are not individual businessmen, as well as on notaries engaged in private practice and lawyers, are subject to registration with the tax authority at the place of residence thereof on the basis of the information supplied by the bodies cited in **Article 85** of this Code.

**4.** If the location of an organisation, or the location of a set-apart subdivision of an organisation, or the place of residence of a natural person have changed, they shall be deregistered by the tax authority that has registered the organisation or natural person. For this the tax authority shall deregister:

a Russian organisation at its location (at the location of an affiliate or representative office), a foreign non-profit non-governmental organisation at the place where it exercises its activities on the territory of the Russian Federation through a subsidiary office thereof, a natural person as an individual businessman at the place of residence thereof - on the basis of the data contained in the Uniform State Register of Legal Entities and the Uniform State Register of Individual Businessmen respectively;

a Russian organisation at the location of a different set-apart subdivision - within five days as from the date of receiving the **report** presented (forwarded) by the Russian organisation in compliance with **Item 2 of Article 23** of this Code;

a foreign organisation at the place where it exercises its activities on the territory of the Russian Federation through a set-apart subdivision - within five days as from the date of receiving an appropriate application, unless otherwise provided for by this item;

a notary engaged in private practice, lawyer or a natural person who is not an individual businessman - within five days as from the date of receiving the data on registration to be reported in compliance with **Article 85** of this Code by the bodies engaged in registration of natural persons at the place of residence thereof.

An organisation or natural person shall be registered with the tax authority at the new location thereof, at the location of an organisation's set-apart subdivision and at the place of residence of a natural person on the basis of the documents received from the tax authority at the organisation's previous location and at the location of the organisation's set-apart subdivision (at the place of residence of a natural person) respectively.

A natural person may be also deregistered with this tax authority upon its receiving appropriate data on registration of this natural person with another tax authority at the place of



residence thereof.

**5.** If a Russian organisation terminates its activities when liquidated as a result of re-organisation and in other cases established by federal laws or a natural person terminates his/her activities as an individual businessman they shall be deregistered on the basis of the data contained in the Uniform State Register of Legal Entities and the Uniform State Register of Individual Businessmen respectively;

When a Russian organisation terminates its activities through an affiliate or representative office thereof (when its affiliate or representative office is closed) or a foreign non-profit non-governmental organisation terminates its activities on the territory of the Russian Federation through a subsidiary office thereof, the Russian organisation shall be deregistered by the tax authority at the location of this affiliate (representative office) and the foreign organisation shall be deregistered by the tax authority at the place where it exercises its activities on the territory of the Russian Federation through this subsidiary office thereof on the basis of the data contained in the Uniform State Register of Legal Entities but at the earliest upon termination of an on-site tax inspection, should it be held.

In the event of termination of the activities (closure) of a different set-apart subdivision of a Russian organisation (of a foreign organisation), the organisation shall be deregistered by the tax authority at the location of this set-apart subdivision on the basis of the **report** on the Russian organisation received by the tax authority in compliance with **Item 2 of Article 23** of this Code (on the basis of an application of the foreign organisation) within 10 days as from the date of receiving this report (application) but at the earliest upon the end of an on-site tax inspection of the organisation, should it be held.

In the event of termination of the authority of a notary engaged in private practice or termination of the status of a lawyer, they shall be deregistered by a tax authority on the basis of the data reported by the bodies cited in **Article 85** of this Code.

**5.1.** An application for registration (de-registration) with a tax authority on the grounds provided for by this Code and a notice of selecting a tax authority for registration of an organisation at the location of one of its set-apart subdivisions may be filed with a tax authority in person or through a representative, sent as registered mail or transmitted in an electronic form via telecommunication lines. If the cited application (notice) is transmitted to a tax authority in an electronic form, it must be attested by an amplified **qualified electronic signature** of the person presenting this application (notice) or of a representative thereof.

At the request of an organisation or natural person, in particular, of an individual businessman, a tax authority may forward to an applicant via telecommunication lines a certificate of registration with a tax authority and/or a notice of registration with a tax authority (a notice of de-registration with a tax authority) in an electronic form attested by an amplified **qualified electronic signature** of these documents' signatory.

Forms and formats of applications for registration (de-registration) with tax authorities on the grounds provided for by this Code, of a notice of selecting a tax authority for registration of an organisation at the location of one of its set-apart subdivisions, the request and the documents proving registration (de-registration) with a tax authority, a procedure for completing the forms of the application, notice, request and a procedure for filing the application, notice and request with a tax authority in an electronic form, as well as a **procedure** for forwarding by a tax authority to an applicant the documents proving registration (deregistration) with a tax authority in an electronic form, shall be endorsed by the federal executive power body authorized to exercise control and supervision in respect of taxes and fees.

**6.** Registration and termination of registration with tax service bodies shall be free of charge.

**7.** Each taxpayer shall be assigned a uniform taxpayer's identification number applicable throughout the entire territory of the Russian Federation and with respect to all taxes and fees.

The tax authority shall indicate the TIN in all notifications forwarded to such taxpayer.

Taxpayers shall indicate their TIN on documents submitted to tax authorities, such as tax returns, reports, applications or other documents, as well as in other cases stipulated by law, unless otherwise provided for by this Article.

The **procedures and conditions** for assigning, using and changing the TIN shall be determined by the federal executive power body authorized to exercise control and supervision in respect of taxes and fees.

Natural persons who are not individual businessmen shall be entitled not to show taxpayer's identification numbers in the tax returns, applications and other documents to be submitted to the tax authorities but to indicate their personal data provided for by **Item 1 of Article 84** of this Code.

**8.** On the basis of registration data the federal executive power body authorized to exercise control and supervision in respect of taxes and fees shall keep the Comprehensive State Register of Taxpayers in the procedure established by the Ministry of Finance of the Russian Federation. The composition of the data contained in the Comprehensive State Register of Taxpayers shall be defined by the Ministry of Finance of the Russian Federation.

A procedure for presenting to users data from the Comprehensive State Register of Taxpayers shall be approved by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**9.** From the moment of a taxpayer's registration with a tax authority information about the taxpayer becomes confidential unless otherwise provided for by **Article 102** of this Code.

**10.** Organisations that are tax agents and have not been registered as taxpayers are subject to registration with the tax authorities at the address of their location using the procedure for organisations-taxpayers set forth in this Chapter.

**Article 85.** Authorities, Institutions, Organisations and Officials Are Obligated to Provide the Tax Bodies with the Information Relating to the Registration of Organisations and Natural Persons

**1.** The bodies of justice, which issue the licences on the right of notarial activity and empower the notaries, shall be obliged to notify the tax authority at the place of presence of natural persons who have received the licences for the right of notarial activity and/or was appointed as a notary engaged in private practice or relieved from it within five days from the date of publication of corresponding order.

**2.** The chambers of solicitors/barristers/barristers of the subjects of the Russian Federation shall be obliged before the 10th day of each month to provide the tax authority at the place of location of the chamber of solicitors/barristers of the subject of the Russian Federation with information about the solicitors/barristers entered to the register of solicitors/barristers of the subject of the Russian Federation in the previous month (including data about their chosen form of advocacy formation) or excluded from the said register , and also about adopted decisions on suspending (renewing) the status of solicitor/barrister.

**3.** The bodies engaged in registration (keeping records of) natural persons at the place of stay (place of residence) thereof and in civil registration of natural persons are obliged to report accordingly on the facts of registration of a natural person at the place of residence, registration (de-registration) of a foreign worker at the place of stay thereof, on the facts of birth and death

of natural persons to the tax authorities at the place of their location within 10 days after the date of registration (putting on records and striking off records) of the cited persons or the date of civil registration of natural persons.

4. The bodies engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions in it, the bodies which carry out the registration of transport vehicles, shall be obliged to supply **information on immovable property situated on the territory under jurisdiction** thereof about the transport vehicles registered by these bodies (rights and transactions registered by these bodies), and about their owners to the tax bodies at their location within 10 days from the day of corresponding registration, as well as to present the cited data as of January 1 of the current year before March 1.

5. Bodies of trusteeship and wardship shall notify the tax authorities at their location of any wardship, trusteeship, of property management responsibilities assumed by them with respect to the natural persons who are the property's owners (proprietors), in particular of transferring a child who is the property's owner (proprietor) to an adoptive family, as well as of any subsequent changes in connection with the said trusteeship, wardship or property management arrangements within 10 days from the date of the respective decision.

6. Bodies (institutions) authorised to perform notary actions and notaries engaged in private practice shall be obliged to report instances of notarisation of an inheritance right and deeds of gift to tax authorities accordingly at the place of their location and place of residence at the latest in five days as of the date of appropriate notarisation, unless otherwise provided for in this Code. With this, information about notarisation of deeds of gift has to contain data on the degree of kinship of the donor and the gifted person.

7. The bodies engaged in the accounting and/or registration of users of natural resources, and also in the licensing the activity for the use of these resources, shall be obliged to provide information about granting rights to such use, which are objects of taxation, to the tax bodies in their location within 10 days after the registration (issue to a relevant licence or permit) of the user of natural resources.

8. The bodies which issue and replace documents, certifying the person of a citizen of the Russian Federation on the territory of the Russian Federation, shall be obliged to supply the tax authority at the place of residence of the citizen information:

about the facts of primary issuance or of the replacement of the document certifying the identity of a citizen of the Russian Federation on the territory of the Russian Federation and about amendments in personal data contained in newly issued document within five days as from the day of issuance of a new document;

about the facts of submission by a citizen to these bodies of the application on the loss of the document, certifying the identity of a citizen of the Russian Federation on the territory Russian Federation within three days as from the date of its submission.

9. The agencies and organisations engaged in accreditation of branches and representative offices of foreign legal entities shall be obliged to transfer to the tax authorities at the place of their location information about accreditation (cancellation of accreditation) of branches and representative offices of foreign legal entities within 10 days from the date of such accreditation (cancellation of accreditation).

The body authorised to keep a register of affiliates and representative offices of international organisations and foreign non-profit non-governmental organisations is obliged to report to the tax authority at the location thereof data on an appropriate entry made in the cited register (of the amendments made in the register) within 10 days as from the date when the

data (the amendments) are entered in the cited register.

**9.1.** The bodies engaged in the state technical registration are obliged to present data annually, before March 1, to the tax authority at the location thereof, on the inventory value of immovable property and other data which are required for tax calculation as of January 1 of the current year.

**9.2.** Local self-government bodies are obliged to report data annually before February 1 to the tax authority at the location thereof data on the land plots recognized as taxable items in compliance with **Article 389** of this Code as of January 1 of the current year.

**10.** The **forms** and formats of the data provided for by this article which are to be presented using a paper medium or in electronic form to the tax authorities, as well as a procedure for completing the forms, shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**11.** The bodies cited in **Items 3, 4, 8, 9.1** and **9.2** of this article shall present appropriate data to the tax authorities in electronic form. The procedure for presenting data to the tax authorities in electronic form shall be defined by an agreement of cooperating parties.

*See the Article in the previous wording*

#### **Article 86.** Duties of Banks with Regard to Taxpayer Registration

**1. Banks** shall open accounts for **organisations, private entrepreneurs** and grant them the right to use corporate electronic instruments of payment for transfers of electronic money resources, only upon presentation of a **certificate of registration with a tax authority**.

The bank shall be obliged to notify of opening or closing an account, of changing the requisite elements of an account of an organisation (individual businessman), about granting of the right or the termination of the right of the organisation (the individual entrepreneur) to use corporate electronic instruments of payment for transfers of electronic money resources, about change of payment details of the corporate electronic instrument of payment in the electronic form the tax authorities at the place of its location within three days as of the date of the appropriate event thereof.

A procedure for notification by a bank of opening or closing an account, of changing the requisite elements of an account, about granting of the right or the termination of the right of the organisation (the individual entrepreneur) to use corporate electronic instruments of payment for transfers of electronic money resources, about change of payment details of the corporate electronic instrument of payment in an electronic form shall be established by the Central bank of the Russian Federation by approbation of the federal executive body authorised to exercise control and supervision in the field of taxes and fees.

The forms and formats of a bank's report to a tax authority in respect of opening or closing an account, of changing the requisite elements of an account, about granting of the right or the termination of the right of the organisation (the individual entrepreneur) to use corporate electronic instruments of payment for transfers of electronic money resources, about change of payment details of the corporate electronic instrument of payment shall be established by the federal executive body in charge of control and supervision in the field taxes and fees.

**2.** Banks shall be obliged to issue to the tax authorities reports on the presence of bank accounts and (or) on the balance of monetary funds on accounts, abstracts in respect of the

transactions made on accounts of organisations (individual businessmen), as well as inquiries on the balances of electronic money resources and transfers of electronic money resources in compliance with the legislation of the Russian Federation within three days as of the date of receiving a reasoned request of a tax authority.

Reports on the presence of accounts and (or) on the balances of monetary funds kept on accounts, abstracts in respect of operations made on accounts of organisations (individual businessmen) opened with banks, as well as inquiries on the balances of electronic money resources and transfers of electronic money resources may be requested by the tax authorities in the event of taking tax control measures in respect of these organisations (individual businessmen).

The information indicated in this Item may be requested by the tax body after making the decision on the recovery of the tax, as well as in case of making the decision on the suspension of operations on the accounts of the organisation (individual entrepreneur), the suspension of transfers of electronic money resources or about cancellation of the suspension of operations on the accounts of the organisation (individual entrepreneur) and the suspension of transfers of electronic money resources.

**3.** A form (formats) of, and **procedure** for, sending by a tax authority a request to a bank shall be established by the federal executive body authorised to exercise control and supervision in the field of taxes and fees.

A form of, and procedure for, providing information by banks by request of the tax authorities shall be established by the federal executive body authorised to exercise control and supervision in the field of taxes and fees by approbation of the Central Bank of the Russian Federation.

Formats for the presentation by banks of information in electronic form at the requests of tax authorities shall be endorsed by the Central Bank of the Russian Federation by approbation of the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**4.** The rules provided for by this Article shall likewise apply with respect to accounts opened by notaries engaged in private practice and by solicitors/barristers who have founded solicitor's/barrister's studies for the exercise of their professional activities, as well as in relation to corporate electronic instruments of payment of the aforementioned persons used for transfers of electronic money resources.

The rules provided for by this article shall also apply to the accounts of an investment partnership opened by the party to the investment partnership which is the managing partner, responsible for keeping tax records, for making operations connected with running the partners' common business under the agreement of investment partnership and to the corporate electronic payment instruments used for electronic monetary assets remittance while making such operations.

**Article 86.1. Abrogated.**

**Article 86.2. Abrogated.**

**Article 86.3. Abrogated.**

**See the Article in the previous wording**

**Article 87. Tax Inspections**

**1.** The tax authorities shall carry out the following types of tax inspections of taxpayers, payers of fees and tax agents:

1) cameral tax inspections;

2) on-site tax inspections;

2. As the purpose of a cameral and on-site tax inspections shall be deemed control over observance by a taxpayer, payer of fee or tax agent of the legislation on taxes and fees.

**Article 87.1. Abrogated** from January 1, 2004.

*See the Article in the previous wording*

**Article 88. Cameral Tax Inspection**

1. A cameral tax inspection shall be conducted at the location of a tax authority on the basis of the tax returns (calculations) and documents presented by a taxpayer, as well as of other documents concerning a taxpayer's activities which are available to a tax authority.

A desk tax audit of an estimate of the financial result of an investment partnership shall be held by the tax authority at the location of the party to the agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records).

2. A cameral tax inspection shall be conducted by authorised officials of a tax authority in compliance with their official duties without any special decision of the head of the tax authority within three months as of the date of submission by a taxpayer of the tax return (calculation).

3. If in the course of a cameral tax inspection errors in the tax return (calculation) and (or) contradictions in the data contained in the submitted documents were detected, or non-compliance of the data submitted by a taxpayer with the data contained in the documents available to a tax authority and obtained in the course of the exercise of tax control, the taxpayer shall be notified thereof and he will be demanded to present within five days the relevant explanations or to make the appropriate amendments within the established time period.

4. The taxpayer which has presented to the tax authority explanations as to detected errors in the tax return (calculation) and (or) contradictions in the data contained in submitted documents, shall be also entitled to present to the tax authority extracts from tax and (or) accounting registers and (or) other documents proving the reliability of the data in the tax return (calculation).

5. The person conducting a cameral tax inspection shall be obliged to consider the explanations and documents presented by a taxpayer. If after consideration of presented explanations and documents or in the absence of explanations of a taxpayer the tax authority establishes the fact of committing a tax offence or of other violation of the legislation on taxes and fees, officials of the tax authority shall be obliged to draw up the report of the check in the procedure provided for by **Article 100** of this Code.

6. While holding a cameral tax inspection, the tax authorities shall be likewise entitled to obtain on demand in the established procedure from taxpayers who enjoy tax privileges the documents proving the right of these taxpayers to these tax privileges.

7. While holding a cameral tax inspection, the tax authority shall not be entitled to obtain on demand from the taxpayer additional data and information, unless otherwise provided for by this Article or if the submission of such documents together with the tax return (calculation) is not provided for by this Code.

8. In the event of filing the tax return in respect of value-added tax claiming a tax refund, a cameral tax inspection shall be conducted subject to the specifics provided for by this Article on the basis of the tax returns and documents submitted by a taxpayer in compliance with this Code.

A tax authority shall be entitled to obtain on demand from a taxpayer the documents proving in compliance with **Article 172** of this Code the rightfulness of applying tax deductions.

**8.1.** When holding a desk tax audit of the tax declaration (estimate) of tax on organisations' profits and tax on incomes of natural persons of a party to an agreement of investment partnership, the tax authority is entitled to obtain on demand therefrom data on the period of his participation in such agreement, on the share of profit (outlays, losses) of the investment partnership falling on him, as well as to use any data on the investment partnership's activities available to the tax authority.

**9.** When conducting a cameral tax inspection concerning the taxes connected with the use of natural resources, the tax authorities shall be entitled, in addition to the documents specified in **Item 1** of this Article, to obtain on demand from a taxpayer other documents serving as a basis for calculation and payment of such taxes.

**9.1.** If before the end of a cameral tax inspection the taxpayer submits a specified tax return (calculation) in the procedure provided for by **Article 81** of this Code, a cameral tax inspection of the previously submitted tax return (calculation) shall be terminated and a new cameral tax inspection shall be started on the basis of the specified tax return (calculation). The termination of a cameral tax inspection means termination of all actions of a tax authority in respect of the previously submitted tax declaration (calculation). With this, the documents (data) obtained by a tax authority within the framework of the terminated cameral tax inspection may be used when exercising tax control activities in respect of the taxpayer.

**10.** The rules provided for by this Article shall likewise extend to payers of fees and tax agents, unless otherwise provided for by this Code.

**11.** A desk tax audit in respect of a consolidated group of taxpayers shall be held in the procedure established by this article on the basis of the tax declarations (estimates) and documents presented by the responsible participant in this group, as well as of other documents about the activities of this group available to a tax authority.

When holding a desk tax audit in respect of a consolidated group of taxpayers, a tax authority is entitled to demand and obtain from the responsible participant in this group copies of the documents which must be filed jointly with the tax declaration for organisations profit tax in respect of the consolidated group of taxpayers in compliance with **Chapter 25** of this Code, in particular those related to the activities of other participants in the group being checked.

The required explanations and documents in respect of a consolidated group of taxpayers shall be provided to a tax authority by the responsible participant in this group.

#### **Article 89.** On-Site Tax Inspection

**1.** An on-site tax inspection shall be conducted on the territory (at the premises) of a taxpayer on the basis of a decision of the head (deputy head) of a tax authority.

If a taxpayer has no available premises for conducting an on-site tax inspection, the on-site tax inspection may be conducted at the location of the tax authority.

**2.** A decision to conduct an on-site tax inspection shall be rendered by the tax authority at the location of an organisation or at the place of residence of a natural person, unless otherwise provided for by this Item.

A decision on conducting an on-site tax inspection of an organisation that is a major taxpayer under **Article 83** of this Code shall be rendered by the tax authority that registered this organisation as a major taxpayer.

A decision on conducting an on-site tax inspection of an organisation that has obtained the status of a participant in the project involving scientific research works, development and commercialization of their results in compliance with the **Federal Law** on the Skolkovo

Innovation Centre shall be rendered by the tax authority that has effected the tax registration of this organisation.

An independent on-site tax inspection of a branch or representative office shall be conducted on the basis of a decision of the tax authority at the location of such separate subdivision.

A decision to conduct an on-site tax inspection has to contain the following data:

full and shortened denomination or family name, first name and patronymic of the taxpayer;

object of the inspection, that is, the taxes the payment and correctness of calculation of which are to be checked;

periods to be checked;

positions, family names and initials of the tax officials who are entrusted with conducting the inspection.

The **form** of a decision of the head (deputy head) of a tax authority to conduct an on-site tax inspection shall be endorsed by the federal executive body authorised to exercise control and supervision in the field of taxes and fees.

**3.** An on-site tax inspection of a taxpayer may be conducted in respect of one or several taxes.

**4.** As the object of an on-site tax inspection shall be deemed the correctness of calculating and timeliness of paying taxes.

Within the framework of an on-site tax inspection may be checked the period not exceeding three calendar years preceding the year when a decision was rendered to conduct the on-site tax inspection, unless otherwise provided for by this article.

In the event of a taxpayer presenting a specified tax return, the period for which the specified tax return is filed shall be checked within the framework of an appropriate field tax inspection.

**5.** The tax authorities shall not be entitled to conduct two and more on-site tax inspections in respect of the same taxes for the same period.

The tax authorities shall not be entitled to conduct in respect of one taxpayer more than two on-site tax inspections within a calendar year, except for the instances of rendering a decision by the head of the federal executive body authorised to exercise control and supervision in the field of taxes and fees, as to the necessity of conducting an on-site tax inspection of a taxpayer in excess of the said restriction.

When establishing the number of on-site tax inspections of a taxpayer, the number of independent on-site tax inspections of its branches and representative offices shall not be taken into account.

**6.** An on-site tax inspection may last at most two months. The said time period may be prolonged up to four months or, in exceptional cases, up to six months.

The **grounds and procedure** for extending the time period for conducting an on-site tax inspection shall be established by the federal executive body authorised to exercise control and supervision in the field of taxes and fees.

**7.** Within the framework of an on-site tax inspection a tax authority shall be entitled to inspect the activities of a taxpayer's branches and representative offices.

A tax authority shall be entitled to conduct an independent on-site tax inspection of branches and representative offices as to the correctness of calculation and timeliness of paying regional and (or) local taxes.

A tax authority, while conducting an independent on-site tax inspection of branches and representative offices, shall not be entitled to conduct in respect of a branch or a representative office two or more on-site tax inspections in respect of the same taxes for the same tax period.



A tax authority shall not be entitled to conduct in respect of one branch or representative office more than two on-site tax inspections within one calendar year.

When conducting an independent on-site tax inspection of branches and representative offices of a taxpayer, the time period of such inspection may not exceed one month.

**7.1.** Within the framework of a visiting tax inspection, the tax authority is entitled to check the taxpayer's activities connected with participation thereof in an agreement of investment partnership, as well as to request the parties to the agreement of investment partnership for the information which is necessary for holding the visiting tax inspection in the procedure established by **Article 93.1** of this Code.

Where a visiting tax inspection is held in respect of a taxpayer which is not the managing partner responsible for keeping tax records (hereinafter referred to in the article as the managing partner), the request for providing the documents and/or information connected with his participation in an agreement of investment partnership shall be forwarded to a managing partner. If the managing partner has not presented the documents and information in due time, the request for providing the documents and information connected with participation of the taxpayer being inspected in the investment partnership may be forwarded to other parties to the agreement of investment partnership.

**8.** The time period of conducting an on-site tax inspection shall be calculated as of the date of rendering a decision on ordering such inspection up to the date of drawing up the report in respect of its conducting.

**9.** The head (deputy head) of a tax authority shall be entitled to suspend the conduct of an on-site tax inspection for the following:

- 1) for obtaining on demand the documents (information) in compliance with Item 1 of Article 93.1 of the Code;
- 2) for receiving information from foreign governmental bodies within the framework of international treaties made by the Russian Federation;
- 3) for holding expert examinations;
- 4) for translation into Russian of the documents submitted by a taxpayer in a foreign language.

It shall be allowed to suspend an on-site tax inspection for the reason specified in **Subitem 1** of this Item at most once with respect to every person from which documents are obtained on demand.

The suspension and renewal of an on-site tax inspection shall be legalized by the appropriate decision of the head (deputy head) of the tax authority engaged in the said inspection.

The total time period for suspension of an on-site tax inspection may not exceed six months. If a tax inspection has been suspended for the reason specified in **Subitem 2** of this Item and the tax authority could not receive the requested information within six months from foreign state bodies within the framework of international treaties made by the Russian Federation, the time period for suspending the said inspection may be prolonged by three months.

For the period of suspension of an on-site tax inspection shall be suspended the operations of the tax authority aimed at obtaining on demand documents from the taxpayer whereto in this case shall be returned all the originals obtained on demand during the tax inspection, except for the documents obtained in the course of seizure thereof, and the operations of the tax authority on the territory (at the premises) of the taxpayer connected with the said inspection shall be suspended.

**10.** As a repeated on-site tax inspection of a taxpayer shall be deemed an on-site tax inspection conducted regardless of the time of conducting the previous tax inspection in respect

of the same taxes and for the same period.

In the event of ordering a repeated tax inspection, the restrictions specified in **Item 5** of this Article shall not be effective.

When conducting a repeated on-site tax inspection, the period of at most three calendar years preceding the year when a decision to conduct the repeated tax inspection was rendered, may be checked.

*According to **Resolution** of the Constitutional Court of the Russian Federation No. 5-P of March 17, 2009, the provisions of paragraphs 4 and 5 of Item 10 of Article 89 of this Code were recognised as not corresponding to the Constitution of the Russian Federation in the part in which the given provisions, do not preclude the possibility of adoption by a higher-placed tax body, when conducting a repeated field tax inspection, of the decision entailing an amendment of the taxpayer's rights and duties defined by the juridical act, passed on the dispute of the same taxpayer and of the tax body, which conducted the initial field tax inspection, which was neither revised nor cancelled in the procedure, established in the procedural law, and thus comes into contradiction with the actual circumstances, earlier established by the court, and with the proofs enclosed to the case, confirmed by the given court act*

A repeated on-site tax inspection may be conducted:

1) by a superior tax authority - by way of exercising control over the activities of the tax authority conducting the tax inspection;

2) by the tax authority, which has previously conducted a tax inspection, on the basis of a decision of the head (deputy head) thereof - in the event of submitting by a taxpayer a specified tax return where a lower tax amount is shown, as compared to the one previously declared. Within the framework of this repeated on-site tax inspection shall be checked the period in respect of which the specified tax return is submitted.

If in the course of conducting a repeated tax inspection was detected the fact of committing by a taxpayer of a tax offence which had not been detected in the course of conducting the initial on-site tax inspection, tax punitive sanctions shall not be applied with respect to the taxpayer, except for cases when non-detection of a tax offence in the course of conducting the initial tax inspection results from a collusion between a taxpayer and an official of the tax authority engaged in the inspection.

**11.** An on-site tax inspection conducted in connection with the re-organisation or liquidation of a taxpaying organisation may be conducted, regardless of the time of conducting, and the object of, the previous inspection. With this, a period of at most three calendar years preceding the year when a decision on conducting the tax inspection was rendered, shall be checked.

**12.** A taxpayer shall be obliged to make it possible for the officials of the tax agencies engaged in an on-site tax inspection to familiarise themselves with the documents connected with calculation and payment of taxes.

When conducting an on-site tax inspection, the documents which are necessary for the inspection may be obtained on demand from a taxpayer in the procedure established by **Article 93** of this Code.

Officials of tax agencies may only familiarise themselves with the originals of documents on a taxpayer's territory, except for cases of conducting an on-site tax inspection at the location of a tax agency, as well as the cases provided for by **Article 94** of this Code.

**13.** Where necessary, the authorised officials of tax agencies engaged in an on-site tax inspection may hold an inventory of the taxpayer's property, as well as inspect production, storage, trade and other premises and territories thereof used by the taxpayer for deriving income or connected with the maintenance of taxation objects in the procedure established by

**Article 92** of this Code.

**14.** Where there are sound reasons for officials engaged in an on-site tax inspection to believe that the documents showing the committing of offences can be eliminated, hidden, changed or replaced, these documents shall be seized in the procedure provided for by **Article 94** of this Code.

**15.** On the last day of an on-site tax inspection, the official conducting it shall be obliged to draw up a **report** in respect the conducted tax inspection, wherein shall be stated the object of the on-site tax inspection and time period of conducting it, and to deliver it to the taxpayer or to a representative thereof.

If a taxpayer (or a representative thereof) evades receiving the report about a conducted inspection, the said report shall be sent to the taxpayer by registered mail.

**16.** The specifics of conducting an on-site tax inspection, when implementing products' division agreements, shall be determined by **Chapter 26.4** of this Code.

**16.1** The future of the conduct of field tax inspections of residents removed from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region, shall be determined by **Articles 288.1** and **385.1** of this Code.

**17.** The rules provided for by this Article shall likewise apply when conducting on-site tax inspections of payers of fees and tax agents.

**18.** The rules provided for by this article shall apply when conducting on-site tax audits of a consolidated group of taxpayers, subject to the specifics established by **Article 89.1** of this Code.

**Article 89.1.** The Specifics of Conducting an On-Site Tax Audit of a Consolidated Group of Taxpayers

**1.** An on-site tax audit of a consolidated group of taxpayers shall be conducted in respect of organisations profit tax for the consolidated group of taxpayers in the territory (at the premises) of the responsible participant in this group and in the territories (at the premises) of other participants in this group on the basis of the decision of the head (deputy head) of a tax authority.

If it is impossible for a participant in a consolidated group of taxpayers to provide premises for conducting an on-site tax audit, the on-site tax audit in respect of such participant may be conducted at the location of an appropriate tax authority.

**2.** The decision to conduct an on-site tax audit of a consolidated group of taxpayers shall be adopted by the tax authority that has registered the responsible participant in this group.

An independent on-site tax audit of a branch or representative office of a participant in a consolidated group of taxpayers shall not be held.

The following shall be cited in the decision on conducting an on-site tax audit of a consolidated group of taxpayers:

the full and shortened denomination of the participants in the consolidated group of taxpayers;

the tax periods which are to be checked;

the positions, family names and initials of the tax officials who are entrusted with conducting the audit.

The officials cited in the decision on conducting an on-site tax audit of a consolidated group of taxpayers may take part in auditing all the participants in the consolidated group of taxpayers.

The form of the cited decision shall be endorsed by the federal executive power body authorized to exercise control and supervision in respect of taxes and fees.

3. The conduct of an on-site tax audit of a consolidated group of taxpayers in the procedure established by **Article 89** of this Code shall not serve as an obstacle for holding independent on-site tax audits of participants in this group, as regards taxes which are not subject to estimation and payment by the cited consolidated group of taxpayers, with the results of such audits to be formalized separately.

4. As the object of an on-site tax audit of a consolidated group of taxpayers shall be deemed the correctness of estimation and timeliness of paying organisations profit tax in respect of this group.

5. An on-site tax audit of a consolidated group of taxpayers may not last more than two months. The cited time period shall be prolonged by the number of months which is equal to the number of participants in the consolidated group of taxpayers (apart from the responsible participant in this group) but at most up to a year.

6. In the instances and in the procedure which are provided for by **Item 9 of Article 89** of this Code the decision to suspend an on-site tax audit of a consolidated group of taxpayers shall be rendered by the head (deputy head) of the tax authority that has adopted the decision on holding such audit.

7. As a repeated on-site tax audit of a consolidated group of taxpayers shall be deemed an on-site tax audit conducted regardless of the time of conducting the previous audit of this group for the same tax periods.

8. A **reference** note in respect of a conducted on-site tax audit shall be handed in to a representative of the responsible participant in the consolidated group of taxpayers in the procedure established by **Item 15 of Article 89** of this Code.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 90 of this Code*

*The amendments shall **enter into force** upon the expiry of one month from the day of the **official publication** of the Federal Law*

*See the previous text of the Article*

#### **Article 90.** Participation of a Witness

1. Any natural person who may have knowledge of any facts that have significance for exercising tax control can be summoned to testify as a witness. Witness testimony shall be entered into **a protocol**.

2. The following persons may not be interrogated as witnesses:

1) persons who by reason of their young age, physical and psychological drawbacks are unable to correctly perceive circumstances of relevance to tax control;

2) persons who have received information needed to exercise tax control in connection with the discharge by them of their professional duties, and similar information shall refer to the professional secret of these persons, in particular a lawyer and an auditor.

3. A natural person can refuse to testify only on the grounds provided for by the legislation of the Russian Federation.

4. A witness can testify at the place where he is situated, if due to illness, old age or disability he cannot come to the tax office, and in other cases as decided by the tax official.

5. Before hearing the witness testimony, the tax official shall warn the witness of the liability for refusal or avoidance to testify or perjury. This shall be entered into the protocol and certified with the signature of the witness.

#### **Article 91.** Access to Grounds or Premises by Tax Officials for the Purposes of Exercising Tax Control

1. Access to the grounds or premises of a taxpayer, a duty payer, a tax agent or a participant in a consolidated group of taxpayers shall be granted to officials of the tax authority

directly involved in conducting a tax audit upon presentation of their official identification and a resolution of the head of the tax authority (or his deputy) on conducting an on-site audit of the taxpayer or a participant in the consolidated group of taxpayers.

**2.** Officials of the tax authority directly involved in the tax audit shall have the right to examine the grounds or premises of the person being checked used for business operations, or examine objects of taxation to establish whether the actual parameters of these objects match the parameters reported by the person being checked.

**3.** Should access to the said grounds or premises (except for living quarters) be impeded for tax officials conducting a tax inspection, the head of the inspection team (unit) shall draw up a **report** to be signed by him and the person being checked.

On the basis of such report the tax authority shall be entitled to assess independently the tax liability from the data on the person being checked that the tax authority has, or by analogy.

Should the person being checked refuse to sign the said report, the appropriate note of this shall be made in the report.

**4. Abrogated** from July 1, 2002.

**5.** Access of tax officials conducting the tax audit to living quarters against the will or without the consent of the natural persons who live there other than in cases established by the federal law or on the basis of a court decision shall not be permitted.

## **Article 92.** Examination

**1.** In order to clarify circumstances that are of relevance for the comprehensiveness of the audit, officials of the tax authority conducting an on-site audit shall have the right to examine grounds or premises of the taxpayer (participant in a consolidated group of taxpayers) being audited, as well as documents and objects.

**2.** Examination of documents or objects outside the framework of an on-site tax audit shall be allowed, if the documents or object have been received by tax officials as a result of earlier actions performed in exercise of tax control, or if the owner of these objects gives his consent to their examination.

**3.** Examination shall be conducted in the presence of attesting witnesses.

The person being audited or a representative thereof, as well as experts shall have the right to assist in conducting the examination.

**4.** If necessary, photograph-taking, filming, video recording, making copies of documents and other actions can be undertaken at the time of the examination.

**5.** A **protocol** of examination shall be drawn up.

## **Article 93.** Obtaining of Documents on Demand When Conducting a Tax Inspection

**1.** The tax official conducting a tax inspection is entitled to obtain on demand from the person being checked the documents required for the inspection. The **demand** to present the documents may be passed over to the head (to a legal or authorised representative) of an organisation or to a natural person (to a legal or authorised representative thereof) in person against a receipt or transmitted in electronic form via telecommunication channels. Where it is impossible to pass over the demand to present the documents in the cited ways, it shall be sent by registered mail and shall be deemed received upon the expiry of six days as from the date when the registered mail is sent.

**2.** The demanded documents may be presented to a tax authority in person or through a representative, sent by registered mail or transmitted in electronic form via telecommunication channels.

Documents on a paper medium shall be presented in the form of copies attested by the person being checked. It is not allowed to demand that copies of the documents filed with a tax

authority (with an official) be attested by a notary, unless otherwise provided for by the legislation of the Russian Federation.

If the documents demanded of a taxpayer are drawn up in electronic form according to the established formats, the taxpayer is entitled to forward them to a tax authority in electronic form via telecommunication channels.

The procedure for forwarding a demand to present documents and a procedure for presenting documents at the request of a tax authority in electronic form via telecommunication channels shall be established by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees,

Where necessary, a tax authority is entitled to familiarize itself with the documents' originals.

**3.** Documents to be obtained on demand in the course of a tax inspection shall be submitted within 10 days (20 days in case of a tax audit of a consolidated group of taxpayers) as of the date of receiving the appropriate demand.

Where it is impossible for the person being checked to submit the requested documents within the time period fixed by this item, such person within the day following day of receiving a demand for submission of documents shall notify in writing officials of the tax authority that it is impossible for him to submit the documents at the said time, specifying the reasons for his failure to submit the demanded documents at the fixed time and the time period when the person being checked can provide the demanded documents.

Within two days as of the date of receiving such notice the head (deputy head) of the tax agency shall be entitled on the basis of such notice to extend the time period for submission of the documents or to deny the extension of the time period, this being legalised by a separate **decision**.

When conducting a tax audit of a consolidated group of taxpayers, the time period thereof shall be extended by at least 10 days.

**4.** The refusal of the person being checked to present the documents demanded in the course of a tax inspection or failure to submit them at the established time shall be deemed to be a tax offence and shall entail the liability provided for by **Article 126** of this Code.

In the event of such refusal or failure to submit the said documents at the established time, the official of a tax authority engaged in the tax inspection shall seize the required documents in the procedure provided for by **Article 94** of this Code.

**5.** In the course of conducting a tax inspection or exercising other tax control activities the tax authorities shall not be entitled to demand and obtain from the person being checked (a consolidated group of taxpayers) the documents which have been previously submitted to the tax authorities while conducting documentary or on-site tax inspections of the person being checked (a consolidated group of taxpayers). The said restriction shall not extend to the instances when documents have been previously submitted to a tax agency in the original and have been afterwards returned to the person being checked, as well as to the instances when the documents submitted to a tax agency have been lost as a result of an act of God.

#### **Article 93.1.** Demanding and Obtaining Documents (Information) about a Taxpayer, Payer of Fees and Tax Agent or Information on Specific Transactions

**1.** The official of a tax agency engaged in a tax inspection shall be entitled to demand and obtain from a taxpayer or from other persons that have documents (information) concerning the activities of the taxpayer (payer of fees or tax agent) being checked, these documents (information).

The documents (information) concerning the activities of a taxpayer (payer of fees or tax

agent) being checked may be likewise obtained on demand, while considering materials of a tax inspection, on the basis of a decision of the head (deputy head) of the tax agency when ordering to take additional tax control measures.

**1.1.** When holding a desk tax audit of an estimate of the financial result of an investment partnership or the tax declaration (estimate) for tax on organisations' profit and tax on incomes of natural persons in respect of a party to an agreement of investment partnership, a tax authority is entitled to obtain on demand from the party to the agreement of investment partnership which is the managing party responsible for keeping tax records the following data concerning the period being checked:

1) the composition of the parties to the agreement of investment partnership including data on changes in the composition of the parties to the cited agreement;

2) the composition of the parties to the agreement of investment partnership which are managing partners, including data on changes in the composition of such parties to the cited agreement;

3) the shares of profit (outlays, losses) falling on each of the managing partners and partners;

4) the participatory share of each of the managing partners and partners in the profits of the investment partnership established by the agreement of investment partnership;

5) the share of each managing partner and partner in the partners' common property;

6) changes in the procedure for estimating by the party to the agreement of investment partnership which is the managing partner responsible for keeping tax records the outlays made in the interests of all the partners for running the partners' common business, where such procedure is established by the agreement of investment partnership.

**2.** If the tax authorities have a reasoned need, irrelevant to tax inspections, for obtaining information about a specific transaction, an official of a tax authority shall be entitled to demand and obtain this information from the participants in this transaction or from other persons that have information about this transaction.

**3.** The tax authority engaged in tax inspections or in taking other tax control measures shall send a **order** to demand and obtain the documents (information) concerning the activities of the taxpayer (payer of fees or tax agent) being checked to the tax authority at the place of registration of the person from which the documents (information) are to be obtained on demand.

With this, the order shall specify what tax control measure has caused the need for submitting the documents (information), and, when obtaining on demand information about a specific transaction, shall likewise state the data enabling the identification of this transaction.

**4.** Within five days as of the date of receiving the order, the tax authority at the place of registration of the person from which documents (information) are to be obtained on demand, shall send to this person a demand for presenting the documents (information). A copy of the order to obtain on demand the documents (information) shall be attached to this order. A demand to present documents (information) shall be forwarded subject to the provisions stipulated by **Item 1 of Article 93** of this Code.

*The provisions of 5 of Article 93.1 of this Code (in the wording of **Federal Law No. 229-FZ of July 27, 2010**) shall **apply** in respect of the documents filed with tax authorities after January 1, 2011*

**5.** The person that has received a demand for presenting documents (information) shall

satisfy it within five days as of the date of its receipt or shall notify within the same time period that the demanded documents (information) are not available.

If the demanded documents (information) cannot be presented at the established time, the tax authority on the application of the person from which the documents are demanded shall be entitled to extend the time period for submission of these documents (information).

The demanded documents shall be submitted subject to the provisions provided for by **Item 2** and **5 of Article 93** of this Code.

**6.** The refusal of a person to submit the documents demanded in the course of a tax inspection or failure to submit them at the established time shall be deemed a tax offence and shall entail the liability provided for by **Article 129.1** of this Code.

**7.** A **procedure** for interaction of tax agencies aimed at executing orders to obtain documents on demand shall be established by the federal executive body authorised to exercise control and supervision in the field of taxes and fees.

**8.** The procedure for obtaining on demand documents (information) provided for by this article shall also apply when obtaining on demand the documents (information) concerning participants in a consolidated group of taxpayers.

#### **Article 94.** Seizing Documents and Other Objects

**1.** Seizure of documents and objects shall be performed on the strength of a justified seizure ruling made by an **official** of the tax authority conducting the on-site audit.

The said ruling is subject to endorsement by the head (deputy head) of the tax authority that has rendered the decision to conduct the audit.

**2.** Seizure of documents or other objects cannot not be carried out at night time.

**3.** Seizure of documents or other objects shall be done in the presence of attesting witnesses and of the person who has the documents and other objects to be seized in his possession.

Before starting the seizure, the tax official shall present the seizure ruling and brief those present at the seizure on their rights and duties.

**4.** The tax officer shall than suggest that the person in possession of documents and other objects to be seized surrender them voluntarily. Meeting with a refusal to voluntarily surrender the documents or objects, the officer shall carry out an enforced seizure.

Meeting with refusal, on the part of the person from whom documents and other objects are to be seized, to provide access to the premises or other possible locations of documents or objects to be seized, tax officers shall be entitled to obtain access on their own trying to avoid causing unnecessary damage to locks, doors and other objects.

**5.** Documents and objects that are not related to the object of the tax audit shall not be subject to seizure.

**6.** Seizure of documents and other objects is recorded in a protocol as prescribed by **Article 99** of this Code and this Article.

**7.** Seized documents and other objects shall be listed and described in the seizure protocol or in an attachment thereto, indicating the exact name of every item, its quantity, measures, weight and individual characteristics, and if possible, its value.

**8.** Where copies of documents of the person being checked are insufficient for taking tax control measures and the tax authorities have sufficient grounds to believe that the originals of the documents can be eliminated, hidden, corrected or replaced, the official of the tax authority shall be entitled to seize the originals of the documents in the procedure provided for by this Article.



When such documents are seized, copies thereof shall be made and certified by a tax officer. Such copies shall be handed over to the person whose documents were seized. If copies cannot be produced or delivered at the time of the seizure, they shall be handed over by the tax authority to the person whose documents were seized within five days of the date of the seizure.

**9.** All seized documents and objects shall be demonstrated to the attesting witnesses and other persons participating in, or attending, the seizure, and, if necessary, packed at the site of the seizure.

Seized documents have to be numbered, stitched and bear the stamp or signature of the taxpayer (tax agent or payer of fees). In the event the refusal of the taxpayer (tax agent or payer of fees) to affix its seal or put its signature to the documents to be seized, a special note in respect thereon shall be made in the record of seizure.

**10.** A copy of the protocol of seizure of documents/objects shall be served against subscription or mailed to the person from whose possession these documents or other objects were seized.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 95 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

#### **Article 95.** Expert Examination

**1.** In cases of necessity in concrete actions of tax control and in on-site tax inspections an expert may be attracted on a contractual basis.

Expert examination shall be conducted in cases when clarification of questions at hand requires specialized knowledge in science, arts, technology or craft.

**2.** The questions put before an expert and the assessment that the expert delivers cannot go beyond the scope of his/her expertise. Experts shall be recruited on a contractual basis.

**3.** An expert examination shall be ordered by a **ruling** of an officer of the tax authority conducting the on-site audit, if not otherwise provided for by this **Code**.

The **ruling** shall specify the reasons for requesting an expert examination; the name of the expert or the name of the organisation where expert examination is to be conducted, questions put to the expert, and materials made available to the expert.

**4.** The expert has the right to examine the materials of the audit that relate to the subject of the expert examination and submit requests for additional materials.

**5.** The expert has the right to refuse to deliver an expert opinion if the materials made available to him/her are insufficient , or if he/she does not possess the knowledge required to carry out the expert examination.

**6.** An officer of the tax authority that has issued the ruling on conducting the expert examination shall present the ruling to the **person** being audited and brief that person on his rights under Item 7 of this Article.

When conducting an on-site tax audit of a consolidated group of taxpayers, the responsible participant in this group is subject to familiarization with the ruling on conducting an expert examination.

**7.** When an expert examination is ordered and during its conduct, the taxpayer being audited has the right to do the following:

1) to challenge the expert;

2) to request that the expert be appointed from among the persons that he himself suggests;

3) to put additional questions to the expert to provide his/her opinion on them;

4) to be present, subject to permission of the tax officer, at the expert examination and offer his/her explanations to the expert;

5) to familiarize himself/herself with the expert's opinion.

**8.** An expert shall deliver his/her opinion in writing in his/her own name. This opinion shall include the description of the research conducted, the findings and responses to the questions that were asked. Should the expert establish any material facts that lie outside the scope of the original inquiry, the expert has the right to include such findings into his/her opinion.

**9.** An expert's opinion or his statement of the impossibility to deliver one shall be presented to the audited taxpayer who shall have the right to present his own explanations or counter-arguments, request that additional questions be put or request an additional or repeated expert examination.

**10.** An additional expert examination shall be ordered if the outcome of the first one lacks clarity or is incomplete; the assignment to conduct it can be given to the same or a different expert.

A repeated expert examination shall be ordered if the first one is invalid or inconclusive and the assignment to conduct it shall be given to a different expert.

An additional and new expert examination shall be ordered in compliance with the provisions of this Article.

**Federal Law No. 154-FZ of July 9, 1999 amended Article 96 of this Code**

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

**See the previous text of the Article**

**Article 96.** Recruiting a Specialist for Assisting in Exercising Tax Control

**1.** If needed, specialists that possess special knowledge and skills and have no interest in the outcome of the case can be recruited on a contractual basis to assist in conducting specific tax control actions including during the conduct of on-site tax inspections.

**2.** Specialists shall be recruited on a contractual basis.

**3.** Participation in the case of a person in the capacity of a specialist shall not preclude the possibility of interrogation of this person, concerning the same case, as a witness.

**Federal Law No. 154-FZ of July 9, 1999 amended Article 97 of this Code**

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

**See the previous text of the Article**

**Article 97.** Participation of an Interpreter

**1.** Where necessary, an interpreter can be recruited on a contractual basis to assist in exercising tax control.

**2.** An interpreter shall be a person who has no stake in the outcome and has a command of the language required for interpretation.

This provision shall also apply to a person who understands the signs of the mute or the deaf.

**3.** The interpreter shall arrive as summoned by the tax official who appointed him/her and adequately perform the interpretation.

**4.** The interpreter shall be briefed on the liability for refusal to fulfill or avoidance of

fulfilling his duties or for providing a fraudulent interpretation, which shall be recorded in a protocol signed by the interpreter.

#### **Article 98.** Attesting Witnesses

1. When conducting tax control actions, in cases provided for in the present Code, attesting witnesses shall be summoned.

2. At least two attesting witnesses shall be summoned

3. Any natural persons having no stake in the outcome of the case may be summoned as attesting witnesses.

4. Tax officials shall not be allowed to act as attesting witnesses.

5. Attesting witnesses shall attest to the fact, content and results of actions performed in their presence, in a protocol. They shall have the right to comment on the actions performed, and such comments shall be entered into the protocol.

If needed, the attesting witnesses may be interrogated on the above circumstances.

#### **Article 99.** General Requirements for Protocols of Tax Control Proceedings

1. In the cases stated in this Code, tax control proceedings shall be recorded at the time of the proceedings in protocols. The protocols shall be drawn up in Russian.

2. The protocol shall state the following:

1) the title thereof;

2) date and place of proceedings;

3) time of beginning and end of proceedings;

4) position and name of the person who drew up the protocol;

5) full name of every person who assisted in or was present at the proceedings; and, if necessary, their address and citizenship, and their command of the Russian language;

6) content and sequence of proceedings;

7) material facts and circumstances that were identified in the course of the proceedings.

3. The protocol shall be read by all those who assisted in, or were present at the proceedings. The said persons shall have the right to make comments which shall be entered into the protocol or attached to the file.

4. The protocol shall be signed by the tax officer who drew it up, as well as by all those who were either present at, or assisted in, the proceedings.

5. Attached to the protocol shall be photographs and negatives, films, videotapes and other materials that were produced during the proceedings.

#### **Article 100.** Legalisation of a Tax Inspection's Results

1. Authorised officials of the tax authorities shall draw up an on-site tax inspection **report** of the established form on the basis of the results thereof within two months as of the date of compiling a reference note in respect of the on-site tax inspection.

Where there are violations of the legislation on taxes and fees detected in the course of conducting a cameral tax inspection, the officials of the tax agency engaged in the said tax inspection shall draw up the tax inspection report of the established form within 10 days after the termination of the cameral tax inspection.

On the basis of the results of an on-site tax audit of a consolidated group of taxpayers within three months as from the date of drawing up a reference note about the conducted on-site audit authorised tax officials are bound to draw up a report on the tax audit of the established form.

2. A report on a tax audit shall be signed by the persons that have conducted the

appropriate audit and by the person (by a representative thereof) in respect of which this audit has been conducted. When conducting a tax audit of a consolidated group of taxpayers, a report on the tax audit shall be signed by the persons that have conducted the appropriate audit and by the responsible participant in this group (by a representative thereof).

An appropriate note shall be made in a report on a tax audit about the refusal of the person in respect of which the audit has been conducted (of the responsible participant in a group of taxpayers) to sign the report.

**3.** The following shall be shown in a tax inspection report:

1) date of the tax inspection report. The said date shall mean the date of signing the report by the persons which are engaged in it;

2) full and shortened denomination or family name, first name and patronymic of the person being checked (participants in a consolidated group of taxpayers). In the event of checking an organisation at the location of a separate subdivision thereof, the full and shortened denomination of the separate subdivision being checked and its location shall be stated in addition to the denomination thereof;

3) family names, first names and patronymics of the persons engaged in the tax inspection, their positions, indicating the denomination of the tax agency which they represent;

4) date and number of the decision of the head (deputy head) of the tax agency on conducting the on-site tax inspection (in respect of an on-site tax inspection);

5) date of filing with the tax agency the tax return and other documents (in respect of a cameral tax inspection);

6) list of the documents submitted by the person being checked in the course of the tax inspection;

7) checked time period;

8) denomination of the tax in respect of which the tax inspection was conducted;

9) starting and finishing dates of the tax inspection;

10) address of the place of location of an organisation (participants in a consolidated group of taxpayers) or of the place of residence of a natural person;

11) data on tax control measures taken in the course of the tax inspection;

12) facts of violations of the legislation on taxes and fees detected in the course the tax inspection which are proved by documents or a note on the absence of such;

13) conclusions and proposals of the persons engaged in the tax inspection and references to Articles of this Code, if this Code stipulates responsibility for these violations of the legislation on taxes and fees.

**3.1.** The documents proving violations of the legislation on taxes and fees which are detected in the course of a tax inspection shall be attached to a report on the tax inspection. In so doing, the documents received from the person that has been inspected shall not be attached to the inspection report. The documents containing data which are not subject to disclosure by a tax authority and constitute bank, tax or other secrets of third persons protected by law, as well as personal data of natural persons, shall be attached in form of extracts attested by the tax authority.

**4.** The form of, and **requirements** for, drawing up a tax inspection report shall be established by the federal executive body authorised to exercise control and supervision in respect of taxes and fees.

**5.** A tax inspection report within five days as of the date of this report has to be delivered to the person in respect of which the tax inspection has been conducted or to the representative

thereof against their receipt or in some other way showing the date of its receiving by the said person (a representative thereof).

If the person in respect of which a tax inspection has been conducted or the representative thereof evades receiving a tax inspection report, this shall be shown in the tax inspection report and the tax inspection report shall be sent by mail to the location of the organisation (a separate subdivision thereof) or to the place of residence of the natural person. In the event of sending a tax inspection report by registered mail, as the date of delivery of this report shall be deemed the sixth day as of the date of sending the registered mail.

When conducting a tax audit of a consolidated group of taxpayers, a report on the tax audit within 10 days from the date of this report shall be handed in to the responsible participant in the consolidated group of taxpayers in the procedure established by this item.

**6.** The person in respect of which a tax inspection has been conducted (or a representative thereof), in the event of disagreement with the facts stated in the tax inspection report, as well as with conclusions and proposals of the persons engaged in the tax inspection, shall be entitled within 15 days as of the date of receiving the tax inspection report to submit to the appropriate tax body its objections in writing in respect of the said report on the whole or in respect of certain provisions thereof. With this, the taxpayer shall be entitled to attach to the objections in writing or to deliver to the tax authority at the agreed time the documents (or attested copies thereof) proving the reasonableness of such objections.

Objections in writing in respect of a report on a tax audit of a consolidated group of taxpayers shall be presented by the responsible participant in this group within 30 days from the date when the cited report is received. In so doing, the responsible participant in the consolidated group of taxpayers is empowered to attach to the objections in writing or to transfer to the tax authority at the agreed time the documents (copies thereof) proving the reasonableness of the objections thereof.

#### **Article 100.1.** Procedure for Trying Cases on Tax Offences

**1.** Cases on the tax offences detected in the course of a documentary or on-site tax inspection shall be tried in the procedure provided for by **Article 101** of this Code.

**2.** Cases on the tax offences detected in the course of taking other tax control measures (except for the offences provided for by **Articles 120, 122 and 123** of this Code) shall be tried in the procedure provided for by **Article 101.4** of this Code.

#### **Article 101.** Rendering a Decision on the Basis of the Results of Considering Tax Check Materials

**1.** The tax check report, other materials of the tax check and of additional tax control activities in the course of which violations of the legislation on taxes and fees were detected, as well as the objections in writing in respect of the said report presented by the person being checked (by a representative thereof) shall be considered by the head (deputy head) of the tax agency conducting the tax check and a decision on them shall be rendered within 10 days as of the date of expiry of the time period specified by **Item 6 of Article 100** of this Code. The said time period may be extended, but at most by one month.

**2.** The head (deputy head) of the tax body shall notify of the time and place of considering the materials of a tax check the person in respect of which this tax check has been conducted. When conducting a tax audit of a consolidated group of taxpayers, a notice about the time and place of consideration of the tax audit materials shall be forwarded to the responsible participant in this group which is deemed to be the person being checked for the

purposes of this article.

The person in respect of which a tax check has been conducted shall be entitled to participate personally and (or) through a representative thereof in the consideration of the said tax check's materials. The person in respect which a tax inspection has been conducted is entitled, prior to rendering the decision provided for by **Item 7** of this article, to familiar itself with all the materials contained in the case-file thereof, including the materials of additional tax control activities. When conducting a tax audit of a consolidated group of taxpayers, representatives of the responsible participant in this group and other participants in this group are entitled to take part in consideration of the tax audit materials.

The non-appearance of the person in respect of which a tax check has been conducted (or of a representative thereof) properly notified of the time and place of considering the tax check materials shall not impede the consideration of the tax check materials, except for cases when this person's participation is declared obligatory by the head (deputy) head of the tax agency for consideration of these materials.

The duty of notifying participants in a consolidated group of taxpayers about the time and place of consideration of the tax audit materials shall be imposed upon the responsible participant in this group. The improper discharge of the cited duty by the responsible participant in this group shall not serve as a ground for postponing consideration of the tax audit materials.

A tax authority is bound to notify a participant in a consolidated group of taxpayers about the time and place of considering the tax audit materials, if in a report on the tax audit of the consolidated group of taxpayers there is a proposal to make this participant answerable for making a tax offence.

**3.** Prior to considering tax check materials on their merits, the head (deputy head) of a tax agency shall be obliged to do the following:

1) to declare who is trying the case and what tax check materials are subject to consideration;

2) to establish the fact of the appearance of the persons invited for participation in such consideration. In the event of the non-appearance of these persons, the head (deputy head) of the tax agency shall find out whether the participants in the proceedings in respect of the case have been properly notified of it and shall render a decision on consideration of the tax check materials in the absence of the said persons or on postponing the said consideration;

3) in the event of participation of a representative of the person in respect which the tax check has been conducted, to verify the authority of this representative;

4) to explain to the persons participating in the consideration procedure their rights and duties;

5) to render a decision to postpone the consideration of the tax check materials in the event of non-appearance of the person whose participation is necessary for consideration thereof.

**4.** When considering tax check materials, the report of the tax check may be pronounced, as well as, if necessary, other materials relating to tax control measures, as well as written objections of the person in respect of which the tax check has been conducted. The absence of written objections shall not deprive this person (a representative thereof) of the right to give their explanations at the stage of considering the tax check materials.

While considering tax audit materials, the presented evidence shall be examined, in particular the documents previously obtained on demand from the person in respect of which the tax audit was conducted (including participants in a consolidated group of taxpayers), the documents filed with tax authorities when holding desk tax audits or on-site tax audits of this person and other documents available to the tax authority. It is not allowed to use evidence obtained in defiance of this Code. If documents (information) about a taxpayer's activities have

been filed by the taxpayer with a tax authority without observing the time fixed by this Code, the documents (information) obtained by the tax authority shall not be regarded as received in defiance of this Code. In the course of consideration of the tax audit materials a decision may be rendered to attract to participation in this consideration, if necessary, a witness, expert or specialist.

**5.** In the course of considering tax check materials, the head (deputy head) of a tax agency:

1) shall establish, if the person in respect of which the tax check report has been drawn up (a participant (participants) in a consolidated group of taxpayers), is guilty of breaching the legislation on taxes and fees;

2) shall establish whether the detected violations constitute formal elements of a tax offence;

3) shall establish whether there are grounds for calling the person to account for committing a tax offence;

4) shall establish the circumstances excluding the person's being guilty of committing a tax offence or the circumstances mitigating or aggravating liability for committing a tax offence.

**6.** Where it is necessary to obtain additional evidence to prove the fact of breaching the legislation on taxes and fees or in the absence of such, the head (deputy head) of the tax agency shall be entitled to render a **decision** on taking additional tax control measures within a time period of one month at most (two months when a consolidated group of taxpayers is checked).

In the decision on ordering to take additional tax control measures shall be described the circumstances which have made such measures necessary and shall be indicated the time and specific form of taking them.

As additional tax control measures may be used the obtaining on demand of the documents in compliance with **Articles 93** and **93.1** of this Code, interrogation of a witness and expert examination.

**7.** On the basis of the results of considering tax check materials, the head (deputy head) of a tax agency shall render a decision:

1) **on calling** to account for committing a tax offence. When checking a consolidated group of taxpayers, the cited decision may contain an indication on calling to account one or several participants in this group;

2) **on the refusal** to call to account for committing a tax offence.

**8.** In a decision on calling to account for committing a tax offence shall be stated the circumstances of the tax offence committed by the person called to account in the way they are established in the course of the conducted tax check, making reference to the documents and other data proving the said circumstances, the arguments of the person in respect of which the tax check has been conducted in his defence and the results of verifying these arguments, a decision on calling the taxpayer to account for specific tax offences indicating the Articles of this Code providing for these offences and punitive sanctions applied. In a decision on calling to account for committing a tax offence shall be specified the amount of detected arrears and appropriate penalties, as well as the fine to be paid.

In a decision on the refusal to call to account for committing a tax offence shall be stated the circumstances serving as a ground for such refusal. In a decision on the refusal to call to account for tax offences may be specified the amount of detected arrears, if these arrears have been detected in the course of the tax check and the amount of the appropriate penalties.

In a decision on calling to account for committing a tax offence or in a decision on the

refusal to call to account for committing a tax offence shall be specified the time period when the person in respect of which the decision has been rendered, shall be entitled to appeal against the said decision, procedure for appealing against the decision with a superior tax authority (a superior official), as well as the denomination of the authority, its location and other necessary information.

**9.** A decision on calling to account for making a tax offence and a decision on the refusal to call to account for making a tax offence (except for the decisions rendered on the basis of the results of consideration of the materials of an on-site tax audit of a consolidated group of taxpayers) shall enter into effect upon the expiry of 10 days from the date of its delivering to the person (to a representative thereof) in respect of which the appropriate decision has been rendered. The decision on calling to account for making a tax offence and the decision on the refusal to call to account for making a tax offence rendered on the basis of the results of considering the on-site tax audit materials of a consolidated group of taxpayers shall enter into effect upon the expiry of 20 days from the date when it is delivered to the responsible participant in this group. In so doing, the appropriate decision must be delivered within five days as from the date when it is rendered. If it is impossible to deliver the decision, it shall be sent to the taxpayer by registered mail and shall be deemed received upon the expiry of six days as from the date when it is sent by registered mail.

In the event of filing an appeal against a decision of a tax authority in the procedure provided for by **Article 101.2** of this Code, the said decision shall enter into force as of the date of its endorsement by a superior tax authority in full or in part.

The person in respect of whom the appropriate decision has been rendered shall be entitled to execute the decision in full or in part before its entry into force. With this, filing an appeal shall not deprive this person of the right to execute in full or in part a decision that has not yet entered into force.

**10.** After rendering a decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence the head (deputy head) of a tax authority shall be entitled to take the protective measures aimed at making possible the execution of the said decision, if there are sufficient grounds to believe that failure to take these measures can impede or make impossible the subsequent execution of such decision and (or) recovery of the arrears, penalties and fines mentioned in this decision. In order to take protective measures the head (deputy) of a tax agency shall render a decision coming into force as of the date of its making and effective up to the date of executing a decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence, or to the date of reversal of the rendered decision by a superior tax authority or court.

The head (deputy head) of a tax authority shall be likewise entitled to render the decision to cancel protective measures or the decision to replace protective measures where it is provided for by this item and **Item 11** of this Article. The decision to cancel (replace) protective measures shall come into force as from the date when it is rendered.

As protective measures may be deemed the following:

1) prohibition to alienate (to put in pledge) a taxpayer's property without the consent of a tax authority. The prohibition to effect such alienation (putting in pledge) provided for by this Subitem shall be implemented stage-by-stage in respect of the following:

immovable property, including that which is not used in making products (carrying out works and rendering services);

transportation vehicles, securities, design articles of official premises;

other property, except for finished products, raw stuff and materials;



finished products, raw stuff and materials.

With this, the prohibition to alienate (to put in pledge) the property pertaining to each of the following groups shall apply, if the aggregate value of property from the preceding groups assessed on the basis of the accounting data is less than the total amount of arrears, penalties and fines to be paid on the basis of a decision on calling to account for committing a tax offence or a decision of the refusal to call to account for committing a tax offence.

2) suspension of operations on bank accounts in the procedure established by **Article 76** of this Code.

Suspension of operations on a bank account by way of taking protective measures may only be applied after prohibiting alienation (putting in pledge) of property and if the aggregate value of such property on the basis of accounting data is less than the total amount of arrears, penalties and fines to be paid on the basis of a decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence.

Suspension of operations on a bank account shall be allowed in respect of the difference between the total amount of arrears, penalties and fines stated in a decision on calling to account for committing a tax offence and the value of the property which is not subject to alienation (putting in pledge) in compliance with **Subitem 1** of this Item.

Where the decision provided for by **Item 7** of this article is rendered on the basis of the results of consideration of the materials of an on-site tax audit of a consolidated group of taxpayers, the security measures established by this article may be taken in respect of this group's participants. In so doing, the security measures shall be taken in the first turn in respect of the responsible participant in this group. If the security measures taken in respect of the cited responsible participant are insufficient for execution of the decision provided for by **Item 7** of this article, the security measures may be taken in respect of the other participants in this consolidated group of taxpayers in the order and subject to the restrictions which are established by **Item 11 of Article 46** of this Code.

**11.** A tax agency shall be entitled by request of the person in respect of which a decision has been rendered to replace the protective measures provided for by **Item 10** of this Article by the following:

1) the bank guarantee proving that the bank undertakes to pay the amount of arrears specified by a decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence, as well as the amount of the appropriate penalties and fines in the event of the principal's failure to pay these amounts at the time established by a tax authority;

2) pledge of securities circulating in the organised securities market or pledge of other property legalised in the procedure provided for by **Article 73** of this Code;

3) surety of a third person legalised in the procedure provided by **Article 74** of this Code.

**12.** If a taxpayer provides an effective bank guarantee of a bank included in a list of banks satisfying the established requirements for acceptance of bank guarantees for taxation purposes which is provided for by **Item 4 of Article 176.1** of this Code, in the amount payable to the budget system of the Russian Federation on the basis of a decision to call to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence, the tax authority shall not be entitled to deny the taxpayer the replacement of the protective measures provided for by this Item.

**13.** A copy of a decision on taking protective measures and a copy of a decision on the reversal of protective measures within five days as from the date when it is rendered shall be delivered to the person in respect of whom the said decision has been rendered or to a representative thereof against their receipt or shall be sent in another way showing the date of

receiving the appropriate decision by the taxpayer.

Should a copy of the decision be sent by registered mail, the decision shall be deemed received upon the expiry of six days as from the date when the registered mail is sent.

**14.** Failure of tax officials to comply with the requirements established by this Code may serve as a ground for reversal of a decision of a tax authority by a superior tax authority or by court.

Failure to observe the rules of procedure for considering the materials of a tax check shall serve as a ground for reversal by a superior tax authority or by court of a decision of a tax authority on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence. To such essential conditions shall pertain providing an opportunity for the person in respect of which a tax check has been conducted to participate in considering the materials of the tax check in person and (or) through a representative thereof and providing an opportunity for a taxpayer to give his explanations.

As grounds for reversal of the said decision of a tax authority by a superior tax agency or by court may be deemed other failures to follow the procedure for considering the materials of a tax check, if only such failures have caused or can cause the adoption by the head (deputy head) of the tax authority of a wrongful decision.

**15.** In respect of the violations detected by a tax authority, for which natural persons or officials of an organisation are administratively liable, the authorised official of the tax authority who has conducted the tax check shall draw up a record of the administrative offence within the scope of authority thereof. Cases on these offences shall be tried and administrative penalties shall be imposed upon the natural persons and officials of organisations who are guilty of them, in compliance with the **legislation** on administrative offences.

**Federal Law** No. 404-FZ of December 28, 2010 amended Item 15.1 of Article 101 of this Code. The amendments shall **enter into force** from January 15, 2011 **See the Item in the previous wording**

**15.1.** If the tax authority that has decided on calling a taxpayer (payer of fees or tax agent) who is a natural person to account for making a tax offence has forwarded in compliance with **Item 3 of Article 32** of this Code relevant materials to the investigatory bodies, the head (deputy head) of the tax authority shall be obliged at the latest on the date following the day when the materials are forwarded to render the decision to suspend execution of the decision adopted with respect to this natural person on his/her calling to account for making the tax offence and the decision on recovery of the appropriate tax (fee), penalties or fine.

With this, the running of the time period for recovery provided for by this Code shall be suspended for the period of suspending execution of the decision on recovery of the appropriate tax (fee), penalties or fine.

If as a result of considering the materials a decision is rendered to deny the initiation of criminal proceedings or the decision to terminate criminal proceedings, as well as if a judgment of acquittal is made in respect of an appropriate criminal case, the head (deputy head) of the tax authority at the latest on the date following the day when a notice of these facts is received from the investigatory bodies shall render the decision on resuming execution of the decision on calling to account for making the tax offence and the decision on recovery of the corresponding tax (fee), penalties or fine adopted with respect to this natural person.

Where the action (omission to act) of a taxpayer (payer of fees or tax agent) who is a natural person that has served as a ground for calling him/her to account for making a tax offence has caused making the judgment of conviction in respect of the given natural person, the tax authority shall reverse the rendered decision, as regards calling the taxpayer (payer of fees or tax agent) who is a natural person to account for making the tax offence.

Investigatory bodies that has received from the tax authority the materials in compliance

with **Item 3 of Article 32** of this Code shall be obliged to forward to the tax authority a notice of the results of these materials' consideration at the latest on the date following the day when the corresponding decision is adopted.

Copies of the decision of the tax authority which are cited in this item within five days after the date when the corresponding decision is rendered shall be handed in by the tax authority to the person in respect of whom the corresponding decision is rendered or to his/her representative against the receipt thereof, or shall be delivered thereto in a different way making it possible to show the date when it is received. If a copy of the tax authority's decision is sent by registered mail, the date of receiving it shall be deemed the sixth day as of the date when it is sent.

**16.** The provisions established by this Article shall likewise extend to payers of fees and tax agents.

**Article 101.1. Abrogated** from January 1, 2007.

**Article 101.2.** Procedure for Appealing against a Decision of a Tax Authority on Calling to Account for Committing a Tax Offence or a Decision on the Refusal to Call to Account for Committing a Tax Offence

**1.** A decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence may be appealed against with a superior tax authority in the procedure determined by this Article.

A procedure for, and term of, considering an appeal by a superior tax authority and rendering a decision on it shall be determined in the procedure provided for by **Article 139 - 141** of this Code subject to the provisions established by this Article.

The decision rendered on the basis of the results of consideration of the materials of an on-site tax audit of a consolidated group of taxpayers shall be complained against by the responsible participant in this group and, as regards calling to account some other participant in this group for making a tax offence, it may be independently complained against by such participant.

**2.** A decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence which has not entered into force may be appealed against in the appellate procedure by way of filing an appeal.

If the superior tax authority engaged in consideration of an appeal does not reverse a decision of a inferior tax authority, the decision of the inferior tax authority shall enter into force as of the date of endorsing it by the superior tax authority.

If the superior tax authority engaged in consideration of an appeal changes the decision of a inferior tax authority, the decision of the inferior tax authority subject to the changes made in it shall enter into force as of the date of rendering the appropriate decision by the superior tax authority.

**3.** An effective decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence, which may not be appealed against in the appellate procedure, may be appealed against with a superior tax authority.

**4.** A superior tax authority shall be empowered to suspend execution of a decision of a tax authority being appealed on the application of the person appealing against the decision of the tax authority.

**5.** A decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence may only be appealed against judicially after appealing against this decision with a superior tax authority. In the event of appealing against such decision in the judicial procedure, the time period for taking a legal action shall be

calculated starting from the date when the person in respect of which this decision has been rendered learned about its entry into force.

**Article 101.3.** Execution of a Tax Authority's Decision on Calling to Account for Committing a Tax Offence or a Decision on the Refusal to Call to Account for Committing a Tax Offence

1. A decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence shall be subject to execution as of the date of its entry into force.

2. Execution of the appropriate decision shall be placed upon the tax authority which has made this decision. In the event of considering an appeal by a superior tax authority in the appellate procedure, the appropriate decision which has entered into force shall be sent to the tax authority that has made the initial decision, within three days as of the date of the appropriate decision's entry into force.

3. On the basis of an effective decision a demand to pay the tax (fee), the appropriate penalties, as well as a fine, in the event of calling a person to account for committing a tax offence, shall be sent to the person in respect of which a decision on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence has been rendered in the procedure established by **Article 69** of this Code.

**Article 101.4.** Proceedings in Respect of the Tax Offences Provided for by this Code

1. In the event of detecting facts testifying to breaches of the legislation on taxes and fees punishable under this Code (except for tax offences the cases on which are tried in the procedure established by **Article 101** of this Code), a tax official within 10 days as from the date when the cited violation is detected shall draw up a report in the established form to be signed by this official and by the person who has committed such violation. An appropriate note shall be made in this act in respect of the refusal of the person that has violated the legislation on taxes and fees to sign the report.

2. The report has to show the facts of breaching the legislation on taxes and fees proved by documents, as well as contain conclusions and proposals of the official who has detected the facts of breaching the legislation on taxes and fees, as to the elimination of detected violations and imposition of punitive tax sanctions.

3. A form of the report and requirements for drawing it up shall be established by the federal executive body authorised to exercise control and supervision in the field of taxes and fees.

4. The report shall be handed in to the person that has committed a tax offence against the receipt thereof or shall be delivered in some other way showing the date of receiving it. If the said person evades receiving the said report, a tax authority official shall make an appropriate note about it in the report and send it to the said person by registered mail. In the event of sending the said act by registered mail, as the date of handing in the said report shall be deemed the sixth day as of the date of its sending.

5. The person that has committed a tax offence shall be entitled, in the event of disagreement with the facts stated in the report, as well as with the conclusions and proposals of the official who has detected the tax offence, to submit to the appropriate tax authority within 10 days as of the date of receiving the report objections in writing in respect of the report on the whole or in respect of certain provisions thereof. With this, the said person shall be entitled to attach to the objections in writing or to deliver to the tax authority at the agreed time the documents (attested copies thereof) proving the reasonableness of the objections.

**6.** Upon the expiry of the time period specified in **Item 5** of this Article the head (deputy head) of the tax authority within 10 days shall consider the report stating the facts of breaching the legislation on taxes and fees, as well as the documents and materials presented by the person that has committed the tax offence.

**7.** The report shall be considered in the presence of the person to be called to account or a representative thereof. The tax authority shall notify in advance the person that has breached the legislation on taxes and fees, of the time and place of considering the report. The non-appearance of the properly notified person to be called to account for committing a tax offence or a representative thereof shall not make it impossible for the head (deputy head) of the tax authority to consider the report in the absence of this person.

In the course of considering the report may be read out the drawn up report and other materials resulting from taking tax control measures, as well as objections in writing of the person to be called to account for committing a tax offence.

The absence of written objections shall not deprive this person of the right to give explanations at the stage of considering the report. It is not allowed to use evidence obtained in defiance of this Code. If documents (information) have been presented by a person to be called to account to a tax authority without observing the time fixed by this Code, the obtained documents (information) shall not be regarded as obtained in defiance of this Code.

While considering the report, explanations of the person to be called to account shall be head and other evidence shall be examined.

In the course of considering the report and other materials resulting from taking tax control measures a decision may be rendered to attract, where necessary, to participation in this consideration a witness, expert or specialist.

In the course of considering the report and other materials the head (deputy head) of a tax authority shall do the following:

- 1) shall establish if the person in respect of which the report has been drawn up is guilty of breaching the legislation on taxes and fees;
- 2) shall establish whether the detected violations constitute formal elements of the tax offences contained in this Code;
- 3) shall establish whether there are grounds for calling the person in respect of which the report has been drawn up to account for committing a tax offence;
- 4) shall establish the circumstances excluding the person's being guilty of committing a tax offence or the circumstances mitigating or aggravating liability for committing a tax offence.

**8.** On the basis of the results of considering the report and the documents and materials attached thereto, the head (deputy head) of a tax authority shall render a decision within the time period provided for by **Item 6** of this Article:

- 1) on calling a person to account for committing a tax offence;
- 2) on the refusal to call the person to account for committing a tax offence.

**9.** In a decision on calling a person to account for breaching the legislation on taxes and fees shall be described the circumstances of the committed offence, shall be specified the documents and other data proving the said circumstances, the arguments of the person to be called to account in defence thereof and the results of these arguments' verification, as well as the decision on calling the person to account for specific tax offences indicating the Articles of this Code stipulating the liability for these offences and punitive sanctions to be imposed.

In a decision on calling to account for committing a tax offence shall be indicated the time when the person in respect of which the said decision has been rendered shall be entitled to appeal against this decision, a procedure for appealing against the decision with a superior tax authority (a superior official), as well as shall be indicated the denomination of this authority, its

location and other necessary data.

**10.** On the basis of the rendered decision on calling a person to account for breaching the legislation on taxes and fees a demand to pay penalties and fines shall be sent to this person in the procedure established by **Article 69** of this Code and at the time fixed by **Item 2 of Article 70** of this Code.

**11.** A copy of the decision of the head of the tax authority and the demand to pay penalties and a fine shall be handed in to the person that has committed a tax offence against the receipt thereof or shall be delivered in some other way showing the date of their receiving by this person (a representative thereof). If the person called to account or representatives thereof evade receiving copies of the said decision and demand, these documents shall be sent by registered mail and shall be deemed received upon the expiry of six days as of the date of their sending by registered mail.

**12.** The failure of tax officials to comply with the requirements established by this Code may serve as a ground for reversal of the tax authority's decision by a superior tax authority or court.

Failure to observe the rules of procedure for considering the report and other materials resulting from taking tax control measures shall serve as a ground for reversal by a superior tax authority or by court of a decision of a tax authority. To such essential conditions shall pertain providing an opportunity for the person in respect of which the report has been drawn up to participate in considering the materials of a tax check in person and (or) through a representative thereof and providing an opportunity for a taxpayer to give his explanations.

As grounds for reversal of the said decision of a tax authority by a superior tax agency or by court may be deemed other failures to follow the procedure for considering the materials, if only such failures have caused or can cause the adoption of a wrongful decision.

**13.** In respect of the violations of the legislation on taxes and fees detected by a tax authority for which persons are administratively liable, the authorised official of the tax authority shall draw up a record of the administrative offence. Cases on these offences shall be tried and administrative penalties in respect of the persons guilty of committing them shall be imposed by tax authorities in compliance with the the **legislation** of the Russian Federation on administrative offences.

*Federal Law No. 86-FZ of June 30, 2003 amended Article 102 of this Code  
See the previous text of the Article*

#### **Article 102.** Taxpayer Confidentiality

*See the **Procedure** for Access to Confidential Information of Tax Bodies, endorsed by **Order** of the Ministry of Taxation of the Russian Federation No. BG-3-28/96 of March 3, 2003*

**Federal Law** No. 404-FZ of December 28, 2010 amended Item 1 of Article 102 of this Code. The amendments shall **enter into force** from January 15, 2011 **See the Item in the previous wording**

**1.** Any information regarding a taxpayer received [information] by a tax authority, the bodies of internal affairs, investigatory bodies, the agency of a governmental extra-budgetary fund or a customs agency shall be considered confidential, with the exception of the following:

1) which are open for the general public, for instance which have become such on the consent of the possessor being a taxpayer;

2) information on the TIN;  
3) on violations of tax and fee legislation and sanctions for these violations;  
4) information provided to tax (customs) or law-enforcement agencies of other nations in accordance with international treaties (agreements) on mutual cooperation between tax (customs) or law enforcement authorities of respective countries (in the part that concerns information submitted to these agencies), to which the Russian Federation is a party.

5) granted to election commissions in accordance with the legislation on elections by the results of the checks by the tax body of the information about the size and sources of the income of a candidate and his or her spouse and also about the property belonging to the candidate on the right of ownership.

**2.** Confidential taxpayer information shall not be subject to disclosure by tax authorities, the bodies of internal affairs, investigatory bodies, the agencies of the governmental extra-budgetary funds and customs agencies, their officials, recruited specialists, or experts, with the exception of the cases stipulated in **federal law**.

Disclosure of confidential tax information shall include, without being limited to, the use of information, which constitutes the information deemed a commercial secret (manufacturing secret) of the taxpayer and that came into possession of a tax official, the bodies of internal affairs, an investigatory body, an agency of an governmental extra-budgetary fund or a customs agency, a participating specialist or expert while performing their duties.

**2.1.** The presentation by a tax authority to the responsible participant in a consolidated group of taxpayers of data on this group's participants constituting a tax secret shall not be deemed the divulgence of the tax secret.

**Federal Law** No. 404-FZ of December 28, 2010 amended Item 3 of Article 102 of this Code. The amendments shall **enter into force** from January 15, 2011 **See the Item in the previous wording**

**3.** Confidential taxpayer information that came into possession of the tax authority, the internal affairs bodies, investigatory bodies, the agencies of the governmental extra-budgetary funds or the customs agencies shall be subject to special storage and access arrangements.

Officials defined by the federal executive body authorised accordingly for control and supervision over taxes and fees, by the federal executive body authorised in the sphere of internal affairs, the federal state body exercising authority in respect of criminal court proceedings and by the federal executive body authorised in the field of customs affairs shall have access to information that makes up a **tax secret**.

**4.** Loss of documents containing confidential tax information, or disclosure of such information shall entail liability under federal laws.

**5.** Provisions of this Article in the part of determining the composition of information on taxpayers, which comprises the state secret, the prohibition of divulgence of this information, the demands made on the special regime for the storage of and access to such information, as well as responsibility for the loss of documents, containing this information or for divulgence of such information, are to be spread to information on taxpayers, obtained by the organisations, subordinate to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, which introduce and process data on taxpayers, as well as to workers of these organisations.

**Federal Law** No. 329-FZ of November 21, 2011 supplemented Article 102 of this Code with Item 6. The Item shall **enter into force** upon the expiry of a month after the day of the

**official publication** of the said Federal Law

6. The provisions of this article, as regards a ban on the divulgence of data constituting tax secret, the requirements for special conditions of such data storage and access thereto, liability for loss of the documents containing the cited data or for divulgence of such data shall extend to the data on taxpayers received by tax authorities in compliance with the **legislation** on counteracting corruption.

The data constituting tax secret shall be accessible at the state body whereto such data have come in compliance with the **legislation** of the Russian Federation on Counteracting Corruption for the officials determined by the head of this state body.

**Article 103.** Inadmissibility of Causing Unlawful Damage While Exercising Tax Control

1. In exercising tax control, causing unlawful damage to the persons being checked, to their representatives or property held in their possession, use, or disposal shall be inadmissible.

2. Damage done by unlawful actions of tax authorities or their officials in exercising tax control shall be subject to full compensation, including the compensation for loss of expected gains (missing/unearned profit).

3. For causing damages to the persons being checked, their representatives by their unlawful actions, tax authorities and their officials shall be held liable under federal laws.

4. Damage done to the persons being checked, their representatives by lawful actions of tax officials shall not be subject to compensation, except in the cases set forth in federal laws.

**Article 103.1. Abrogated** from January 1, 2007.

**Article 104.** Application for Collecting a Tax Sanction

1. After rendering a decision on calling a natural person not being an individual businessman to account for committing a tax offence or in other cases when an extrajudicial procedure for collecting tax sanctions is not allowed, the appropriate tax authority shall file application with court for collecting from the person to be called to account for committing the tax offence the tax sanction provided for by this Code.

Prior to filing a lawsuit with a court, the tax authority shall advise the person to be called to account for committing a tax offence to pay the amount of the tax sanction voluntarily.

If the person to be called to account for committing a tax offence refuses to pay the amount of the tax sanction voluntarily or does not make the payment within the time limit stated in the demand for payment, the tax authority shall file an application in at court for the collection of the tax sanction established under this Code for committing the tax offence.

2. Applications for collecting tax sanctions from organisations or individual entrepreneurs are filed with an arbitration court, and lawsuits/petitions for collecting tax sanctions from individuals other than individual entrepreneurs - with a court of general jurisdiction.

Attached to the application shall be the protocol of the tax offence and other materials of the case produced in the course of the tax audit.

3. If necessary, along with filing an application for collecting the tax sanction from the person being held responsible for committing the tax offence, the tax authority can file a claim in court to secure the claim in the order envisaged by the **civil procedural legislation** of the Russian Federation and by the **arbitration procedure legislation** of the Russian Federation.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 4 of Article 104 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law

4. The rules of this Article shall also apply in case of calling to account for breaking the legislation on taxes and fees in connection with the shifting of goods across the customs border of the Customs Union.



## **Article 105.** Hearing of Cases and Execution of Rulings to Collect Tax Sanctions

1. Cases for collection of tax sanctions at the application of tax authorities against **organisations** or **individual entrepreneurs** shall be tried by courts of arbitrage pursuant to the law of **arbitral procedure** of the Russian Federation.

2. Cases for collection of tax sanctions at the application of tax authorities against **natural persons** other than individual entrepreneurs shall be tried by courts of general jurisdiction pursuant to the law of **civil procedure** of the Russian Federation.

3. Execution of effective court rulings on collecting tax sanctions shall be performed pursuant to the **legislation** of the Russian Federation on executive process.

Effective decisions of courts on collecting tax sanctions from the organisations for which personal accounts are opened shall be executed in the procedure established by the **budget legislation** of the Russian Federation.

## **Section V.1. Interdependent Persons. General Provisions on Prices and on Taxation. Tax Control in Connection with Making Transactions Between Interdependent Persons. A Price Formation Agreement**

### **Chapter 14.1. Interdependent Persons. Procedure for Determining the Share of Participation by One Organisation in Another Organisation, or of a Natural Person in an Organisation**

#### **Article 105.1.** Interdependent Persons

1. If the specifics in relations between persons may exert an influence upon the terms and (or) results of transactions, made by these persons, and (or) upon the economic results of these persons' activity or of the activity of the persons they represent, the persons, mentioned in this Item, are recognised as interdependent for taxation purposes (hereinafter referred to as interdependent persons).

For recognising mutual interdependence of persons, into account shall be taken the influence, which may be exerted by force of one person's participation in the capital of other persons in accordance with agreements, concluded by them, or if there is the possibility for one person to determine decisions, adopted by other persons. Such influence shall be taken into account regardless of whether it may be exerted by one person directly and independently, or jointly with his interdependent persons, recognised as such in conformity with this Article.

2. Taking into account **Item 1** of this Article, as interdependent persons for the purposes of this Code are recognised:

1) organisations, if one organisation directly and (or) indirectly takes part in another organisation and the share of such participation comprises over 25 percent;

2) a natural person and an organisation, if such natural person directly and (or) indirectly takes part in such organisation and the share of such participation comprises over 25 percent;

3) organisations, if one and the same person directly and (or) indirectly takes part in such organisations and the share of such participation in each organisation comprises over 25 percent;

4) an organisation (including a natural person jointly with his interdependent persons, mentioned in **Subitem 11** of this Item), possessing powers for an appointment (election) of the one-man executive body of this organisation, or for an appointment (election) of not less than 50

percent of the composition of this organisation's collegiate executive body or board of directors (supervision council);

5) organisations, whose one-man executive bodies or not less than 50 percent of the composition of whose collegiate executive body or board of directors (supervision council) are appointed or elected by decision of one and the same persons (of a natural person jointly with his interdependent person, mentioned in **Subitem 11** of this Item);

6) organisations, in which over 50 percent of the composition of the collegiate executive body or board of directors (supervision council) are comprised by one and the same natural persons jointly with the interdependent persons, mentioned in **Subitem 11** of this Item;

7) an organisation and a person, exercising powers of its one-man executive body;

8) organisations, in which the powers of the one-man executive body are exercised by one and the same person;

9) organisations and (or) natural persons, if the share of direct participation of every previous person in every subsequent organisation comprises over 50 percent;

10) natural persons, if one natural person is subordinate to another natural person by force of his official position;

11) a natural person, his spouse, parents (including adopters), children (including those adopted), full and not full brothers and sisters, his guardian (trustee) and ward.

**3.** For the purposes of this Item, as a natural person's share of participation in an organisation is recognised an aggregate share of participation of this natural person and of his interdependent persons, mentioned in **Subitem 11 of Item 2** of this Article, in this organisation.

**4.** If an impact on the terms and (or) results of transactions, performed by some persons, and (or) on the economic results of their activity is exerted by one or by several other persons by force of their advantageous position on the market or by force of the other similar circumstances, substantiated by the specifics of the performed transactions, such influence is not seen as a ground for recognising these persons as interdependent for taxation purposes.

**5.** Direct and (or) indirect participation of the Russian Federation, of the subjects of the Russian Federation and of municipal entities in Russian organisations is not in itself a ground for recognising such organisations as interdependent.

Organisations, mentioned in this Item, may also be recognised as interdependent on the other grounds, stipulated in this Article.

**6.** If the circumstances exist, mentioned in **Item 1** of this Article, organisations and (or) natural persons, which (who) are parties of the transactions, have the right to independently recognise themselves for taxation purposes as interdependent persons on the grounds, not envisaged in **Item 2** of this Article.

**7.** The court may recognise the persons as interdependent on the other grounds, not stipulated in **Item 2** of this Article, if relations between these persons bear features, pointed out in **Item 1** of this Article.

#### **Article 105.2.** Procedure for Defining the Share of Participation of One Organisation in Another Organisation, or of a Natural Person in an Organisation

**1.** For the purposes of this Chapter, the share of participation of one organisation in another organisation is defined in the form of the sum of direct and indirect participation shares of one organisation in another organisation.

**2.** As a direct participation share of one organisation in another organisation is recognised the share of voting shares of the other organisation, directly belonging to the first organisation, or the share in the authorised (pooled) capital (fund) of the other organisation, directly belonging to the first organisation, and if it is impossible to define such shares - the share, directly belonging to one organisation, defined proportionately to the number of participants in the other organisation.

**3.** As an indirect participation share of one organisation in another organisation is seen the share, defined in the following procedure:

1) all sequences of participation of one organisation in another organisation are defined through direct participation of every previous organisation in every subsequent organisation in the corresponding sequence;

2) the direct participation shares of every previous organisation are defined in every subsequent organisation in the corresponding sequence;

3) the results of multiplying direct participation shares of one organisation in another organisation through participation of every previous organisation in every subsequent organisation in all sequences are defined.

**4.** When determining the participation shares of one organisation in another organisation, or of a natural person in an organisation, additional circumstances shall be taken into account through the court.

**5.** The rules, envisaged in this Article, shall also be applied when determining the participation share of a natural person in an organisation.

## **Chapter 14.2. General Provisions on Prices and on Taxation. Information, Used When Comparing the Terms of Transactions Between Interdependent Persons with the Terms of Transactions Between Those Persons, Who Are Not Interdependent**

### **Article 105.3. General Provisions on Taxation in Transactions Between Interdependent Persons**

**1.** If in transactions between interdependent persons commercial or financial conditions are created or established, different from those which would have taken place in transactions, recognised in accordance with the present Section as comparable, between not interconnected persons, any incomes (the profit and the earnings), which could have been derived by one of these persons, but have not been derived by him because of the above-said distinction, shall be recorded for the purposes of this person's taxation.

The incomes (profits and earnings) are recorded for taxation purposes in accordance with this Item, if this does not lead to a reduction of the sum of the tax to be paid into the budgetary system of the Russian Federation (with the exception of the cases, when the taxpayer applies symmetrical correction in conformity with this Code).

For the purposes of this Code, the prices, applied in transactions, the parties of which are the persons, not recognised as interdependent, as well as the incomes (profits and earnings) of persons, who are the parties in such transactions, are recognised as market prices.

**2.** The incomes (profits and earnings) of interdependent persons, which could have been derived but have not been derived because of the distinction of the said transactions' commercial and (or) financial terms from the commercial and (or) financial terms of the same kind of transaction, whose parties are the persons, not recognised as interdependent, are defined for taxation purposes by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, while applying the methods, established in **Chapter 14.3** of this Code.

**3.** When defining the tax base, taking into account the prices of the commodity (work and service), applied by the parties of the transaction for taxation purposes (hereinafter referred to in this Section as the price, applied in a transaction), this price is recognised as the market price, unless the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has proved the contrary, or unless the taxpayer has himself corrected the sums of the tax in conformity with **Item 6** of this Article.

The taxpayer has the right to independently apply the price, different from that applied in

the said transaction, if the price, actually applied in this transaction, does not correspond to the market price.

4. When it exerts the tax control in accordance with the procedure stipulated in **Chapter 14.5** of this Code, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall check the completeness of the calculation and payment of the following taxes:

- 1) on the profit of organisations;
- 2) on the incomes of natural persons, paid in accordance with **Article 227** of this Code;
- 3) on the extraction of useful minerals (if one of the parties of the transaction is the taxpayer of the said tax and the object of the transaction is the extracted useful mineral, recognised for the taxpayer as an object of taxation by the tax on the extraction of useful minerals, at whose extraction the tax is levied at a tax rate, fixed in percentages);
- 4) the value added tax (if one of the parties of the transaction is an organisation /an individual businessman/, which /who/ is not a taxpayer of the value added tax or is relieved of the taxpayer's duties on the value added tax).

5. If an understatement of the sums of taxes, mentioned in **Item 4** of this Article, is exposed, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall make corrections of the corresponding tax bases.

6. If the taxpayer applies in a transaction between interdependent persons the prices of commodities (works and services), not corresponding to the market prices, and if the said non-correspondence has entailed an understatement of the sums of one or several taxes (advance payments), mentioned in **Item 4** of this Article, the taxpayer has the right to independently correct the tax base and the sums of the corresponding taxes after expiry of the calendar year, including the tax period (the tax periods) on taxes, whose sums are subject to correction.

Corrections, mentioned in this Item, may be made:

- by organisations simultaneously with submitting a **tax declaration** on the tax on the profit of organisations for the corresponding tax period or, if the organisation is not a payer of the tax on the profit of organisations - within the time terms, established for submitting a tax declaration on the profit of organisations;
- by natural persons simultaneously with submitting a **tax declaration** on the tax on profits of natural persons.

Corrections on the value added tax and on that on the extraction of useful minerals in the cases, envisaged in **Item 4** of this Article, are reflected in specified tax declarations for every tax period, in which a deviation of prices has occurred, presented simultaneously with a tax declaration on the tax on the profit of organisations (on the tax on the incomes of natural persons).

The sum of arrears, exposed by the taxpayer on his own in accordance with the results of the correction, effected in conformity with the present Item, shall be paid off within a time term of not later than on the date of payment of the tax on the profit of organisations (of the tax on the incomes of natural persons) for the corresponding tax period. In this case, for the period as from the date of appearance of arrears and to the date of expiry of the fixed time term for paying them, no penalty shall be charged on the sum of arrears.

7. For the purposes of calculating taxes (advance payments) in accordance with the results of the tax periods (accounting periods), ending in the course of the calendar year, the taxpayer has the right to use in transactions, whose parties are interdependent persons, the prices that have actually been applied in such transactions.

8. If the prices are applied in transactions in conformity with the instructions of the antimonopoly body, these prices shall be recognised for taxation purposes as market prices, with taking into account the specifics, stipulated in **Article 105.4** of this Code for transactions, in which regulated prices are applied.

9. If a transaction was concluded by the results of exchange auctions, held in conformity with the legislation of the Russian Federation or with the legislation of a foreign state, such price shall be recognised for taxation purposes as the market price.

10. If in conformity with the legislation of the Russian Federation, making an estimation at the performance of a transaction is obligatory, the cost of the object of estimation, defined by an assessor in conformity with the **legislation** of the Russian Federation on the assessment activity, is seen as a ground for determining the market price for taxation purposes.

11. If the price, applied in a transaction, is defined in conformity with an agreement on the price formation, signed in conformity with **Chapter 14.6** of this Code, this price is recognised for taxation purposes as the market price.

12. If in the chapters of Part Two of this Code, regulating the issues of the calculation and payment of individual taxes, other rules for determining the price of the commodity (work and service) are defined for taxation purposes, the rules of **Part Two** of this Code shall be applied.

13. The rules, envisaged in this Section, are spread to transactions, whose performance entails the need to record if even by only one of the parties of such transactions the incomes, the outlays and (or) the cost of extracted useful minerals, which leads to an increase and (or) decrease of the tax base for taxes, envisaged in **Item 4** of this Article.

#### **Article 105.4.** Specifics in Recognising Prices as Market Prices for Taxation Purposes at the Application of Regulated Prices

1. As taxpayers make transactions, with respect to which the price regulation is envisaged by fixing the price or by agreeing the price formula with the authorised executive power body, and by establishing maximum and (or) minimum ultimate prices and mark-ups to the price or discounts from the price, or by way of other restrictions on the profitability or profit in these transactions, the prices of such transactions are recognised as market prices for taxation purposes, while taking into account the specifics, established in this Article.

The said specifics shall be taken into account, if prices are regulated in conformity with the legislation of the Russian Federation, with the acts of the Government of the Russian Federation, with the legislation of the subjects of the Russian Federation, with municipal legal acts, with the normative legal acts of the authorised bodies, with the normative legal acts of foreign states, as well as with international agreements of the Russian Federation.

2. If the maximum ultimate price is fixed, such price shall not be taken into account when defining the market price, if the minimum value of the range of market prices, defined in accordance with **Chapter 14.3** of this Code, not taking into account the minimum ultimate price, exceeds this minimum ultimate price. Otherwise, as the range of market prices is recognised the range, the minimum value of which is equal to this minimum ultimate price, while the maximum price is assumed as equal to its maximum value, defined in conformity with Chapter 14.3 of the present Code.

If the maximum ultimate price is established, such price shall not be taken into account when defining the market price, if this maximum ultimate price exceeds the maximum value of the range of market prices, defined in conformity with **Chapter 14.3** of this Code, not taking into account the said maximum ultimate price. Otherwise, as the range of market prices is recognised the range, whose maximum value is equal to this maximum ultimate price and whose minimum value is assumed as equal to its minimum value, defined in conformity with Chapter 14.3 of the present Code.

3. If both the minimum and the maximum ultimate prices are simultaneously established, such prices are not taken into account when determining the market price, if the minimum value of the range of market prices, defined in conformity with **Chapter 14.3** of this Code, not taking into account the said minimum and maximum ultimate prices, exceeds this minimum ultimate price, while the established maximum ultimate price exceeds the maximum value of this range

of market prices. Otherwise, the minimum and (or) the maximum values of the range of market prices shall be corrected, respectively, in accordance with the procedure, envisaged in **Item 2** of this Article.

**4.** If the minimum and (or) the maximum mark-ups to the prices or discounts from the prices are established, or if other restrictions are imposed upon the level of the profitability or of the profit, the range of market prices (the range of profitability), defined in conformity with **Chapter 14.3** of this Code, are subject to correction in accordance with the procedure, similar to that envisaged in **Items 2** and **3** of the present Article.

#### **Article 105.5.** Comparability of Commercial and (or) Financial Conditions of Transactions, and the Functional Analysis

**1.** For determining the incomes (profits and earnings) in transactions, the parties of which are interdependent persons, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall compare such transactions or the aggregates of such transactions for the purposes of application of the methods, stipulated in **Article 105.7** of this Code (hereinafter in this Code referred to as an analysed transaction) with one or several transactions, whose parties are not interdependent persons (hereinafter referred to in this Code as compared transactions).

**2.** For the purposes of this Code, compared transactions are recognised as comparable with an analysed transaction, if they both are performed under similar commercial and (or) financial conditions with an analysed transaction.

**3.** If the commercial and (or) financial conditions of compared transactions differ from the commercial and (or) financial conditions of an analysed transaction, such transactions may be recognised as comparable with an analysed transaction, if distinctions between these conditions of an analysed transaction and of compared transactions do not exert an essential influence upon their results, or if such distinctions may be taken into account by applying for taxation purposes relevant corrections to the terms and (or) results of compared transactions or of an analysed transaction.

**4.** When determining comparability of transactions, and in order to make corrections of the transactions' commercial and (or) financial terms, an analysis of the following characteristics of an analysed transaction and of compared transactions shall be carried out, which may have an essential impact upon the commercial and (or) financial terms of transactions, whose parties are not the persons, recognised as interdependent:

1) characteristics of commodities (works and services), which are an object of a transaction;

2) characteristics of functions, fulfilled by the Parties of a transaction in conformity with the business turnover customs, including the characteristics of the assets, used by the parties of a transaction, and of the risks, assumed by them, as well as the distribution of responsibility between the parties of a transaction and the other terms of a transaction (hereinafter referred to in this Code as the functional analysis);

3) terms of agreements (contracts), concluded between the parties of a transaction, influencing the prices of commodities (works and services);

4) characteristics of the economic conditions for an activity of the parties of a transaction, including the characteristics of the corresponding markets of commodities (works and services), having an impact on the prices of commodities (works and services);

5) characteristics of the market (commercial) strategies of the parties of a transaction, exerting an influence on the prices of commodities (works and services).

**5.** Comparability of the commercial and (or) financial conditions of compared transactions with the conditions of an analysed transaction is determined, taking into account the following terms:

- 1) amount of commodities and volume of the performed works (of the rendered services);
- 2) time terms for fulfilling the liabilities of the transaction;
- 3) terms for the payments, applied in the corresponding transactions;
- 4) exchange rate of foreign currency, applied in a transaction, with respect to the rouble or to another currency, and its changes;
- 5) other terms for the distribution of rights and duties between the Parties of a transaction (on the ground of the results of the functional analysis).

**6.** When determining comparability of the commercial and (or) financial conditions of compared transactions with those of an analysed transaction, the functions, fulfilled by the parties of a transaction, are recorded taking into account the material and the intangible assets at their disposal. For the purposes of this Chapter, as the assets are understood the resources (the property, including monetary funds, and the property rights, including intellectual rights), which the person possesses, uses or disposes of for the purposes of deriving an income. To the principal functions of the Parties of a transaction, taken into account when determining comparability of the commercial and (or) financial conditions of compared transactions with those of an analysed transaction, are referred, in particular:

- 1) carrying out the design of commodities and their technological development;
- 2) performance of the output of commodities;
- 3) carrying out the assembly of commodities or of their components;
- 4) performance of the assembly and (or) the installation of the equipment;
- 5) conducting the scientific research and the research and development works;
- 6) acquisition of material valuables;
- 7) carrying out the wholesale or the retail trade in commodities;
- 8) fulfilment of functions involved in the repairs and in the guaranteed servicing;
- 9) promotion of commodities (works and services) to new commodity markets, the marketing and the advertising;
- 10) storage of commodities;
- 11) transportation of commodities;
- 12) insurance;
- 13) consulting and information servicing;
- 14) keeping accountancy records;
- 15) legal servicing;
- 16) provision with the personnel;
- 17) fulfilment of the agents' functions, and mediation;
- 18) financing and performance of financial operations;
- 19) ensuring the quality standard;
- 20) carrying out the strategical management, including defining the price policy, the strategy for the output and for realising commodities (works and services), the volume of sales, the range of commodities (of the offered works and services), and their consumer properties, as well as an operative management;
- 21) training and raising the workers' qualifications;
- 22) organising the sales and (or) manufacture of commodities with attracting other persons, disposing of the relevant capacities.

**7.** When determining comparability of the commercial and (or) financial conditions of compared transactions with those of an analysed transaction, the following risks, assumed by each of the parties of the transaction at the performance of their activity and exerting an influence on the terms of the transaction, shall also be taken into account:

- 1) production risks, including the risk of incompletely loading the production capacities;
- 2) risk of a change in market prices for the acquired materials and for the put out products as a result of a change in the economic situation, and the risk of a change in the other

market conditions;

3) risk of the devaluation of the stocks and of the loss by commodities of their standard and of the other consumer properties;

4) risks, connected with the loss of the property or of the property rights;

5) risks of a change in the exchange rate of foreign currency with respect to the rouble or to another currency, or in the interest rates, and the credit risks;

6) risk, connected with a lack of results in the scientific research and the research and development works;

7) investment risks, connected with probable financial losses as a result of errors, committed in making investments, including selection of objects for investing;

8) risk of inflicting damage upon the environment;

9) business (commercial) risks, connected with the performance of the strategical management, including the price policy and the strategy for realising commodities (works and services);

10) risk of a lack of demand for the commodity (the risk for the stocks, or the warehouse risk);

**8.** When determining comparability of the commercial and (or) financial conditions of compared transactions with those of an analysed transaction, the characteristics of the markets of commodities (works and services) shall be taken into account, on which compared transactions and an analysed transaction are performed. In this case, distinctions in the characteristics of the markets of commodities (works and services), where compared transactions and an analysed transaction are performed, shall not exert an essential influence upon the commercial and (or) financial terms of transactions made on them, or the influence of the said distinctions may be eliminated by relevant corrections.

As the market of commodities (of works and services) is recognised the area of turnover of these commodities (works and services), defined proceeding from the possibility for the buyer (for the seller) to purchase (to realise) a commodity without essential additional outlays on the territory of the Russian Federation or of that beyond the Russian Federation, which is the nearest to the buyer (to the seller).

**9.** When determining comparability of characteristics of the markets of commodities (works and services), the following factors shall be taken into account:

1) geographical place of the markets' location and their size;

2) existence of competition on the markets and a relative competitive capacity of sellers and buyers on the market;

3) existence of homogeneous commodities (works and services) on the market;

4) offer and demand on the market, as well as the consumers' purchasing capacity;

5) degree of the state interference into the market processes;

6) level of development of the production and transport infrastructure;

7) other characteristics of the market, having an impact upon the price of a transaction.

**10.** When determining comparability of the commercial and (or) financial conditions of compared transactions with those of an analysed transaction, the commercial strategies of the Parties of comparable transactions and of an analysed transaction shall be taken into account, to which, in particular, are referred the strategies, directed at the renovation and improvement of the put out products and the emergence onto the new markets for the sales of these products.

**11.** If at determining comparability of the commercial and (or) financial conditions of transactions it is necessary to define comparability of the terms of a loan, of a credit agreement, of a contract of surety or of a bank guarantee, when comparing the terms of the said contracts into account shall also be taken the credit history and the purchasing capacity, respectively, of the receiver of a loan or of a credit, of the person, whose liabilities are provided for by a surety or by a bank guarantee, the character and the market cost of the provision for the execution of



the liability, as well as the time term, for which a loan or a credit is granted, the currency, which is the object of the contract of loan or of credit, the procedure for determining the interest rate (whether it is fixed or floating) and the other conditions, exerting an influence on the size of the interest rate (on the remuneration) under the corresponding contract.

**12.** Taking into account the terms of compared transactions in conformity with **Item 4** of this Article, corrections for ensuring the necessary degree of comparability of the terms of compared transactions with those of an analysed transaction shall be effected by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, on the ground of the following principles:

1) incomes (the profit and the earnings) of the parties of a transaction, which is not a controlled one, shall be formed taking into account the used assets and assumed economic (commercial) risks under the economic conditions, existing on the market of commodities (works and services), and shall reflect the functions, fulfilled by each Party of the transaction in accordance with the contract terms and with the business turnover customs;

2) fulfilment of additional functions, the use of the assets, exerting an essential influence on the size of incomes (of the profit and the earnings), and taking additional commercial (economic) risks by the Parties of the transaction in accordance with the market (commercial) strategy under the other equal conditions, shall be accompanied by a rise in the expected incomes (the profit and the earnings) from such transaction.

#### **Article 105.6.** Information, Used When Comparing the Terms of Transactions Between Interdependent Persons with Those Between Persons, Who Are Not Interdependent

**1.** When exerting the tax control in connection with the performance of transactions, whose Parties are interdependent persons (including at comparing the commercial and (or) financial conditions of an analysed transaction with the commercial and (or) financial conditions of comparable transactions), the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall use the following information:

1) information on the prices and the quotations of Russian and foreign exchanges;

2) customs statistics of the external trade of the Russian Federation, published or presented at an inquiry by the federal executive power body, authorised in the area of the customs business;

3) information on the prices (on the ultimate margins of price fluctuations) and on the exchange quotations, contained in the official information sources of the authorised state power bodies and of local self-government bodies in conformity with the legislation of the Russian Federation, with the legislation of the subjects of the Russian Federation and with municipal legal acts (in particular, in the area of regulating the price formation and the statistics), in the official information sources of foreign states or of international organisations, or in the other published and (or) generally available editions, and in the information systems;

4) data of the price-information agencies;

5) information on transactions, performed by the taxpayer.

**2.** If information, referred to in **Item 1** of this Article, is absent (or insufficient), the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall use the following information:

1) information on the prices (on the scope of price vacillations) and on the quotations, contained in the published and (or) in the generally available editions, and in the information systems;

2) information, obtained from the accountancy and statistical reports of organisations, including the above-said information, published in the generally available Russian or foreign editions and (or) contained in the generally available information systems, as well as on the

official sites of Russian and foreign organisations.

Information, obtained from the accountancy reports of foreign organisations, may be used for determining the range of profitability for Russian organisations (for foreign organisations, whose activity on the territory of the Russian Federation leads to setting up a permanent representation), only if it is impossible to calculate such range of profitability on the basis of data from the accountancy reports of Russian organisations, which performed comparable transactions;

3) information on the market cost of the objects of estimation, defined in conformity with the **legislation** of the Russian Federation or of foreign states on the assessment activity;

4) other information, used in conformity with **Chapter 14.3** of the present Code.

**3.** For comparing for taxation purposes the terms of transactions made between interdependent persons with the terms of transactions between the persons, who are not interconnected, it is inadmissible to use information, comprising a tax secret, as well as the other information, an access to which is restricted in conformity with the legislation of the Russian Federation.

The restriction, imposed in this Item, is not to be spread to information on the taxpayer, with respect to whom a check is conducted by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, as concerns the fullness of the calculation and payment of taxes in connection with the performance of transactions between interdependent persons.

**4.** When comparing for taxation purposes the terms of transactions, made between interdependent persons, with the terms of transactions, made between the persons, who are not interdependent, the generally available information sources, as well as information on the taxpayer shall be exclusively used.

**5.** When comparing for taxation purposes the terms of transactions made between interdependent persons with the terms of transactions between the persons, who are not interdependent, as well as when preparing and presenting the documentation in accordance with **Article 105.15** of the present Code, the tax payer has the right to use, in addition to information on his own activity, any generally available information sources.

**6.** If, when conducting a check of the fullness of the calculation and payment of taxes in connection with the performance of transactions between interdependent persons, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, disposes of information on comparable transactions, made by the taxpayer with respect to whom such check is conducted, and the other parties of which are the persons, who are not recognised as interdependent with the above-said taxpayer, then, when comparing such transactions with an analysed transaction, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has no right to use other information for determining the range of market prices.

### **Chapter 14.3. Methods, Used at Determining for Taxation Purposes the Incomes (Profits and Earnings) from Transactions, Whose Parties Are Interdependent Persons**

**Article 105.7.** General Provisions on Methods, Used at Determining for Taxation Purposes the Incomes (Profits or Earnings) in Transactions, Whose Parties Are Interdependent Persons

**1.** When exerting the tax control in connection with the performance of transactions between interdependent persons (including when comparing the commercial and /or/ financial terms of an analysed transaction and its results against the commercial and /or/ financial terms of comparable transactions and against their results), the federal executive power body,

authorised to exert control and supervision in the area of taxes and fees, shall apply, in accordance with the procedure, established in this Chapter, the following methods:

- 1) method of comparable market prices;
- 2) method of the price of the subsequent realisation;
- 3) method of expenditures;
- 4) method of comparable profitability;
- 5) method of distributing the profit.

**2.** It is admissible to use combinations of two or more methods, envisaged in **Item 1** of this Article.

**3.** The method of comparable market prices is a priority one in determining for taxation purposes correspondence of the prices, applied in transactions, to the market prices, unless otherwise stipulated in **Item 2 of Article 105.10** of this Code. The application of other methods, indicated in **Subitems 2-5 of Item 1** of this Article, is admissible, if the application of the method of comparable market prices is impossible, or if its application does not make it possible to make for taxation purposes a substantiated conclusion on correspondence or non-correspondence of the prices, applied in transactions, to the market prices.

The method of comparable market prices is applied for determining correspondence of the price, applied in a controlled transaction, to the market price, in accordance with the procedure established in **Article 105.9** of this Code, if on the corresponding market of commodities (works and services) there is if even only one comparable transaction, whose object are identical (if such are absent - homogeneous) commodities (works or services), as well as if there is sufficient information on such transaction.

For the application of the method of comparable market prices in order to determine correspondence of the price, applied by the taxpayer in a controlled transaction, as a comparable transaction may be used the transaction, performed by the indicated taxpayer with the persons, who are not interdependent with this taxpayer, under the condition that such transaction is comparable with an analysed transaction.

**4.** If there is no generally available information on the prices in comparable transactions with identical (homogeneous) commodities (works and services), for the purposes of determining the fullness of the calculation and payment of taxes in connection with the performance of transactions between interdependent persons, one of the methods, mentioned in **Subitems 2-5 of Item 1** of this Articles, shall be applied.

Unless otherwise envisaged in this Chapter, that method shall be applied, which permits, taking into account the actual circumstances and conditions of a controlled transaction, to draw the most substantiated conclusion on the correspondence or non-correspondence of the price, applied in a transaction, to market prices.

**5.** The methods, indicated in **Subitems 2-5 of Item 1** of this Article, may also be applied when determining for taxation purposes the incomes (profits and earnings) for a group of homogeneous transactions, whose Parties are interdependent persons.

As homogeneous transactions for the purposes of **Chapter 14.2** of this Code and of **Chapters 14.4 - 14.6** of this Code are recognised transactions, whose object may be identical (homogeneous) commodities (works and services) and which are performed under comparable commercial and (or) financial conditions.

**6.** When selecting the method to be applied for determining for taxation purposes the incomes (profits and earnings) in transactions, whose Parties are interdependent persons, the fullness and authenticity of the initial data shall be taken into account, as well as the substantiation of the corrections, made for ensuring comparability of compared transactions with an analysed transaction.

**7.** For the purposes of applying the methods, stipulated in **Item 1** of this Article, in addition to information on particular transactions may be used generally available information on

the formed market prices level and (or) on the exchange quotations, as well as the data from the price -information agencies on prices (on the range of prices) for identical (homogeneous) commodities (works and services) on the corresponding markets of the said commodities (works and services). The use of the sources of information on the market prices for the purposes of applying the methods, envisaged in Item 1 of this Article, is admissible under the condition of ensuring comparability of transactions, the data on which are contained in these information sources, with an analysed transaction.

**8.** For the purposes of application of the methods, mentioned in **Subitems 2 and 3 of Item 1** of this Article, the data from the accountancy reports, on whose basis the range of profitability is calculated, shall be put into a comparable form, ensuring that an impact of deviations in the procedure for recording the outlays on profitability indices, calculated in conformity with the methods, mentioned in Subitems 2 and 3 of Item 1 of this Article, is inessential.

If it is impossible to ensure comparability of data from the accountancy reports for the purposes of calculating the range of profitability and of determining for taxation purposes the incomes (profits and earnings), in transactions, whose Parties are interdependent persons, the methods shall be applied, referred to in **Subitems 4 and 5 of Item 1** of this Article.

**9.** If the methods, indicated in **Item 1** of this Article, do not permit to determine if the price of a commodity (work or service), applied in a single transaction, corresponds to the market price, correspondence of the price, applied in such transaction, to the market price may be defined, proceeding from the market cost of the object of the transaction, established as a result of an independent assessment in accordance with the **legislation** of the Russian Federation or of foreign states on the assessment activity.

In this case under a single transaction for the purposes of this Article is implied a transaction, the economic substance of which differs from the organisation's principal activity and which is performed on the single-time basis.

**10.** The methods, pointed out in **Subitems 4 and 5 of Item 1** of the present Article, may be applied without directly calculating the values of market prices. If these methods are applied, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall compare the financial indices (results) of an analysed transaction (of a group of homogeneous analysed transactions) with the range of profitability (with the financial indices, calculated on the ground of the range of profitability) for comparable transactions, on the ground of which it shall calculate the sum of incomes (profit and earnings), which would have been derived, if the parties of the given transaction were the persons, not recognised as interdependent.

**11.** The court may take into account other circumstances of importance for determining correspondence of the price, applied in a transaction, to the market price, without restrictions, stipulated in **Chapter 14.2** of this Code.

**12.** As they make transactions, the taxpayers are not obliged to rely on the methods, pointed out in **Item 1** of this Article, for substantiating their policy in the area of price formation for any purposes, not stipulated in this Code.

#### **Article 105.8.** Financial Indices and the Range of Profitability

**1.** When determining for taxation purposes the incomes (profit and earnings) in transactions, the parties of which are interdependent persons, the following profitability indices may be used in accordance with the procedure, stipulated in **Articles 105.10-105.13** of this Code:

- 1) gross profitability, defined as the ratio of the gross profit to the earnings from the sales, calculated while not taking into account the excises and the value added tax;
- 2) gross profitability of expenditures, defined as the ratio of the gross profit to the prime

cost of the sold commodities (works and services);

3) profitability of the sales, defined as the ratio of the profit from the sales to the earnings from the sales, calculated not taking into account the excises and the value added tax;

4) profitability of expenditures, defined as the ratio of the profit from the sales to the sum of the prime cost of the sold commodities (works and services) and of the commercial and managerial expenditures, connected with selling commodities (works and services);

5) profitability of the commercial and managerial outlays, defined as the ratio of the gross profit to commercial and managerial outlays, connected with the sale of commodities (works and services);

6) profitability of the assets, defined as the ratio of the profit from the sales to the current market cost of the assets (non-working and working assets), directly or indirectly used in an analysed transaction. If there is no necessary information on the current market cost of the assets, profitability of the assets may be defined on the ground of data from the accountancy reports.

**2.** Indices, mentioned in **Item 1** of this Article, and the other financial indices are defined for the purposes of this Chapter for Russian organisations on the ground of data from the accountancy reports, compiled in conformity with the **legislation** of the Russian Federation on the accountancy recording.

The said financial indices for foreign organisations shall be defined on the ground of data from the accountancy reports, compiled in conformity with the legislation of foreign states. To ensure comparability with the data of the accountancy reports, compiled in conformity with the **legislation** of the Russian Federation on the accountancy recording, these data shall be corrected.

**3.** When determining the range of profitability, the values of profitability, defined in accordance with the results of at least four comparable transactions, are used, including those made by the taxpayer under the condition that these transactions have been made with the persons, not interdependent with the taxpayer, or on the ground of data from the accountancy reports of at least four comparable organisations.

The above-said organisations shall be selected, taking into account their departmental specifics and the corresponding kinds of activity they carry out under the economic (commercial) conditions, comparable with those of an analysed transaction.

If in the branch, to which the person - a party of an analysed transaction, belongs, there are no organisations, not interdependent with the said person, the organisations for carrying out an analysis shall be selected taking into account the functions, fulfilled by these organisations, the risks they have assumed and the assets they use.

In an absence of information on four and more comparable transactions, or in an absence of information of the accountancy reports of four and more comparable organisations, for determining the range of profitability may be used information on a smaller number of comparable transactions (of the accountancy reports of a smaller number of organisations).

**4.** For the purposes of application of methods, indicated in **Subitems 2-4 of Item 1 of Article 105.7** of this Code, the minimum and the maximum values of the range of profitability shall be defined, calculated as follows:

1) an aggregate of the profitability values, used for determining the range of profitability, shall be arranged in the order of growth, thus forming a sample to be used for determining this range. To each profitability value, beginning with the minimum one, shall be awarded an ordinal number. If the sample contains two and more similar profitability values, all such values shall be included into the sample. When determining the range of profitability, the profitability value of an analysed transaction is not taken into account;

2) the minimum value of the range of profitability is determined in the following procedure:

- if the quotient for division by four of the number of profitability values in the sample, formed in accordance with **Subitem 1** of this Item, is a whole number, as the minimum value of the range of profitability is recognised an average arithmetical of the profitability value, bearing in the sample an ordinal number, equal to this whole number, and of the profitability value under the next ordinal number in this sample;

- if the quotient from division by four of the number of profitability values in the sample, formed in accordance with **Subitem 1** of this Item, is not a whole number, as the minimum value of the range of profitability is recognised the profitability value, having in the sample an ordinal number, equal to the whole part of this fractional number, increased by a unit;

3) the maximum value of the range of profitability is defined in the following procedure:

- if the product of multiplying 0.75 by the figures of the profitability values in the sample, formed in accordance with **Subitem 1** of this Item, is a whole number, as the maximum value of the range of profitability is recognised an average arithmetical of the profitability value, having in the sample an ordinal number, equal to this whole number, and of the profitability value, having in this sample an ordinal number, next in the order of growth;

- if the product of multiplying 0.75 by the number of the profitability values in the sample, formed in accordance with **Subitem 1** of this Item, is not a whole number, as the maximum value of the range of profitability is recognised the profitability value, having in the sample an ordinal number, equal to the whole part of this fractional number, increased by a unit.

**5.** The calculation of profitability by the results of an activity, performed under comparable economic (commercial) conditions, on the ground of data from an organisation's accountancy reports, may be made with simultaneously observing the following conditions:

1) if an organisation performs a comparable activity and fulfils comparable functions, involved in this activity. Comparability of the activity may be defined with an account of the kinds of economic activity, envisaged in the All-Russia Classifier of the Kinds of Economic Activity, as well as in the international and in the other classifiers;

2) if the aggregate value of an organisation's net assets is not negative according to the data from the accountancy reports as in the state on December 31 of the last year out of several years, for which the profitability is calculated;

3) if an organisation has sustained no losses from the sales in accordance with the data from the accountancy reports over longer than one year out of several years, for which the profitability is calculated;

4) if an organisation does not take part, directly and (or) indirectly, in another organisation with a share of such participation of over 25 percent (with the exception of the cases, when information on the consolidated financial reports of the organisations, used for the calculation of the range of profitability, is available), or if it has as a partner (shareholder) an organisation with a share of direct participation of over 25 percent.

**6.** If as a result of application of the conditions, mentioned in Item 5 of this Article, less than four organisations are left, the criteria for the share of participation, named in **Subitem 4 of Item 5** of this Article, may be raised from 25 to 50 percent.

**7.** At the calculation of the range of profitability shall be used information, obtained as in the state at the moment of performance of a controlled transaction, but not later than on December 31 of the calendar year, in which the controlled transaction was made, or the data from the accountancy reports for three calendar years, directly preceding the calendar year, in which an analysed transaction was made (or the calendar year, in which the prices in an analysed transaction were fixed).

To the above-said information is referred the taxpayer's information on transactions he has performed with the persons, who are not interdependent with him.

**8.** To ensure comparability when determining the range of the market profitability on the ground of data from the accountancy reports of comparable organisations, the profitability

indices may be corrected for the correction of distinctions in the indices of the debtor and the creditor indebtedness, and of the commodity and material stocks in accordance with data from the accountancy reports of the taxpayer and of the organisations, the data from whose accountancy reports are used for determining the range of profitability.

#### **Article 105.9.** Method of Comparable Market Prices

**1.** The method of comparable market prices is the method for determining correspondence of the price of commodities (works and services) in an analysed transaction to the market price on the ground of comparing the price, applied in an analysed transaction, with the range of market prices, defined in accordance with the procedure, stipulated in **Items 2-6** of this Article.

**2.** If there is information on only one comparable transaction, whose object are identical (if such are absent - homogeneous) commodities (works and services), the price of the said transaction may be recognised simultaneously as the minimum and the maximum values of the range of market prices, only if the commercial and (or) financial conditions of an analysed transaction are fully comparable with the commercial and (or) financial conditions of an analysed transaction (or if the full comparability of such conditions is ensured with the assistance of relevant corrections), as well as under the condition that the seller of the products (works and services) in a comparable transaction does not occupy the dominant position on the market of these identical (in an absence of such - homogeneous) commodities (works and services). In this case, an assessment of the dominating position is made taking into account provisions of **Federal Law** No. 135-FZ of July 26, 2006 on the Protection of Competition, or taking into account provisions of the corresponding legislation of foreign states.

**3.** If there is information on several comparable transactions (including on those performed by the taxpayer, under the condition that the indicated transactions have been made with the persons, who are not interdependent with the taxpayer), whose object are identical (if such are absent - homogeneous) commodities (works and services), the range of market prices is determined in accordance with the following procedure:

1) an aggregate of prices, applied in comparable transactions, used for determining the range of profitability, shall be arranged in the order of growth, thus forming a sample used for determining this range. To each price value, beginning with the minimum one, shall be awarded an ordinal number. If the sample contains two and more similar profitability values, all such values shall be included into the sample. When determining the range of market prices, the price, applied in an analysed transaction, shall not be taken into account. If the number of comparable transactions, performed by the taxpayer, whose Parties are not interdependent persons, is sufficient, when determining the range of market prices, information on the other transactions shall not be taken into account;

2) the minimum value of the range of market prices shall be determined in the following procedure:

- if the quotient from division by four of the number of prices in the sample, formed in accordance with **Subitem 1** of this Item, is a whole number, as the minimum value of the range of market prices is recognised an average arithmetical of the price value, holding in the sample an ordinal number, equal to this whole number, and of the price value, holding the next ordinal number in the order of growth in this sample;

- if the quotient from division by four of the number of price values in the sample, formed in accordance with **Subitem 1** of this Item, is not a whole number, as the minimum value of the range of market prices is recognised the price value, holding in the sample an ordinal number, equal to the whole part of this fractional number, increased by a unit;

3) the maximum value of the range of market prices is defined in the following procedure:

- if the product of multiplying 0.75 by the figures of the price values in the sample, formed

in accordance with **Subitem 1** of this Item, is a whole number, as the maximum value of the range of market prices is recognised an average arithmetical of the price value, holding in the sample an ordinal number, equal to this whole number, and of the price value, holding in this sample an ordinal number, next in the order of growth;

- if the product of multiplying 0.75 by the figures of the price values in the sample, formed in accordance with **Subitem 1** of this Item, is not a whole number, as the maximum value of the range of market prices is recognised the price value, holding in the sample an ordinal number, equal to the whole part of this fractional number, increased by a unit.

**4.** The range of market prices is defined on the basis of the existing information on prices, applied in the course of an analysed period, or of information supplied as on the date, closest to the performance of the controlled transaction.

**5.** At an application of exchange quotations, the range of market prices is defined on the basis of the prices of transactions, whose object are identical (homogeneous) commodities, registered by the corresponding exchange, on the ground of information, published or obtained at an inquiry from the corresponding exchange. As the range of market prices is recognised the interval between the minimum and the maximum price of the transactions, registered by the exchange as on the date of their performance. When determining the range of market prices on the ground of exchange quotations, it is admissible to take into account distinctions in the economic (commercial) conditions of the transactions, for which, it is admissible, in particular, to make corrections, which will take into account distinctions in the following economic (commercial) conditions:

1) the outlays, substantiated and confirmed documentally and (or) by the information sources, which are necessary for the delivery of commodities (works and services) to the corresponding market;

2) the outlays on the payment of export customs duties;

3) the terms of the payment;

4) the commission (the agent's) remuneration of a trade broker (of a commissioner or an agent) for his fulfilment of trade and mediation functions.

**6.** When using data from the price-information agencies on the prices (on the ranges of prices) for identical (homogeneous) commodities (works and services) for the purposes of application of the method of comparable market prices in conformity with **Item 7 of Article 105.7** of this Code, as the minimum and the maximum values of the range of market prices may be recognised, respectively, the minimum and the maximum values of prices on the transactions, performed in a similar period of time under comparable conditions.

**7.** If the price, applied in an analysed transaction, lies within the range of market prices, defined in conformity with the provisions of the present Article, for taxation purposes it is recognised that such price corresponds to the market price.

If the price, applied in an analysed transaction, is less than the minimum value in the range of market prices, defined in conformity with the provisions of this Article, for taxation purposes is assumed the price, corresponding to the minimum value in the range of market prices.

If the price, applied in an analysed transaction, exceeds the maximum value in the range of market prices, defined in conformity with the provisions of this Article, for taxation purposes shall be assumed the price, corresponding to the maximum value in the range of market prices.

The minimum or the maximum values in the range of market prices are applied for taxation purposes in accordance with this Item under the condition that this does not lead to a reduction of the sum of the tax, subject to payment into the budgetary system of the Russian Federation.

#### **Article 105.10.** Method of the Price of Subsequent Realisation



1. The method of the price of subsequent realisation is the method for determining correspondence of the price in an analysed transaction to the market price on the ground of comparing the gross profitability, obtained by the person, who has performed an analysed transaction at the subsequent realisation (resale) by him of the commodity he has acquired in this analysed transaction (in a group of homogeneous transactions), with the market range of the gross profitability, defined in accordance with the procedure, stipulated in **Article 105.8** of this Code.

2. The use of the method of the price of subsequent realisation is preferable as compared with the other methods for determining correspondence to market prices of the prices, at which the commodity is acquired within the framework of an analysed transaction and is resold without any processing within the framework of a transaction, whose parties are the persons, not recognised as interdependent. This method is used, if the person, carrying out the resale, does not possess any objects of intangible assets, exerting an essential impact upon the level of his gross profitability. The method of the price of subsequent realisation may also be applied in the cases, when the following operations are performed at the resale of the commodity:

1) preparation of the commodity to the resale and to the transportation (arrangement of commodities into lots, making dispatches, sorting out and repacking);

2) mixing commodities, if the characteristics of the end products (of semi-finished products) do not essentially differ from the characteristics of mixed commodities.

3. If the subsequent realisation of the commodity in transactions, made under comparable commercial and (or) financial conditions between the person, carrying out the resale, and the persons (the person) who are (is) not his interdependent persons (person), is effected at different prices, as the price of subsequent realisation of the commodity when determining the range of profitability is used an average-weighted price of this commodity in all such transactions.

4. If the gross profitability of the person, effecting the resale, lies within the scope of the range of profitability, defined in the procedure stipulated in **Article 105.8** of this Code, for taxation purposes it shall be recognised that the price, at which the commodity was acquired in the controlled transaction, corresponds to the market price.

5. If the gross profitability of the person, effecting the resale, is less than the minimum value in the range of profitability, defined in the procedure stipulated in **Article 105.8** of this Code, for taxation purposes shall be assumed the price, applied in the controlled transaction, which is defined proceeding from the actual price at the subsequent realisation of the commodity and from the gross profitability, corresponding to the minimum value in the range of profitability.

If the gross profitability of the person, effecting the resale, exceeds the maximum value of the range of profitability, defined in the procedure stipulated in **Article 105.8** of this Code, for taxation purposes shall be assumed the price, applied in the controlled transaction, which is defined proceeding from the actual price at the subsequent realisation of the commodity and from the gross profitability, corresponding to the maximum value in the range of profitability.

6. For the purposes of application of the method of the price of subsequent realisation, it is admissible to use data from the price-information agencies on the prices (on the price ranges) for identical (homogeneous) commodities (works and services), and to define the range of market prices for identical (homogeneous) commodities (works and services) for the purposes of applying the said method in accordance with the procedure, stipulated in **Item 6 of Article 105.9** of this Code.

7. Application for taxation purposes of the minimum or the maximum value of the range of profitability in accordance with **Item 5** of the present Article is effected under the condition that this does not lead to a reduction of the sum of the tax, subject to payment into the

budgetary system of the Russian Federation.

#### **Article 105.11.** Method of Expenditures

**1.** The method of expenditures (the expenditures method) is a method for determining correspondence of the price in an analysed transaction to the market price on the ground of comparing the gross profitability of expenditures of the person, who is a party in an analysed transaction (in a group of analysed homogeneous transactions), with the market range of the gross profitability of expenditures in comparable transactions, defined in accordance with the procedure, stipulated in **Article 105.8** of this Code.

**2.** The expenditures method may be applied, in particular, in the following cases:

1) at the performance of works (at rendering services) by the persons, who are interdependent with the seller (with the exception of the cases, when at the performance of works (at rendering services) intangible assets are used, exerting an essential influence upon the level of profitability of the seller's expenditures);

2) at rendering services in the management of monetary funds, including trade operations on the securities market and (or) on the currency market;

3) at rendering services, involved in fulfilling the functions of a one-man executive body of an organisation;

4) at selling raw materials or semi-finished commodities to the persons, who are interdependent with the seller;

5) at realising commodities (works and services) under long-term contracts between interdependent persons.

**3.** If the gross profitability of expenditures of the seller, who is a party in an analysed transaction, on an indicated transaction lies within the range of profitability, defined in accordance with the procedure, stipulated in **Article 105.8** of this Code, it is recognised for taxation purposes that the price, applied in an analysed transaction, corresponds to market prices.

**4.** If the gross profitability of the seller's expenditures is less than the minimum value in the range of profitability, defined in the procedure stipulated in **Article 105.8** of this Code, for taxation purposes shall be taken the price, applied in an analysed transaction and defined proceeding from the actual prime cost of the realised commodities (works and services) and from the gross profitability of expenditures, which corresponds to the minimum value in the range of profitability.

If the gross profitability of the seller's expenditures exceeds the maximum value of the range of profitability, defined in the procedure stipulated in **Article 105.8** of this Code, for taxation purposes shall be taken the price, applied in an analysed transaction and defined proceeding from the actual prime cost of the realised commodities (works and services), and from the gross profitability of expenditures, which corresponds to the maximum value in the range of profitability.

**5.** For the purposes of application of the expenditures method it is admissible to use data from the price-information agencies on prices (on the price ranges) for identical (homogeneous) commodities (works and services) and to define the range of the market price for identical (homogeneous) commodities (works and services) for the purpose of applying the said method in accordance with the procedure, envisaged in **Item 6 of Article 105.9** of this Code.

**6.** The minimum or the maximum value in the range of profitability is applied for taxation purposes in accordance with **Item 4** of this Article, under the condition that this does not lead to a reduction of the sum of the tax, subject to payment into the budgetary system of the Russian Federation.

#### **Article 105.12.** Method of Comparable Profitability

1. The method of comparable profitability amounts to comparing the operational profitability, formed at the person, who is a party in an analysed transaction, with the market range of operational profitability in comparable transactions, defined in accordance with the procedure, stipulated in **Article 105.8** of this Code.

2. The method of comparable profitability may be applied, in particular, in the case of an absence or insufficiency of information, on whose ground the conclusion may be drawn on the existence of the necessary degree of comparability of the commercial and (or) financial conditions of comparable transactions, and the methods may be used, indicated in **Subitems 2 and 3 of Item 1 of Article 105.7** of this Code.

3. For the purposes of this Article, the following indices of operational profitability, defined in conformity with **Item 1 of Article 105.8** of this Code, may be used:

- 1) profitability of the sales;
- 2) profitability of the expenditures;
- 3) profitability of the commercial and of the managerial outlays;
- 4) profitability of the assets;

5) another index of profitability, which reflects the existing interconnection between the fulfilled functions, the used assets and the assumed economic (commercial) risks and the level of remuneration.

4. When selecting a particular index of profitability, account shall be taken of the kind of activity, performed by the person, who is a party in an analysed transaction, the functions he fulfils and the assets he uses, as well as the assumed economic (commercial) risks and the fullness, authenticity and comparability of data, used for the calculation of the corresponding profitability, and the economic substantiation of such index.

5. For the purposes of applying this Article, profitability indices shall be used, while taking account of the following specifics:

1) profitability of the sales is used at the subsequent resale of commodities, acquired from the persons, who are interdependent with the person, effecting the resale, to persons, who are not interdependent with him, as well as at the subsequent resale of commodities, acquired from the persons, who are not interdependent with the person, carrying out the resale, to the persons, who are interdependent with him;

2) gross profitability of the commercial and managerial expenditures shall be used in the cases, mentioned in **Subitem 1** of this Item, if the person, carrying out the resale, incurs insignificant economic (commercial) risks at the acquisition and at the subsequent resale of commodities within a short period, while there is direct interconnection between the size of the gross profit from the sales of the person, carrying out the resale, and the size of commercial and managerial expenditures he has made;

3) profitability of the expenditures is used at the performance of works and at rendering services, as well as at the manufacture of commodities;

4) profitability of the assets is used at the manufacture of commodities (in particular, if analysed transactions are performed by the persons, engaged in a capital-intensive activity).

6. At the use of the method of comparable profitability, against the market range of profitability is compared the profitability of that Party of an analysed transaction, which meets the following demands:

1) the Party of an analysed transaction fulfils the functions, whose contribution into the derived profit from the transactions, consecutively performed with one and the same commodity, is less than the contribution of the other Party of an analysed transaction;

2) the Party of an analysed transaction assumes smaller economic (commercial) risks than the other Party of an analysed transaction;

3) the Party of an analysed transaction does not possess the objects of intangible assets, exerting an essential impact upon the profitability level.

7. If the Party of an analysed transaction does not meet demands, envisaged in **Subitems 1-3 of Item 6** of this Article, for comparing with the market range of profitability shall be selected that Party of an analysed transaction, which satisfies the above-said demands to the highest degree.

8. If the profitability in a controlled transaction lies within the range of profitability, defined in accordance with the procedure envisaged in **Article 105.8** of this Code, it shall be recognised for taxation purposes that the price, applied in this transaction, corresponds to market prices.

9. If the profitability of a controlled transaction is less than the minimum value of the range of profitability, defined in accordance with the procedure stipulated in **Article 105.8** of this Code, for taxation purposes into account shall be taken the minimum value of the range of profitability.

If the profitability exceeds the maximum value of the range of profitability, defined in accordance with the procedure stipulated in **Article 105.8** of this Code, for taxation purposes into account shall be taken the maximum value of the range of profitability.

On the ground of the minimum or the maximum value of the range of profitability, taken into account in conformity with this Item, the correction of the profit (of the income or of the earnings) on a controlled transaction shall be carried out for taxation purposes.

10. The minimum or the maximum value in the range of profitability shall be applied for taxation purposes in accordance with **Item 9** of the present Article under the condition that this does not lead to a reduction of the sum of the tax, subject to payment into the budgetary system of the Russian Federation.

#### **Article 105.13. Method of Distributing the Profit**

1. The method of distributing the profit consists in comparing the actual distribution between the parties in a transaction of the aggregate profit, derived by all parties of this transaction, with distribution of the profit between the parties in comparable transactions.

2. If the parties in an analysed transaction (in a group of homogeneous analysed transactions) are simultaneously the parties of homogeneous transactions with participation of their interdependent persons, and if prices in homogeneous transactions are estimated for taxation purposes in an aggregate with an analysed transaction, the aggregate profit from an analysed transaction and from the above-said homogeneous transactions shall be for taxation purposes distributed in accordance with the procedure, similar to that of distributing the profit from an analysed transaction.

3. If organisations, whose aggregate profit is subject to distribution while taking into account provisions of this Article, keep accountancy records, based on different rules for the accountancy recording, such accountancy reports shall be adjusted for the purposes of applying the method of distributing the profit to the uniform rules for the accountancy recording.

4. The method of distributing the profit may be applied, in particular, in the following cases:

1) if it is impossible to apply methods, stipulated in **Subitems 1-4 of Item 1 of Article 105.7** of this Code, and if there is an essential interconnection of an activity, performed by the parties of an analysed transaction (of a group of homogeneous analysed transactions);

2) if the parties of an analysed transaction have in their ownership (in their use) the rights to the objects of intangible assets, exerting an essential influence on the profitability level (in an absence of homogeneous transactions, whose object are the objects of intangible assets, made with persons, who are not interdependent).

5. Distribution between the parties of an analysed transaction of the sum of the profit (of the loss) from an analysed transaction is carried out for the purposes of ensuring application of **Item 1 of Article 105.3** of the present Code. Selection of the principles for the distribution of the profit depends on the circumstances of an analysed transaction (of a group of homogeneous

analysed transactions) and shall lead to the distribution of the profit, derived from an analysed transaction, corresponding to the distribution of the profit between the persons, performing a similar activity under comparable commercial and (or) financial conditions. In this case distribution of the profit between the parties of an analysed transaction (of a group of homogeneous analysed transactions) in conformity with the method of distributing the profit shall be carried out on the ground of an estimate of the contribution of the parties of an analysed transaction (of a group of homogeneous analysed transactions) into the aggregate profit from an analysed transaction (from a group of homogeneous analysed transactions) in conformity with the following criteria or with the combinations thereof:

1) proportionately to the contribution into an aggregate profit from an analysed transaction of functions, fulfilled by the parties of an analysed transaction, of the assets, used by them, and of the economic (commercial) risks, assumed by them;

2) proportionately to the distribution between the parties of an analysed transaction of the profitability, received on the contributed capital, used in an analysed transaction;

3) proportionately to the distribution of the profit between the parties of a comparable transaction.

**6.** At an application of the method of distributing the profit between the parties of an analysed transaction, the aggregate profit or the residual profit of all parties of such transactions shall be distributed.

**7.** For the purposes of this Article, as an aggregate profit of all parties of an analysed transaction is recognised the sum of an operational profit of all parties of an analysed transaction for the analysed period.

**8.** For the purposes of this Article, the residual profit (loss) shall be defined in the following procedure:

1) on the ground of methods, indicated in **Subitems 1-4 of Item 105.7** of this Code, for every person, who is a party of an analysed transaction (of a group of homogeneous analysed transactions), the estimate profit /loss/ for this party is calculated on the ground of the market price range, taking into account the functions, fulfilled by this person, the assets, used by him, and the economic and commercial risks, assumed by him;

2) the residual profit (loss) from an analysed transaction shall be defined as the difference between the aggregate profit (loss), derived from an analysed transaction, and the sum of the estimate profit (loss) from the sales for all parties of an analysed transaction.

**9.** If the residual profit (loss) of all parties of this transaction is distributed between the parties of an analysed transaction, the total value of the profit (loss) of every person, who is a party of an analysed transaction (of a group of homogeneous analysed transactions), shall be defined by summing up the corresponding estimate profit (loss) and the residual profit (loss).

**10.** For distributing the aggregate or the residual profit (loss) of all parties of an analysed transaction between the persons, who are the parties of such transaction, the following indices shall be taken into account:

1) the size of the outlays, made by the person, who is a party of an analysed transaction, on the creation of intangible assets, whose use exerts an impact on the size of the actually derived profit (incurred loss) from an analysed transaction;

2) the characteristic of the personnel, employed by the person, who is a party of an analysed transaction, including its number and qualifications (the time, spent by the personnel, and the size of the outlays on the remuneration of its labour), exerting an influence on the size of the actually derived profit (loss) from an analysed transaction;

3) the market cost of the assets in the use (at the disposal) of the person, who is a party of an analysed transaction, the use of which exerts an influence on the size of the actually derived profit (loss) from an analysed transaction;

4) other indices, reflecting interconnection between the fulfilled functions, the used assets

and the assumed economic (commercial) risks, and the size of the actually derived profit (loss) from an analysed transaction.

**11.** Distribution of the profit between the parties of an analysed transaction (of a group of homogeneous analysed transactions) in conformity with the criterion, envisaged in **Subitem 3 of Item 5** of this Article, is effected if there is information on the distribution of the sum of the profit (loss) from the sales in homogeneous transactions, made between the persons, who are not interdependent. The application of the procedure for distributing the profit (loss) from an analysed transaction, stipulated in the present Item, is admissible if the following conditions are observed at the same time:

1) the data of the accountancy records of the parties of an analysed transaction shall be comparable with the data of the accountancy records of the parties of comparable transactions or shall be adjusted to a comparable kind by making necessary corrections;

2) the aggregate profitability of the assets of the parties of an analysed transaction shall not essentially differ from the aggregate profitability of the assets of the parties of comparable transactions, or shall be adjusted to a comparable kind by making necessary corrections.

**12.** If the profit, derived by a party of an analysed transaction, is equal to the profit, calculated for this party in conformity with the method of distributing the profit or exceeds it, or if the loss, sustained by the said party, is equal to the loss, calculated for this party in accordance with the method for distributing the profit or is smaller, for taxation purposes shall be assumed, respectively, either an actually derived profit or an actually incurred loss.

**13.** If the profit, derived by the taxpayer, who is a party of an analysed transaction, is less than the profit, calculated for this party in accordance with the method for distributing the profit, for taxation purposes shall be assumed the profit, calculated for it in conformity with the method for distributing the profit.

If the loss, incurred by the taxpayer, who is a party of an analysed transaction, exceeds the loss, calculated for this party in accordance with the method of distributing the profit, for taxation purposes shall be assumed the profit, calculated for it in conformity with the method of distributing the profit.

The taxpayer's profit shall be corrected for taxation purposes by the tax on the profit of organisations on the ground of comparing the profit or the loss, recorded for taxation purposes in conformity with the present Item, with the profit, actually derived by the taxpayer, or with the loss, actually sustained by him.

**14.** The profit or the loss, calculated by the method of distributing the profit, shall be applied for taxation purposes on the ground of **Items 12 or 13** of this Article, under the condition that this does not lead to a reduction of the sum of the tax to be paid into the budgetary system of the Russian Federation.

#### **Chapter 14.4. Controlled Transactions. Preparing and Presenting Documentation for the Purposes of the Tax Control. Notification on Controlled Transactions**

##### **Article 105.14. Controlled Transactions**

**1.** For the purposes of this Code, as controlled are recognised the transactions between interdependent persons (taking into account the specifics, envisaged in this Article). The following transactions are equated to those made between interdependent persons for the purposes of this Code:

*Provisions of Subitem 1 of Item 1 of Article 105.14 of the Tax Code of the Russian Federation (in the wording of Federal Law No. 227-FZ of July 18, 2011) as concerns recognising as controlled the transactions with the taxpayers of the uniform agricultural tax, or of the uniform*

*tax on the imputed income, shall be **applied** from January 1, 2014*

1) an aggregate of transactions on the realisation (resale) of commodities (on the performance of works or on rendering services), carried out with the participation (mediation) of the persons, who are not interdependent (taking into account the specifics, envisaged in this Subitem). The aggregate of transactions, indicated in this Subitem, is equated to a transaction between interdependent persons, not taking into account the existence of the third persons, with whose participation (mediation) such aggregate of transactions is carried out, under the condition that such third persons, not recognised as interdependent and taking part in the said aggregate of transactions:

- do not fulfil in this aggregate of transactions any additional functions, with the exception of organising the realisation (resale) of commodities (the performance of works and rendering services) by one person to another person, recognised as interdependent with the former person;

- do not assume upon themselves any risks and do not use any assets for organising the realisation (resale) of commodities (the performance of works and rendering services) by one person to another person, recognised as interdependent with the former person;

2) transactions in the area of foreign trade in commodities of the world exchange trade;

3) transactions, one of the parties in which is the person, whose place of registration, place of residence or place of tax residence is the state or the territory, included into the list of the states and territories, approved by the Ministry of Finance of the Russian Federation in conformity with **Subitem 1 of Item 3 of Article 284** of this Code. For the purposes of this Subitem, if the activity of the Russian Federation creates a permanent representation in the state or on the territory, included into the list, mentioned in this Subitem, and if an analysed transaction is connected with this activity, the said organisation shall be considered, as concerns this analysed transaction, as the person, whose place of registration is the state or the territory, included into this list.

**2.** A transaction made between interdependent persons, between the place of registration or the place of residence or the place of tax residence of all parties and beneficiaries in which is the Russian Federation, is recognised as controlled (unless otherwise stipulated in **Items 3, 4 and 6** of this Article), even if only one of the following circumstances exists:

1) the sum of incomes from the transactions (the sum of the transactions' prices) between the said persons for the corresponding calendar year exceeds one billion roubles;

*According to **Federal Law No. 227-FZ of November 18, 2011, when applying provisions of Subitem 1 of Item 2 of Article 105.14 of this Code for 2012 and 2013, the sum of income from transactions between the persons mentioned in the first paragraph of Item 2 of Article 105.14 of this Code shall comprise:***

*for 2012 - three billion roubles;*

*for 2013 - two billion roubles;*

2) one of the parties of the transaction is a taxpayer of the tax on the extraction of useful minerals, calculated at a tax rate, fixed in percentages, and the object of the transaction is the extracted useful mineral, recognised for the said party of the transaction as the object of levying by the tax on the extraction of useful minerals, at whose extraction the tax is imposed at a tax rate, fixed in percentages;

3) if even only one of the parties of the transaction is a taxpayer, applying one of the following special tax regimes: the taxation system for agricultural commodity producers (the uniform agricultural tax) or the taxation system in the form of the uniform tax on the imputed income for the individual kinds of activity (if the corresponding transaction was concluded within

the framework of such activity), while among the other persons, who are the parties of the said transaction, there is a person, who does not apply these special tax regimes;

4) if even only one of the parties of the transaction is relieved of the liabilities of a taxpayer for the tax on the profit of organisations or applies to the tax base for the said tax the tax rate of zero percent in conformity with **Item 5.1 of Article 284** of this Code, while the other party (parties) of the transaction is (are) not relieved of these liabilities and does not (do not) apply the zero percent tax rate because of the above-said circumstances;

*The provision of Subitem 5 of Item 2 of Article 105.14 of the Tax Code of the Russian Federation (in the wording of Federal Law No. 227-FZ of July 18, 2011) shall be **applied** from January 1, 2014*

**5) if even only one of the parties of the transaction is a resident of a special economic zone, the tax regime of which envisages special privileges for the tax on the profit of organisations (as compared with the general tax regime in the corresponding subject of the Russian Federation), while the other party (parties) of the transaction is not a resident (are not residents) of such special economic zone.**

**3.** The transactions, envisaged in **Subitems 2, 4 and 5 of Item 2** of the present Article, are recognised as controlled, if the sum of incomes on the transactions between the said persons over the corresponding calendar year exceeds 60 million roubles.

The transactions, envisaged in **Subitem 3 of Item 2** of this Article, are recognised as controlled, if the sum of incomes from the transactions between the said persons for the corresponding calendar year exceeds 100 million roubles.

**4.** Regardless of whether transactions meet the conditions provided for by **Items 1-3** of this article or not, the following transactions shall not be recognized as controllable ones:

1) the parties to which are participants in the same consolidated group of taxpayers formed in compliance with this Code (except for the transactions whose object is an extracted mineral recognized as an item taxable by the severance tax which is taxed, when being extracted, at the tax rate fixed in percentage);

2) whose parties are persons, simultaneously meeting the following demands:

- the said persons are registered in one subject of the Russian Federation;  
- the said persons have no set-apart subdivisions on the territories of the other subjects of the Russian Federation or beyond the boundaries of the Russian Federation;  
- the said persons do not pay the tax on the profit of organisations into the budgets of the other subjects of the Russian Federation;

- the said persons do not incur losses (including the losses of the past periods, transferred onto the future tax periods), assumed when calculating the tax on the profit of organisations;

- there are no circumstances for recognising transactions, made by such persons, as controlled in conformity with **Subitems 2-5 of Item 2** of the present Article.

**5.** The transactions, envisaged in **Subitem 2 of Item 1** of this Article, are recognised as controlled, if the object of such transactions are commodities, included into the composition of one or of several of the following commodity groups:

1) oil and the commodities, made of oil;

2) ferrous metals;

3) non-ferrous metals;

4) mineral fertilisers;

5) noble metals and precious stones.

**6.** The codes of commodities, listed in **Item 5** of this Article, are defined in accordance



with the Commodity Classification for Foreign Economic Activity by the federal executive power body, fulfilling the functions involved in the elaboration of the state policy and in the normative-legal regulation in the area of foreign trade.

7. The transactions, stipulated in **Subitems 2 and 3 of Item 1** of the present Article, are recognised as controlled, if the sum of incomes from such transactions, carried out with one person over the corresponding calendar period, exceeds 60 million roubles.

8. For the purposes of this Code, the concept of the "foreign trade in commodities" is used in the meaning, defined in the **legislation** of the Russian Federation on the foreign trade activity.

9. For the purposes of this Article, the sum of incomes from the transactions, made over a calendar year, is defined by way of adding up the sums of incomes, derived from such transactions with one person (with interdependent persons) over the calendar year, taking into account the procedure for recognising the incomes, established in **Chapter 25** of the present Code. When defining the sum of incomes from the transactions, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has the right to check for the purposes of this Article correspondence of the sums of incomes, derived from the transactions, to the market level, taking into account provisions of **Chapter 14.2** and of **Chapter 14.3** of this Code.

10. At an application from the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, the court may recognise a transaction as controlled, if there are sufficient grounds to believe that this transaction is a part of a group of homogeneous transactions, made for the purpose of creating conditions, under which such transaction would show the signs of a controlled transaction, established in this Article.

11. Recognising the transactions as controlled shall be effected with an account for the provisions of **Item 13 of Article 105.3** of this Code.

*According to **Federal Law No. 227-FZ** of November 18, 2011 the provisions of Article 105.15 of this Code shall be applied until January 1, 2014, if the sum of income from all controlled transactions, performed by the taxpayer over the calendar year with one person (with several the same persons, who are the parties of controlled transactions), exceeds, respectively:  
in 2012 - 100 million roubles;  
in 2013 - 80 million roubles*

#### **Article 105.15.** Preparing and Submitting Documentation for the Purposes of the Tax Control

1. At the demand of the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, the taxpayer shall present the documentation on a particular transaction (group of homogeneous transactions), pointed out in the demand. As the documentation is understood an aggregate of documents or a uniform document, compiled in arbitrary form (if the compilation of such documents in accordance with the established form is not stipulated in the legislation of the Russian Federation) and containing the following information:

1) on the activity of the taxpayer (of the persons), who has (have) carried out a controlled transaction (a group of homogeneous transactions), connected with this transaction:

- the list of the persons (with indicating the states and territories, of which they are tax residents), with whom a controlled transaction is performed, a description of the controlled transaction, its terms, including a description of the methodology for the price formation (if such exists), the terms and time terms for making payments on this transaction and other information on it;

- information on the functions of persons, who are the parties of the transaction (if the

taxpayer carries out a functional analysis), on the assets they use, connected with this controlled transaction, and on the economic (commercial) risks, which the taxpayer has taken into account when concluding it;

2) if the taxpayer has applied methods, stipulated in **Chapter 14.3** of this Code, the following information on the applied methods:

- substantiation of the reasons behind the selection and the way of application of the used method;

- indication of the used sources of information;

- calculation of the range of market prices (of the range of profitability) on the controlled transaction with a description of the approach, taken for the selection of comparable transactions;

- sum of the derived incomes (profit) and (or) the sum of the made outlays (of the incurred losses) as a result of the performance of a controlled transaction or of the achieved profitability;

- information on an economic gain, received in a controlled transaction by the person, by whom this transaction is made, as a result of obtaining information, of the results of an intellectual activity, of the rights to the designations, individualising an enterprise, its products, works and services (the official designation, the trade marks and the service marks), and of the other exclusive rights (if the corresponding circumstances exist);

- information on the other factors, which have exerted an influence on the price (profitability), applied in a controlled transaction, including information on the market strategy of the person, who has performed a controlled transaction, if this market strategy has exerted an influence on the price (profitability), applied in this controlled transaction (if the corresponding circumstances exist);

- corrections of the tax base and of the sums of the tax, made by the taxpayer in conformity with **Item 6 of Article 105.3** of this Code (if these are made).

**2.** The taxpayer has the right to supply other information, confirming that the commercial and (or) financial conditions of controlled transactions correspond to those that have taken place in comparable transactions, taking into account the corrections for ensuring comparability of the commercial and (or) financial conditions of comparable transactions, whose parties are the persons, not recognised as interdependent, with the conditions of a controlled transaction.

**3.** The documentation, mentioned in **Item 1** of this Article, may be received from the taxpayer at demand by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, not earlier than on June 1 of the year, following the calendar year, in which controlled transactions were performed.

**4.** Provisions of **Items 1** and **2** of this Article are not applied in the following cases:

1) if the prices are applied in the transactions in conformity with the instructions of antimonopoly bodies in conformity with **Item 8 of Article 105.3** of this Code, or if the price is regulated and is applied in accordance with **Article 105.4** of this Code;

2) if the taxpayer performs transactions with the persons, with whom he is interdependent;

3) in transactions with securities and with the financial instruments of futures transactions, circulated on the organised securities market (taking into account provisions of **Chapter 25** of this Code);

4) at making transactions, with respect to which an agreement on the price formation is concluded for taxation purposes in conformity with **Chapter 14.6** of this Code.

**5.** On transactions, stipulated in **Item 4** of this Article, the taxpayer has the right to submit the above-said documentation on a voluntary basis.

**6.** The specification and substantiation of documents, submitted to the tax bodies, shall be commensurate with the complexity of the transaction and of the formation of its price (of the

profitability of the parties of the transaction).

*According to **Federal Law No. 227-FZ of November 18, 2011** the provisions of Article 105.16 of this Code shall be applied until January 1, 2014, if the sum of income from all controlled transactions, performed by the taxpayer over the calendar year with one person (several transactions with the same persons, who are the parties of controlled transactions), exceeds, respectively:*

*in 2012 - 100 million roubles;*

*in 2013 - 80 million roubles*

#### **Article 105.16.** Notification on Controlled Transactions

**1.** Taxpayers are obliged to notify the tax bodies on controlled transactions, mentioned in **Article 105.14** of this Code, which they have performed over a calendar year.

**2.** Information on controlled transactions shall be supplied in notifications on controlled transactions, which the taxpayer sends to the tax body at the place of his stay (of his residence) within a time term of not later than on May 20 of the year following the calendar year, in which these controlled transactions were made. Taxpayers, who are referred to the category of major ones in conformity with **Article 83** of this Code, shall submit notifications, mentioned in this Item, to the tax body at the place of their recording as major taxpayers.

At the taxpayers' wish, notifications on controlled transactions may be presented to the tax body in accordance with the established form on a paper carrier or in accordance with the established formats in electronic form.

The form (formats) of a notification on controlled transactions, as well as the procedure for filling out the form and the procedure for submitting the notification on controlled transactions in electronic form shall be approved by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, in agreement with the Ministry of Finance of the Russian Federation.

If the facts of an incomplete information, inaccuracies or errors are exposed in filling out the submitted notification on controlled transactions, the taxpayer has the right to send over a specified notification.

**3.** Information on controlled transactions shall contain the following information:

1) the calendar year, for which information is supplied on controlled transactions, performed by the taxpayer;

2) the objects of the transactions;

3) information on the participants in the transactions:

- full designation of an organisation, as well as the taxpayer's identification number (if the organisation is put onto records in the tax bodies of the Russian Federation);

- surname, first name and patronymic of an individual businessman and his taxpayer identification number;

- surname, first name and citizenship of a natural person, who is not an individual businessman;

4) sum of the derived incomes and (or) the sum of the made outlays (of the sustained losses) in controlled transactions, with setting apart the sums of incomes (outlays) on the transactions, whose prices are subject to regulation.

**4.** Information, provided in **Item 3** of this Article, may be prepared for a group of homogeneous transactions.

**5.** The tax body, which has received a notification on controlled transactions, shall send over this notification in electronic form to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, within ten days as from the day of its receipt.

6. If the tax body, conducting a tax check, has revealed facts of the performance of controlled transactions, information on which was not supplied in accordance with **Item 2** of this Article, this tax body shall itself inform the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, about the fact of exposure of these controlled transactions and shall direct information it has obtained about such transactions.

The tax body, conducting a tax check, is obliged to inform the taxpayer about his sending a notification and the corresponding information to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, not later than in ten days as from the date of sending the notification.

The form for the notification and the procedure for sending it over shall be approved by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

7. The sending over by the tax body, conducting a tax check, of information on controlled transactions it has obtained to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, is not seen as an obstacle to going on with such check and to adopting the decision in accordance with the results of consideration of the tax check materials in the established procedure.

#### **Chapter 14.5. Tax Control in Connection with Making Transactions Between Interdependent Persons**

*According to **Federal Law No. 227-FZ** of November 18, 2011 the provisions of Article 105.17 of this Code shall be applied until January 1, 2014, if the sum of income from all controlled transactions, performed by the taxpayer over the calendar year with one person (several transactions with the same persons, who are the parties of controlled transactions), exceeds, respectively:*

*in 2012 - 100 million roubles;*

*in 2013 - 80 million roubles.*

##### **Article 105.17. Checking by the Federal Body of Executive Power, Authorised to Exert Control and Supervision in the Area of Taxes and Fees, the Fullness of the Calculation and Payment of Taxes in Connection with Making Transactions Between Interdependent Persons**

1. Checking the fullness of the calculation and payment of taxes in connection with the performance of transactions between interdependent persons (hereinafter referred to in this Chapter as the check) is conducted by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, at the place of its location.

The check shall be conducted on the ground of the notification on controlled transactions or of the notification of the territorial tax body, carrying out a field or an office check of the taxpayer, directed in conformity with **Article 105.16** of this Code, as well as if a controlled transaction is exposed as a result of conducting by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, a repeated field tax check by way of exerting control over the activity of the tax body, which has conducted the check.

When conducting the checks, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has the right to carry out the tax control measures, established in **Articles 95-97** of this Code. In this case, control over the conformity of prices, applied in controlled transactions, to market prices cannot be an object of field and of office checks.

**2.** A check shall be carried out by officials from the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, on the ground of the decision of its head (deputy head) on conducting the check. Such decision may be passed not later than in two years as from the day of receiving a notification or a notice, mentioned in **Item 1** of this Article.

The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has no right to conduct two or more checks with respect to one transaction (one group of homogeneous transactions) for one and the same calendar year. If in the course of a calendar year at the taxpayer, who is a party in a controlled transaction (in a group of homogeneous transactions), a check with respect to the said transaction (group of homogeneous transactions) was conducted in conformity with this Article and in accordance with the results of such check, correspondence of the terms of a controlled transaction (of a group of homogeneous transactions) to the terms of transactions between the persons, who are not interdependent, was established, with respect to such transaction (group of homogeneous transactions) cannot be conducted checks at the taxpayers, who are the other parties of the said transaction (group of homogeneous transactions).

In this case conducting a check with respect to a transaction, made in the tax period, is no obstacle for conducting field and (or) office tax checks for the same tax period.

**3.** The time term for conducting a check is counted as from the day when the decision was passed on carrying it out and until the day of compiling a reference note on conducting such check.

The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall notify the taxpayer about adopting the said decision in the course of three days as from the day of its adoption.

**4.** A check shall be conducted within a time term, not exceeding six months. In exceptional cases, this time term may be extended up to twelve months by decision of the head (of the deputy head) of the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

The grounds and procedure for an extension of the term of conducting a check are established by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

If it is necessary to receive information from foreign state bodies and to carry out expert examinations and (or) to translate into the Russian language the documents, submitted by the taxpayer in a foreign language, the term for conducting a check may be extended additionally by no longer than six months, and if the check was extended for obtaining information from foreign state bodies and in the course of six months the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has not received the inquired after information, the time term for an extension of the said check may be prolonged by another three months.

A copy of the decision on extending the time term for conducting a check shall be sent over to the taxpayer within three days as from the day of its adoption.

**5.** Within the framework of a check may be examined controlled transactions, performed over the period, not exceeding three calendar years, preceding the year in which the decision was taken on conducting a check.

If for determining comparability of the commercial and (or) financial conditions of controlled transactions with the conditions of comparable transactions between the persons, who are not interdependent, the taxpayer has applied methods, named in **Item 1 of Article 105.7** of the present Code, or a combination thereof, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall apply at exerting the tax control in connection with the performance of transactions between interdependent

persons, the method (the combination of methods), which was applied by the taxpayer.

Application of a different method (of a combination of methods) is possible, if the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, proves that this method (combination of methods), applied by the taxpayer proceeding from the conditions of performing a controlled transaction, does not permit to determine comparability of the commercial and (or) financial conditions of a controlled transaction with the conditions of comparable transactions, made between the persons, who are not interdependent.

The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has no right to apply any other methods, not stipulated in this Section, in the course of the tax control in connection with the performance of transactions.

**6.** The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has the right to send to the taxpayer in accordance with the procedure envisaged on **Items 1, 2 and 5 of Article 93** of this Code, the demand to present the documentation, stipulated in **Article 105.15** of this Code, with respect to the checked transaction (to a group of homogeneous transactions). The documentation, obtained on demand in conformity with this Item, shall be submitted by the taxpayer within 30 days as from the day of receiving the corresponding demand.

**7.** An official from the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, which is conducting a check, has the right to receive on demand the documents (information) from the participants in the checked transactions, who have at their disposal documents (information), concerning these transactions.

Documents shall be obtained on demand in conformity with this Item in accordance with the procedure, similar to that for the receipt on demand of documents, which is established in **Article 93.1** of this Code.

**8.** On the last day of the check, the checking body is obliged to compile a reference note on the conducted check, in which its object and the time terms of conducting it shall be fixed.

A reference note on the carried out check shall be handed in to the person, with respect to whom such check was conducted, or to his representative against receipt, or it shall be passed over in any other way, testifying to the date of handing it in.

If the taxpayer (his representative) avoids the receipt of the reference note on the conducted check, this note shall be sent over to the taxpayer by post in a registered letter.

If a reference note on the conducted check is sent over by post in a registered letter, as the date of handing it in is seen the sixth day, counting from the date of dispatch of the registered letter.

**9.** If in accordance with the results of the check the facts were exposed, showing that the price, applied in the transaction, deviated from the market price, which has led to an understatement of the sum of the tax, the officials, who have conducted the check, are obliged to compile an established-form act on the check within two months as from the day of compilation of the reference note on the conducted check.

The form of an act on the check and demands on its compilation shall be established by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

**10.** The act on the check shall be signed by officials, who have conducted the check, and by the person, with respect to whom such check was conducted, or by his representative.

On the refusal to sign the act on the check by the person, with respect to whom the check was conducted, or by his representative, the corresponding entry shall be made in this act.

**11.** The act on the check shall be compiled while taking into account demands, envisaged in **Item 3 of Article 100** of this Code. This act shall also contain documentally confirmed facts on the deviation of the price, applied in the transaction, from the market price

towards a rise over the maximum ultimate price, or towards a fall from the minimum ultimate price, taking into account the corresponding markups to the prices or discounts from the prices, as well as the substantiation of the fact that this deviation has entailed an understatement of the sum of the tax, and the calculation of the sum of such understatement.

**12.** The act on the check shall be handed over to the person, with respect to whom the check was conducted, or to his representative against receipt, or it shall be handed over in any other way, testifying to the date of its receipt by the said person (by his representative), within five days as from the date of this act.

If the person, with respect to whom the check was conducted, or his representative avoids the receipt of the act on the check, this fact shall be reflected in the act on the check and the act on the check shall be sent over by post in a registered letter to the place of location of the organisation or to the place of residence of the natural person.

If the act on a check is sent over by post in a registered letter, as the date of handing this act in shall be seen the sixth day as from the day of dispatch of the registered letter.

**13.** If the person, with respect to whom a check was conducted, or his representative disagrees with the facts, rendered in the act on the check, as well as with the conclusions and proposals of the checking persons, he has the right to present to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, his written objections to the said act as a whole or to its separate provisions, within twenty days as from the day of receipt of the act. In such case, the said person has the right to enclose to his written objections, or to hand over within the agreed time term to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, the documents (their certified copies), confirming the substantiation of his objections.

**14.** Consideration of the act, of the other materials of the check and of the written objections on the act, presented by the taxpayer, as well as adoption of the decision on the results of the check, shall be carried out in accordance with the procedure, similar to that for the consideration of a tax check materials, stipulated in **Article 101** of the present Code.

**15.** When the tax control measures are carried out in connection with the performance of a transaction between interdependent persons, materials and information received by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, may be used at conducting a check of the other persons, who are participants in the same controlled transaction.

#### **Article 105.18. Symmetrical Corrections**

**1.** If in accordance with the results of a check by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, of the fullness of the calculation and payment of taxes in connection with the performance of transactions between interdependent persons the tax is additionally imposed, proceeding from an estimate of the results of the transaction, while taking into account the market prices, the prices, on whose ground the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has made a correction of the tax base and of the sum of the tax, may be applied by the Russian organisations - the taxpayers, who are the other party of a controlled transaction, when calculating taxes, mentioned in **Item 4 of Article 105.3** of this Code.

Such application by the taxpayers, indicated in the first paragraph of this Item, of market prices, on whose ground the decision on an additional imposition of the tax was adopted in accordance with the results of the check in conformity with **Article 105.17** of this Code, shall be recognised for the purposes of this Code as a symmetrical correction.

**2.** The right to carry out symmetrical corrections by the other parties of a controlled transaction arises exclusively in the cases, when the decision of the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, on additionally

levying the tax is executed by the person, who is a party of a controlled transaction, with respect to whom the decision on an additional imposition of the tax in the part of the arrears, indicated in this decision, was passed.

Symmetrical corrections are made in accordance with the procedure, established in this Article.

No corrections of the registers for recording taxes and initial documents are effected for the purposes of making symmetrical corrections.

**3.** Symmetrical corrections may be taken into account in the tax declarations on taxes named in **Item 4 of Article 105.3** of this Code, which are presented in accordance with the results of that tax period, in which the corresponding symmetrical corrections were made.

If in accordance with the results of a symmetrical correction the taxpayer receives the right to the return of the tax, the rules shall be applied, established in this Code with respect to an offset and to the return of the sums of the tax, paid or exacted in excess.

**4.** Symmetrical corrections are made by the taxpayer on the ground of information, contained in the notification on the possibility of making symmetrical corrections, directed to the taxpayer by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

The forms (formats) and procedure for the issue of a notification on the possibility of making symmetrical corrections shall be approved by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, in agreement with the Ministry of Finance of the Russian Federation.

The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall hand over the notification on the possibility of symmetrical corrections to the taxpayer (to his lawful or authorised representative), or shall send the given notification by post in a registered letter, or transfer it in electronic form along telecommunication channels within one month as from the moment of the right to make symmetrical corrections arising at the taxpayer. If the decision on additionally levying the tax, on whose ground symmetrical corrections are made, is appealed against with the court, this time term shall be extended for up to six months, unless otherwise envisaged in the present Item.

The course of the time term for the issue or for sending over to the taxpayer of a notification on the possibility of symmetrical corrections is suspended, as the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, receives information on filing to the court an appeal against the decision on an additional imposition of the tax, on whose ground symmetrical corrections are conducted. Such suspension shall be operating until the moment of entry into force of the corresponding court act. A similar procedure is applied at filing appeals against the acts of the lower instance arbitration courts.

**5.** If the taxpayer disposes of information on the other party of a transaction fulfilling the decision on an additional imposition of the tax in the cases stipulated in **Article 105.17** of this Code, and if he does not receive a notification on the possibility of symmetrical corrections within the time terms, named in **Item 4** of this Article, the taxpayer has the right to file to the federal executive power body, authorised in the area of taxes and fees, an application for the issue of a notification on the possibility to make symmetrical corrections.

To an application for the issue of a notification on the possibility of making symmetrical corrections shall be enclosed the copies of documents, confirming information on taking the decision on an additional imposition of the tax and on its execution.

**6.** The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall consider the application, mentioned in **Item 5** of this Article, and shall adopt one of the following decisions within fifteen days:

- 1) on the issue of a notification on the possibility of making symmetrical corrections;
- 2) on the issue of a notification on the possibility to make symmetrical corrections in



connection with the non-observation of the procedure for filing an application or with the non-confirmation of information, supplied in the application;

3) on informing the taxpayer on the suspension of the time terms for the issue of a notification on the possibility of making symmetrical corrections, in case of filing an appeal against the decision on levying an additional tax, on whose ground symmetrical corrections are made.

7. The taxpayer, who has expressed the wish to carry out a correction of prices on the ground of the notification on the possibility of making symmetrical corrections, has no right to dispute the size of such correction, with the exception of the case when it does not correspond to the size, indicated in the decision on an additional levying of the tax.

8. If the other taxpayers, taking part in the transaction, have made symmetrical corrections in conformity with the decision on an additional imposition of the tax, and if subsequently such decision is amended (repealed) or recognised as invalid, the other parties, taking part in the transaction, shall make the corresponding reverse corrections.

Reverse corrections shall be made by the taxpayer within one month on the ground of notifications on the need for making reverse corrections, received from the tax bodies at the place of recording. No penalties shall be imposed with respect to the sums of the tax, subject to payment, increased on the ground of reverse corrections.

The form and procedure for the issue of a notification on the need of reverse corrections shall be approved by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

To the notification on the need of reverse corrections shall be enclosed the calculation of reverse corrections, compiled in arbitrary form, as well as a copy of the corresponding court act, repealing (amending) or recognising as invalid the initial decision on an additional imposition of the tax or the relevant court acts.

The tax body shall offset (return) the sums of an excessively paid up tax to the party of a controlled transaction, with respect to which the decision was passed on an additional imposition of the tax, only after reverse corrections are made and the tax is paid up by the other party of the controlled transaction.

9. The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has no right to refer to an absence of documents or to expiry of the time term for the storage thereof at an offset (return) of the sums of taxes, mentioned in the specified declaration, which is submitted by the taxpayer in accordance with the results of carrying out symmetrical or reverse corrections on the basis of the corresponding notification.

## **Chapter 14.6. Agreement on the Price Formation for Taxation Purposes**

### **Article 105.19. General Provisions on an Agreement on the Price Formation for Taxation Purposes**

1. A Russian organisation - the taxpayer, referred in conformity with **Article 83** of this Code to the category of major taxpayers (hereinafter referred to in this Chapter as the taxpayer), has the right to file to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, an application for concluding an agreement on the price formation for taxation purposes (hereinafter also referred to as the price formation agreement).

2. The price formation agreement is an agreement between the taxpayer and the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, on the procedure for determining prices and (or) for applying the price formation principles in controlled transactions for taxation purposes within the term of its operation for ensuring the

observation of provisions of **Item 1 of Article 105.3** of this Code.

**3.** The object of a price formation agreement are:

- 1) the kinds and (or) the lists of controlled transactions and commodities (works and services), with respect to which the agreement is concluded;
- 2) the procedure for determining prices, and (or) a description and the procedure for applying methodologies (formula) of the price formation for taxation purposes;
- 3) the list of information sources, used when determining correspondence of the prices, applied in transactions, to the terms of the agreement;
- 4) the term of the agreement's validity;
- 5) the list, procedure and time terms for submitting documents, confirming the execution of the terms of the price agreement.

**4.** Other terms of a price formation agreement, besides those mentioned in **Item 3** of this Article, may be established by the parties' agreement.

#### **Article 105.20.** Parties of a Price Formation Agreement

**1.** The parties of a price formation agreement are the taxpayer and the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, in the person of its head (of its deputy head), unless otherwise stipulated in **Item 2** of this Article.

**2.** If conclusion of a price formation agreement is concluded with respect to a foreign trade transaction, of which if only one party is a tax resident of a foreign state, with which a contract (agreement) is concluded on avoiding the double taxation, the taxpayer has the right to file to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, an application for signing such agreement on the price formation with the participation of the authorised executive power body of such foreign state in the procedure, established by the Ministry of Finance of the Russian Federation.

**3.** If homogeneous controlled transactions are performed by several Russian interdependent organisations (by a group of taxpayers), with these organisations may be concluded a multilateral price formation agreement. In this case, the terms of the said agreement shall be spread to the entire group of the taxpayers, who have concluded it.

When concluding a price formation agreement, amending the terms and conducting a check of fulfilment of the terms of the price formation agreement in the procedure, established, correspondingly, in **Articles 105.22** and **105.23** of this Code, the general interests of a group of taxpayers may be presented by one organisation out of the group of taxpayers, whose powers are confirmed by warrants, issued in accordance with the procedure, established in the legislation of the Russian Federation.

**4.** The taxpayer, who has signed a price formation agreement, has the right to notify the persons, with whom transactions are made, on the fact of his concluding such agreement and on the procedure for determining the price, applied for taxation purposes, established in it.

#### **Article 105.21.** Term of Validity of a Price Formation Agreement

**1.** A price formation agreement may be signed on one transaction or on several transactions (on a group of homogeneous transactions) with one and the same object, for a time term, not exceeding three years.

With this, a price formation agreement may be extended to the period that has expired counting from the first day of the calendar year in which a taxpayer filed with the federal executive power body charged with the exercise of control and supervision in respect of taxes and fees an application for making the agreement before the cited agreement's entry into force.

**2.** If he observes all terms of a price formation agreement, the taxpayer has the right to file to the federal executive power body, authorised to exert control and supervision in the area

of taxes and fees, an application for an extension of the term of validity of the price formation agreement.

**3.** A price formation agreement may be extended by the parties' agreement for no more than two years in the procedure, stipulated in **Article 105.22** of this Code.

**4.** A price formation agreement shall come into force as from January 1 of the calendar year, following the year, in which it was signed, unless directly stipulated otherwise in the said agreement.

#### **Article 105.22.** Procedure for Concluding a Price Formation Agreement

**1.** To the taxpayer's application for concluding a price formation agreement, filed by the taxpayer to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall be enclosed:

- 1) draft price formation agreement;
- 2) documents on the taxpayer's activity, connected with controlled transactions, as well on the controlled transactions, with respect to which the taxpayer proposes to sign a price formation agreement;
- 3) copies of the taxpayer's constituent documents;
- 4) copy of the certificate on the taxpayer's state registration;
- 5) copy of the certificate on putting the taxpayer onto the records at the tax body at the place of his stay on the territory of the Russian Federation;
- 6) taxpayer's accountancy report for the last accounting period;
- 7) document, confirming the applicant's payment of the state duty for consideration by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, of an application for signing a price formation agreement;
- 8) other documents, containing information of importance at concluding a price formation agreement.

**2.** Documents, listed in **Item 1** of this Article, shall be presented to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, in arbitrary form, unless a different form is established in the legislation of the Russian Federation.

**3.** The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has the right to inquire from the taxpayer other documents, not stipulated in **Item 1** of this Article, which are necessary for the purposes of a price formation agreement.

**4.** The federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall consider an application and other documents, submitted by the taxpayer in conformity with **Items 1-3** of this Article, within a time term of not over six months as from the day of receiving them. This time term may be extended for up to nine months.

The grounds and procedure for an extension of the term for the consideration of documents, presented by the taxpayer, shall be established by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees.

**5.** In accordance with the results of consideration of the documents, submitted by the taxpayer in conformity with **Items 1-3** of this Article, the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, shall adopt one of the following decisions:

- 1) decision on concluding a price formation agreement;
- 2) motivated decision on the refusal to sign such agreement;
- 3) decision on the need to finalise the elaboration of the draft agreement, in which the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, proposes to the taxpayer that he shall complete the elaboration of the draft agreement in accordance with demands of this Code and shall repeatedly submit the draft price formation

agreement and the documents, mentioned in **Subitem 2 of Item 1** of this Article.

**6.** The corresponding decision on concluding (on the refusal to conclude, on the need to finish the elaboration of the draft agreement) a price formation agreement (with pointing out the place, the date and the hour of signing a price formation agreement, if decision is adopted on concluding a price formation agreement), shall be directed to the taxpayer (to the authorised representative of the taxpayer) within five days as from the date of adopting such decision.

**7.** If the draft price formation agreement and the documents are repeatedly presented on the ground of the decision, stipulated in **Subitem 3 of Item 5** of this Article:

- 1) the state duty, envisaged in **Subitem 7 of Item 1** of this Article, is not collected;
- 2) the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, adopts the decision within three months.

**8.** The following are seen as grounds for taking the decision on the refusal to conclude a price formation agreement, in particular:

- 1) non-presentation or presentation not in full volume of the documents, envisaged in **Item 1** of this Article;
- 2) non-payment or not full payment of the state duty;
- 3) motivated conclusion that as a result of application of the procedure for determining the prices and (or) the price formation methods, suggested by the taxpayer in the draft price formation agreement, the execution of provisions of **Item 1 of Article 105.3** of the present Code will not be provided.

**9.** Decision on the refusal to conclude a price formation agreement may be appealed against in the court in conformity with the legislation of the Russian Federation.

**10.** A copy of the price formation agreement, concluded with the taxpayer, shall be directed by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, to the tax body at the place of the taxpayer's recording as a major taxpayer, within three days as from the day of signing this agreement.

**11.** The taxpayer's application for concluding a price formation agreement, filed to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, may be recalled by the said taxpayer. In this case, the paid up sum of the state duty, stipulated in **Subitem 7 of Item 1** of this Article, shall not be returned.

**12.** A price formation agreement may be amended in accordance with the procedure, stipulated in this Article.

#### **Article 105.23.** Checking the Execution of a Price Formation Agreement

**1.** The taxpayer's execution of a price formation agreement is checked by the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, in accordance with the procedure, stipulated in **Chapter 14.5** of this Code.

**2.** If the taxpayer has observed the terms of the price formation agreement (including if this circumstance is established in accordance with the results of the check, mentioned in **Item 1** of this Article), the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, has no right to adopt the decision on an additional imposition of taxes and of penalties and fines with respect to those controlled transactions, the prices in which (the methods for defining them) were agreed in the price formation agreement.

#### **Article 105.24.** Procedure for Terminating a Price Formation Agreement

**1.** A price formation agreement is stopped after expiry of the term of its validity, or it may be terminated before expiry of such term in the cases, stipulated in this Article.

**2.** The validity of a price operation agreement shall be stopped before the schedule by decision of the head (of the deputy head) of the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, if the taxpayer violates the price

formation agreement within the term of its validity, which has entailed an incomplete payment of the taxes and which was exposed in the course of conducting a check in accordance with the procedure, stipulated in **Chapter 14.5** of this Code.

A price formation agreement may also be cancelled before the schedule at the parties' agreement or by the court decision.

**3.** The decision of the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, on terminating a price formation agreement shall be handed in to the taxpayer (to his representative) against receipt, or in a different way, testifying to the date of its receipt by the taxpayer (by his representative), or shall be sent over to the taxpayer by post in a registered letter, within five days as from the day of adopting the corresponding decision.

The decision on terminating a price formation agreement, sent over to the taxpayer by post in a registered letter, shall be seen as received after expiry of six days as from the day of dispatch of such registered letter.

A copy of the said decision shall be directed to the tax body at the place of recording such taxpayer as a major taxpayer within the same time terms.

**4.** The decision of the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, on terminating a price formation agreement may be appealed against by the taxpayer to an arbitration court in the procedure, established in the **arbitration procedure legislation** of the Russian Federation.

**5.** The sums of the tax, of the penalties and of the fine shall be paid only if the termination of the price formation agreement because of the non-execution (violation) of its terms has entailed an understatement of the sum of the tax.

#### **Article 105.25.** Stability of the Terms of a Price Formation Agreement

**1.** The terms of a price formation agreement remain unchanged, if the **legislation** on taxes and fees is amended as concerns the regulation of relations, arising at signing a price formation agreement, at introducing amendments into it and at terminating its operation.

**2.** If other amendments are introduced into the **legislation** of the Russian Federation on taxes and fees and into the **legislation** of the Russian Federation on the customs business, which have an impact upon the taxpayer's activity, the parties to an agreement have the right to introduce the corresponding amendments into the text of the price formation agreement.

### **Section 6. Tax Offenses and Liability for Committing Them**

#### **Chapter 15. General Provisions on Liability for Committing Tax Offenses**

***Federal Law No. 154-FZ of July 9, 1999 amended Article 106 of this Code***

*The amendments shall **enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law*

*See the previous text of the Article*

#### **Article 106.** Concept of a Tax Offense

A tax offense is an unlawful (in violation of tax legislation) act (action or inaction) of a taxpayer, tax agent or other persons entailing liability under this Code.

#### **Article 107.** Persons Liable for Committing Tax Offenses

**1.** Liability for committing tax offenses shall be borne by organisations and natural

persons in the cases provided for in **Chapters 16** and **18** of this Code.

**2.** Natural persons can be held liable for committing a tax offence from the age of sixteen.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 108 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

**Article 108.** General Conditions of Holding (Taxpayers) Liable for Committing Tax Offenses

**1.** No one can be held liable for committing a tax offense other than on the grounds and in the manner stipulated in this Code.

**2.** No one can be held liable for the same tax offense twice.

**3.** As the ground for calling a person to account for a violation of the legislation on taxes and fees shall be deemed the establishment of the fact of making this violation by an effective decision of the tax authority.

**4.** Holding an organisation liable for a tax offense shall not release its officials from administrative, criminal or other liability under federal laws, provided that the appropriate grounds for that exist.

*See the item in the previous wording*

**5.** Holding a person liable for a tax offense shall not release him from the obligation to pay (to remit) the tax (fee) and penalty liability.

**6.** A person shall be presumed innocent of committing a tax offense until his guilt is proven in accordance with the procedure provided for by federal law. The person called to account shall not be required to prove his innocence of committing a tax offense. The burden of presenting evidence of the tax offense and proving a person's guilt in committing it shall be carried by the tax authorities. Ineradicable doubts as to the guilt of the person called to account shall be interpreted in favour of the person.

**7.** The managing partner responsible for keeping tax records shall be held liable for the breaches of the legislation on taxes and fees made in connection with execution of the agreement of investment partnership.

Liability for failure to discharge the duty of paying tax on organisations' profit and tax on incomes of natural persons on the profit (income) falling on the share of a party to an agreement of investment partnership shall be borne by the party to such agreement, if not otherwise established by this Code.

**Article 109.** Circumstances Which Rule out the Possibility of Holding a Person Liable for Committing a Tax Offense

A person cannot be held liable for committing a tax offence if at least one of the following circumstances is present:

- 1) absence of the event of a tax offence;
- 2) absence of guilt of the person in question in committing a tax offence;
- 3) action containing elements of a tax offence committed by a natural person who had not reached sixteen years of age at the time of the action was committed;
- 4) expiry of the statute of limitations for the tax offence committed.

**Article 110.** Forms of Guilt of Committing a Tax Offense

1. A person who has committed an unlawful action intentionally or by negligence shall be recognised as a defaulter (a person at guilt).

2. A tax offence shall be recognised as committed intentionally, if the person who committed it was aware of the unlawful nature of his action (inaction), was desiring, or conscientiously admitting the possibility of occurrence of, harmful consequences of such actions (inaction).

3. A tax offence shall be considered committed through negligence, if the person who committed it was not aware of the unlawful nature of his actions (inaction) or of the harmful nature of consequences of such action (inaction), even though he should have and could have been aware of it.

4. The guilt of an organisation in committing a tax offence shall be established depending on the guilt of its officials or its representatives whose actions (or inaction) provided the conditions for the tax offence.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 111 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

**Article 111.** Circumstances Ruling Out the Guilt of a Person in Committing a Tax Offense

1. The following circumstances shall rule out the guilt of a person in committing a tax offense:

1) committing an act that contains elements of a tax offence in consequence of a natural calamity or other extraordinary or insurmountable circumstances (said circumstances shall be established by the presence of generally known facts, by mass media publications and by any methods that are not in need of special means of proof);

2) committing an act that contains elements of a tax offence by a natural person whose condition at the time of committing that act was such that he could not understand or control his actions as a result of his sick state (said circumstances shall be proved by submitting to a tax body documents, which by their meaning, content and date relate to that tax period in which a tax offence was committed);

3) following by a taxpayer (fee payer or tax agent) of explanations in writing in respect of a procedure for calculation and payment of a tax (fee) or in respect of other matters concerning application of the legislation on taxes and fees given to him or to an indefinite group of persons by a financial, tax or other authorised state power body within the scope of authority thereof (the said circumstances shall be established if there is the appropriate document of this body whose meaning and contents make it pertinent to the tax periods when a tax offence was committed, regardless of the date of issuing such document).

The provisions of this Subitem shall not apply if the said written explanations are based upon incomplete or unreliable information presented by a taxpayer (fee payer or tax agent);

4) other circumstances which can be recognised by the court or the tax authority engaged in consideration of a case as excluding the person's being guilty of committing a tax offence.

2. In the presence of circumstances listed under **Item 1** of this Article, the person shall not be held liable for committing a tax offence

**Article 112.** Attenuating and Aggravating Circumstances for Committing a Tax Offense

1. Circumstances attenuating the liability for committing a tax offense shall be the following:

1) committing an offense on account of simultaneous difficult personal or family circumstances;

2) committing an offence under threat for force, or due to pecuniary, administrative or other dependence;

2.1) hard financial position of the natural person to be called to account for committing a tax offence;

3) other circumstances recognised by the court or the tax authority considering the case as attenuating the liability for a tax offense.

2. The commission of a tax violation by a person previously was brought to responsibility for an analogous violation shall be deemed to be a circumstance aggravating responsibility.

3. The person from whom a tax sanction has been collected shall be deemed to have been subject to this sanction in the course of 12 months from the date of entry into legal force of the decision made by court or tax body.

4. Circumstances mitigating or aggravating the responsibility for the commission of a tax offence shall be established by a court of law or the tax authority considering the case and taken into its consideration when imposing tax sanctions.

*On declaration of the provisions of Article 113 of this Code as not contradicting the Constitution of the Russian Federation, see **Decision** of the Constitutional Court of the Russian Federation No. 9-P of July 14, 2005*

**Article 113.** Statute of Limitation for Tax Offenses

1. A person cannot be held liable for a tax offense if three years (the statute of limitations) have expired since the day when the offense was committed or since the first day after the end of the tax period during which the offense committed and up to the time of rendering a decision on calling to account.

*According to **Ruling** by the Constitutional Court of the Russian Federation No. 36-0 of January 18, 2005, the law-enforcement bodies may not interpret the concept "bona fide taxpayers" as imposing on taxpayers the duties not stipulated by legislation, and may not deprive them of the guarantees established by this Article*

Computation of the statute of limitations from the day when the tax offense was committed shall be applicable to all tax offenses, except for those provided for under **Articles 120** and **122** of this Code.

Computation of the statute of limitation from the first day after the end of the respective tax period shall be applicable to tax offenses provided for under **Articles 120** and **122** of this Code.

**1.1.** Running of the limitation period for calling to account shall be suspended if the person to be called to account for committing a tax offence took an active part in opposing an on-site tax check, this posing an insurmountable obstacle for conducting it and determining by the tax authorities of the tax amounts payable to the budget system of the Russian Federation.

Running of the limitation period for calling to account shall be deemed suspended as of the date of drawing up the deed provided for by **Item 3 of Article 91** of this Code. In this case, running of the time period for calling to account shall be resumed as of the day when the circumstances impeding an on-site tax check ceased and a decision on resuming the on-site tax check was rendered.



## 2. Removed.

### Article 114. Tax Sanctions

1. A tax sanction is a measure of liability for tax offenses.
2. Tax sanctions shall be established and imposed in the form of monetary charges (fines) in the amounts provided for in in **Chapters 16** and **18** of this Code.
3. Provided there is at least one attenuating circumstance, the amount of fine shall be reduced, but not more than by half of the amount of fine established under the appropriate Article of this Code.
4. In the presence of the aggravating circumstance stated in **Item 2 of Article 112**, the amount of fine shall be increased by 100%.
5. Should one person commit two or more tax offenses, tax sanctions shall be imposed for each offense separately, without a heavier sanction absorbing a lesser one.
6. The amount of the fine to be recovered from a taxpayer, fee payer or tax agent for a tax offence entailing tax (or fee) arrears shall only subject be to remittance from accounts accordingly of the taxpayer, fee payer or tax agent after remittance in full of this amount of arrears and appropriate penalties in the order established by the **civil legislation** of the Russian Federation.
7. **Abrogated** from January 1, 2007.

### Article 115. Statute of Limitation for Recovering Fines

1. Tax authorities may make an application with court for recovering fines from an organisation and individual businessman in the procedure and within the time period which are provided for by **Articles 46** and **47** of this Code from a natural person not being an individual businessman in the procedure and within the time period which are provided for by **Article 48** of this Code.

Application for recovering a fine from an organisation or an individual businessman in the cases provided for by **Subitems 1-3 of Item 2 of Article 45** of this Code may be filed by a tax authority within six months after the expiry of the time period for satisfying the demand for paying the fine. The time period for filing the said application missed for sound reasons may be restored by court.

2. In the case of a non-suit or dismissal of a criminal case, but in the presence of a tax offense, the statute of limitations for filing an application shall be calculated from the day the tax authority receives a ruling of non-suit or dismissal of the criminal case.

## Chapter 16. Types of Tax Offenses and Liability for Committing Them

*Federal Law No. 229-FZ of July 27, 2010 defined the procedure for recovering of tax sanctions for breaching the legislation of taxes and fees in respect of which a decision of a tax authority is issued before the date when the said Federal Law **enters into force and amount of the sanctions** for tax offenses committed before the date when the said Federal Law enters into force*

### Article 116. Failure to Follow the Procedure for Registration with a Tax Authority

1. A taxpayer's failure to observe the time for registration with a tax authority fixed by this Code on the grounds provided for by this Code shall entail the imposition of a fine in the amount of 10 thousand roubles.
2. The exercise of activities by an organisation or individual businessman without registration with a tax authority on the grounds provided for by this Code shall entail the imposition of a fine in the amount of 10 per cent of the income derived

from such activities within the cited time period but at least 40 thousand roubles.

**Article 117. Abrogated**

**Article 118. Failure to Meet the Deadline for Reporting the Opening of a Bank Account**

1. Failure by a taxpayer to meet the deadline established by this Code for submitting information of his opening or closing an account with any bank to the tax authorities.

shall entail a fine in the amount of five thousand roubles.

**2. Removed.**

3. The provisions of this article shall likewise apply to the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records that has failed to observe the deadline for presenting to the tax authority information about opening or closing by him an account of the investment partnership with a bank which is fixed by this Code.

**Article 119. Failure to Submit a Tax Declaration (an Estimation of the Financial Result of an Investment Partnership)**

1. A taxpayer's failure to submit a tax declaration to the tax authority at the place of registration at the time fixed by the legislation on taxes and fees

shall entail the imposition of a fine in the amount of 5 per cent of the unpaid tax amount to be paid (additionally paid) on the basis of this declaration for each complete or incomplete month as from the date fixed for its submission but at most 30 per cent of the cited amount and at least 1 000 roubles.

2. Failure of the managing partner responsible for keeping tax records to file an estimate of the financial result of an investment partnership with the tax authority at the place of registration at the time fixed by the legislation on taxes and fees

shall entail the imposition of a fine in the amount of 1 000 roubles per each complete or incomplete month as from the date fixed for its presentation.";

**Article 119.1. Failure to Follow the Established Procedure for Submitting a Tax Declaration (Calculation)**

Failure to follow the procedure for submitting a tax declaration (calculation) in electronic form where it is provided for by this Code

shall entail the imposition of a fine in the amount of 200 roubles.

**Article 119.2. Filing with a Tax Authority by the Managing Partner Responsible for Keeping Tax Records an Estimate of the Financial Result of an Investment Partnership Containing Unreliable Data**

1. Filing with a tax authority by the managing partner responsible for keeping tax records an estimate of the financial result of an investment partnership containing unreliable data

shall entail imposition of a fine in the amount of forty thousand roubles.

2. The same deeds willfully made shall entail imposition of a fine in the amount of eighty thousand roubles.

**Article 120. Failure to Comply with the Rules for Accounting for Income, Expenditure and Objects of Taxation**

*Ruling of the Constitutional Court of the Russian Federation No. 6-O of January 18, 2001 ruled that provisions of Items 1 and 3 of this Article and Item 1 of Article 122, defining the insufficiently demarcated between themselves corpus delicti of the tax law violations, cannot be applied simultaneously as the grounds for holding responsible for committing one and the*

*same illegal actions, which does not exclude the possibility of their independent application on the basis of an assessment by the court of the actual circumstances of the concrete case and taking account of the constitutional-legal meaning of the corpus delicti of the tax law violations made clear by the Constitutional Court of the Russian Federation*

1. A gross violation of rules of accounting for income and (or) expenditure and (or) objects of taxation, if these actions were committed within one tax period, in the absence of signs of a tax offence provided for by Item 2 of this Article,

shall entail imposition of a fine in the amount of ten thousand roubles.

2. The same deeds if they were being committed during a period of time that exceeds one tax period,

shall entail a fine in the amount of thirty thousand roubles.

3. The same deeds if they resulted in under reporting of the tax base,

shall entail a fine in the amount of twenty percent of the amount of unpaid tax, or forty thousand roubles, whichever is less.

A gross violation of the rules for accounting for income, expenditure and objects of taxation for the purposes of this Article shall mean absence of primary [detailed] documents, or absence of invoices, or absence of book-keeping or tax registers, repeated (twice and more times during a calendar year) untimely or incorrect coverage of business transactions, monetary funds, tangible assets, intangible assets and financial investments of the taxpayer in the balance sheet accounts, in tax registers and in reporting.

**3. Abrogated.**

**Article 121. Removed.**

*Ruling of the Constitutional Court of the Russian Federation No. 6-O of January 18, 2001 ruled that the provisions of **Items 1 and 3** of Article 120 and Item 1 of this Article, defining the insufficiently demarcated between themselves corpus delicti of the tax law violations, cannot be applied simultaneously as the grounds for holding to responsible for committing one and the same illegal actions, which does not exclude the possibility of their independent application on the basis of an assessment by the court of the actual circumstances of the concrete case and taking account of the constitutional-legal meaning of the corpus delicti of the tax law violations made clear by the Constitutional Court of the Russian Federation*

**Article 122.** Failure to Pay the Full Amounts of Tax (Fee)

1. Non-payment or incomplete payment of the sums of the tax (fee) as a result of understating the tax base, of another wrong calculation of the tax or of any other unlawful actions or inaction, if such action does not contain any signs of a tax law offence, envisaged in **Article 129.3** of this Code,

shall entail a fine in the amount of 20 per cent of the unpaid amount of tax (fee).

**2. Abrogated** from January 1, 2004.

3. Deeds provided for by Item 1 of this Article, when committed intentionally, shall entail a fine in the amount of 40 per cent of the unpaid amount of tax (fee).

4. Failure to pay or to pay in full by the responsible participant in a consolidated group of taxpayers the sums of organisations profit tax in respect of the consolidated group of taxpayers as a result of understatement of the tax base, other incorrect estimation of organisations profit tax in respect of the consolidated group of taxpayers or other wrongful actions (omission to act), if they are caused by reporting unreliable data (by failure to report data), which have affected the completeness of the tax payment, by some other participant in the consolidated group of taxpayers, that has been called to account in compliance with **Article 122.1** of the Code, shall

not be deemed an offence.

**Article 122.1.** Reporting by a Participant in a Consolidated Group of Taxpayers to the Responsible Participant in This Group Unreliable Data (Failure to Report Data), This Causing Non-Payment or Incomplete Payment of Organisations Profit Tax by the Responsible Participant Therein

1. Reporting by a participant in a consolidated group of taxpayers to the responsible participant in this group unreliable data (failure to report data) that has led to non-payment or incomplete payment of organisations profit tax in respect of the consolidated group of taxpayers by the responsible participant therein shall entail the recovery of a fine in the amount of 20 per cent of the non-paid tax sum.

2. The deeds provided for by **Item 1** of this article which have been willfully made shall entail the recovery of a fine in the amount of 40 per cent of the non-paid tax amount.

**Article 123.** Failure of a Tax Agent to Fulfill the Duty of Withholding and Remitting Taxes

The unlawful non-deduction and/or non-remittance (incomplete deduction and/or remittance) at the time fixed by this Code of the sums of the tax subject to deduction and transfer by a tax agent,

shall entail a fine in the amount of 20% of the amount that had to be deducted and/or to be remitted.

**Article 124. Abrogated** from July 1, 2002.

**Article 125.** Failure to Comply with the Regulations of Tenancy, Use and Disposal of Attached Property in Respect of Which a Tax Authority Has Taken Protective Measures in the Form of Pledge

Failure to comply with the procedures established by this Code for tenancy, use and/or disposal of property under lien or in respect of which a tax authority has taken protective measures in the form of pledge

shall entail the imposition of a fine in the amount of thirty thousand roubles.

**Article 126.** Non-Provision to a Tax Authority of Information Necessary for the Exercise of Tax Control

1. Non-submission by a taxpayer (fee payer or tax agent) to tax bodies within the fixed period of time of documents and/or other information, provided for by this Code and other legislative acts on taxes and fees, if such action does not contain any signs of tax law offences, envisaged in **Articles 119** and **129.4** of this Code,

shall entail the exaction of a fine in the amount of 200 roubles for each document not presented.

2. Non-provision of information about a taxpayer to a tax authority in the form of refusal of an organisation to turn over the documents, stipulated by this Code, containing information on the taxpayer at the request of a tax authority, as well as avoidance of providing such documents, or provision of documents containing false information unless such deed contains the signs of a breach of the legislation on taxes and fees which is stipulated by **Article 135.1** of this Code.

shall entail a fine in the amount of ten thousand roubles.

3. **Abrogated** from July 1, 2002.

**Article 127. Removed.**

**Article 128.** Liability of a Witness

Failure to appear or avoidance of appearing without good reason by a person summoned in connection with a tax case as a witness

shall entail a fine in the amount of one thousand roubles.

Unlawful Refusal of a witness to give testimony, or perjury on the part thereof shall entail a fine in the amount of three thousand roubles.

**Article 129.** Refusal of an Expert, Interpreter or Specialist to Assist in a Tax Audit, Presentation of a Fraudulent Opinion by an Expert or Fraudulent Interpretation by an Interpreter

**1.** Refusal of an expert, interpreter or specialist to assist in a tax audit shall entail a fine in the amount of five hundred roubles.

**2.** Presentation of a fraudulent opinion by an expert or fraudulent interpretation by an interpreter

shall entail a fine in the amount of five thousand roubles.

**Article 129.1.** Unlawful Non-dispatch of Information to a Tax Body

**1.** Unlawful non-dispatch or untimely dispatch by a person of information, which under this Code this person should provide the respective tax body, in the absence of signs of a tax offence stipulated by Article 126 of this Code,

shall involve the exaction of a fine in the amount of five thousand roubles.

**2.** The same deeds committed for a second time during a calendar year shall involve the exaction of a fine in the amount of twenty thousand roubles.

**Article 129.2.** Violating the Procedure for Registration of Gambling Industry Units

**1.** Violating the procedure established by this Code for registration with the tax authorities of gambling tables, slot-machines, cashier's offices of totalisers, cashier's offices of bookmaker's houses or the procedure for registration of changes in the quantity of the said units

**2.** shall entail the imposition of the fine which is three times as much as the rate of tax on gambling industry established for the appropriate taxation object.

**Article 129.3.** Non-Payment or an Incomplete Payment of the Sums of the Tax as a Result of Application for Taxation Purposes in Controlled Transactions of the Commercial and (or) Financial Terms, Not Comparable with the Commercial and (or) Financial Terms of Transactions Between the Not Interdependent Persons

**1.** The non-payment by the taxpayer of the sums of the tax as a result of application for taxation purposes in controlled transactions of commercial and (or) financial terms, not comparable with the commercial and (or) financial terms of transactions between the persons, who are not interdependent,

- entails an exaction of a fine in an amount of 40 percent of the unpaid sum of the tax, but not less than 30,000 roubles.

**2.** The taxpayer is relieved of responsibility, envisaged in the present Article, under the condition that he presents to the federal executive power body, authorised to exert control and supervision in the area of taxes and fees, the documentation, substantiating the market level of the applied prices on controlled transactions, in conformity with the procedure, established in **Article 105.15** of this Code, or in conformity with the procedure, established in the price formation agreement for taxation purposes.

**Article 129.4.** Illegal Non-Presentation of a Notification on Controlled Transactions and Presentation of Unauthentic Information in a Notification on Controlled Transactions

Illegal non-presentation by the taxpayer to the tax body of a notification on controlled transactions, made over a calendar year, within the fixed time term, or presentation by the taxpayer to the tax body of a notification on controlled transactions, containing unauthentic information,

- entails an exaction of a fine in an amount of 5,000 roubles.

## **Chapter 17. Costs Connected with Exercising Tax Control**

**Article 130. Abrogated** from January 1, 2007.

*Federal Law No. 154-FZ of July 9, 1999 amended Article 131 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*See the previous text of the Article*

**Article 131.** Payment of Amounts Due to Witnesses, Interpreters, Specialists, Experts, and Attesting Witnesses

1. Travel expenses of witnesses, interpreters, specialist, experts, and attesting witnesses incurred by the latter in connection with their appearance at the office of the tax authority, as well as expenses on rental of housing accommodation and additional expenses connected with staying outside the place of permanent residence (per diem) shall be reimbursed.

2. Interpreters, specialist, and experts shall be remunerated for the work they did on the commission of a tax authority, if this work is not part of their normal job functions.

3. A person summoned to a tax agency as a witness continues to draw his/her wage at the principal job while such witness is absent from the job.

4. Amount due to witnesses, interpreters, specialists, experts, and attesting witnesses shall be paid by the tax authority upon fulfillment of their duties.

The payment procedure and amounts payable shall be determined by the Government of the Russian Federation and shall be financed from the federal budget.

*See Regulations for Payment and the Rate of Payment for the Benefit of Witnesses, Translators, Specialists and Experts Invited to Take Part in Tax Control Actions approved by Decision of the Government of the Russian Federation No. 298 of March 16, 1999*

## **Chapter 18. Types of Tax Offenses Committed by Banks Stipulated by the Legislation on Taxes and Fees and Liability for Committing them**

*Federal Law No. 229-FZ of July 27, 2010 defined the procedure for recovering of tax sanctions for breaching the legislation of taxes and fees in respect of which a decision of a tax authority is issued before the date when the said Federal Law enters into force and amount of the sanctions for tax offenses committed before the date when the said Federal Law enters into force*

**Article 132.** Failure of a Bank to Comply with the Procedure for Opening an Account for

a Taxpayer

**1.** The opening by a bank of an account for an organisation or individual businessman, a notary engaged in private practice or a solicitor who has founded a solicitor's study, without producing by such person a certificate (notification) of registration with a tax body, and also the opening of an account in the presence in the bank of a decision of the tax body on the suspension of transactions on the accounts of this person,

shall involve the exaction of a fine in the amount of 20,000 roubles.

**2.** Non-supply at the fixed time by a bank to a tax body of information about the opening or the closing of an account, about changing requisite elements of an account by an organisation or individual businessman, a notary engaged in private practice or a solicitor who has founded a solicitor's study,

shall involve the exaction of a fine in the amount of 40,000 roubles.

**Article 133.** Failure to Meet the Deadline for Executing an Order to Remit a Tax (Fee), Advance Payment, Penalty and Fine

Failure of a bank to meet the deadline established by this Code for executing the order of a taxpayer (fee payer) or a tax agent, local administration or a federal postal communication organisation to remit a tax (fee), advance payment, penalty or fine shall entail imposition of a fine in the amount of 1/150 of the **refinancing rate** of the Central Bank of the Russian Federation but at most 0.2 per cent for each calendar day of delay.

**Article 134.** Failure of a Bank to Comply with a Decision of a Tax Authority to Suspend the Accounts of a Taxpayer, Fee Payer or Tax Agent

Execution by a bank, which has a decision by a tax authority to suspend accounts of a taxpayer, fee payer or tax agent, of an order of the latter to remit funds unconnected to the execution of the duties of paying the tax (advance payment), fee, penalty or fine, or any other payment order, which, in accordance with the Russian Federation **legislation**, has higher priority than payments to the budget system of the Russian Federation.

shall entail a fine in the amount of twenty percent of the amount remitted in accordance with the order of taxpayer, fee-payer or tax agent, or the amount of liability, whichever is higher, or in the amount of 20 thousand roubles, if there is no indebtedness.

*According to **Ruling** of the Constitutional Court of the Russian Federation No. 257-O of December 6, 2001, the provisions of **Items 1 and 2 of Article 135** of the Tax Code of the Russian Federation, cannot be interpreted as creating the possibility of repeatedly holding the banks responsible for one and the same offence, that is, they cannot be simultaneously applied by the court. This, however, does not exclude the possibility of their application individually on the grounds of an assessment of the actual circumstances of the case*

**Article 135.** Non-fulfilment by a Bank of an Instruction of a Tax Authority on the Remittance of a Tax, Advance Payment, Fee, Penalty or Fine

**1.** The unlawful non-fulfilment by a bank of an instruction of a tax body on the remittance of a tax, advance payment, fee, penalty or fine within the period of time fixed by this Code,

shall involve the exaction of a fine at the rate of one hundred and fiftieth the **refinancing rate** of the Central Bank of the Russian Federation, but not more than 0.2 per cent for each calendar day of delay.

**2.** The commission by a bank of actions aimed at creating a situation of the absence of monetary funds on the account of a taxpayer, fee payer or tax agent, with regard to which the tax body has at the bank its letter,

shall involve the exaction of a fine in the amount of 30 per cent of the sum of money that

was received as a result of such actions.

**Article 135.1.** Non-Submission by a Bank to Tax Authorities of Statements (Abstracts) about Transactions and Accounts

Non-submission by a bank to a tax authority of statements on the presence of bank accounts and/or balances of monetary assets on accounts, of abstracts on transactions made on accounts in compliance with **Item 2 of Article 86** of this Code and/or failure to report on balances of monetary assets on the accounts where transactions are suspended in compliance with **Item 5 of Article 76** of this Code, as well as submission of statements (abstracts) without observing the deadline for it or statements (abstracts) containing unreliable data - shall entail the exaction of a fine in the amount of 20 thousand roubles.

**Article 135.2.** Breach by the Bank of the Duties Connected with Electronic Money Resources

**1.** Granting of the right to the organisation, the individual entrepreneur, the notary who is engaged in private practice, or the lawyer who founded the lawyer's office to use the corporate electronic instrument of payment for transfers of electronic money resources without presentation by such a person of the certificate (notice) of registration with the tax body and the granting of the aforementioned right as well as in case of the presence with the bank of the decision of the tax body about the suspension of transfers of electronic money resources of such a person

shall entail the exaction of a fine in the amount of 20 thousand roubles.

**2.** The failure by the bank to notify in the course of the prescribed term the tax body of the information on granting (termination) of the right of the organisation, the individual entrepreneur, the notary who is engaged in private practice, or the lawyer who founded the lawyer's office to use corporate electronic instruments of payment for transfers of electronic money resources, about change of payment details of the corporate electronic instrument of payment

shall entail the exaction of a fine in the amount of 40 thousand roubles.

**3.** The performance by the bank while in possession by it of the decision of the tax body on the suspension of transfers of electronic money resources of the tax bearer, the payer of charges or tax agent of its instruction on the transfer of the electronic money resources not connected with the discharge of duties on tax payment (advance payment), charges, the delinquency penalties, fines,

shall entail the exaction of a fine in the amount of 20 percent of the sum remitted according to the instruction of the tax bearer, the payer of charges or tax agent, but not in excess of the sum of the debts, and in case of the absence of debts in the amount of 20 thousand roubles.

**4.** Unlawful non-performance by the bank in the term established by this Code of the instruction of the tax body on the transfer of electronic money resources

shall entail the exaction of a fine in the amount of one hundred and fiftieth the **refinancing rate** of the Central Bank of the Russian Federation, but not more than 0.2 percent for each calendar day of the delay.

**5.** Commission by bank of actions on the creation of the situation of absence of the balance of electronic money resources of the tax bearer, the payer of charges or tax agent in relation to which there is with the bank the instruction of the tax body,

shall entail the exaction of a fine in the amount of 30 percent of the sum that was not received as a result of such actions.

**6.** The failure by the bank to submit the statements on the balances of electronic money resources and about transfers of electronic money resources to the tax body according to **Item**



**2 of Article 86** of the present Code and (or) the failure to notify about the balances of the electronic money resources the transfers of which are suspended according to **Item 5 of Article 76** of this Code as well as the presentation of statements with the violation of the established term or of the statements containing misleading information,  
shall entail the exaction of a fine in the amount of 10 thousand roubles.

**Article 136.** Procedure for Exaction of Fines and Penalty Interest from Banks

The fines stated in **Articles 132 - 135.2** shall be exacted in accordance with the procedure similar to the one provided by this Code for the exaction of sanctions for the tax offences.

## **Section 7. Appealing Acts of Tax Authorities and Actions or Inaction on the Part of Tax Officers**

### **Chapter 19. Procedure for Appealing Acts of Tax Authorities and Actions or Inaction on the Part of Tax Officers**

**Article 137.** Right to Appeal

Every person shall be entitled to appeal acts of tax authorities of a non-normative nature, as well as actions or inaction of tax officials, if this person believes that such acts, actions of inaction infringe upon his rights.

Normative legal acts [regulations] of tax authorities can be appealed in accordance with the procedure provided for by the federal legislation.

**Article 138.** Procedure for Appeals

**1.** Acts of tax authorities, actions or inaction of tax officials can be appealed against to a higher tax authority (higher tax official) or court.

Filing a complaint to a higher tax authority (higher tax official) shall not rule out the right to a simultaneous or subsequent filing of a similar complaint with a court, unless otherwise provided for by **Article 101.2** of this Code.

**2.** Judicial appeals against acts (including normative acts) of tax authorities, actions or inaction of tax officials by **organisations** and **individual entrepreneurs** shall be performed by means of filing a statement of claim with a court of arbitration in accordance with **federal laws on arbitral procedure**.

A participant in a consolidated group of taxpayers is entitled to dispute judicially the decision of a tax authority in respect of its calling to account for making a tax offence. A participant in a consolidated group of taxpayers that has applied to an arbitration court shall notify the other participants in this group about it, as well as about the judicial acts adopted in connection with it.

Judicial appeals against acts (including normative acts) of tax authorities, actions or inaction of tax officials made by **individuals** other than individual entrepreneurs shall be performed by means of filing a statement of claim with a court of general jurisdiction in accordance with the legislation on appealing against unlawful actions of government authorities and officials in court.

*According to **Ruling** of the Constitutional Court of the Russian Federation No. 22-O of February 20, 2002, the expenses on representation in an arbitration court and on the rendering of legal services must be included in the composition of the losses that are subject to*

*compensation to the Part in whose favour the decision is awarded*

**3.** In the event of appealing acts of tax authorities, actions of their officials with court on the application of a taxpayer (fee payer or tax agent), execution of appealed acts and making appealed actions may be suspended by court in the procedure established by the appropriate procedural legislation of the Russian Federation.

In the event of appealing acts of tax authorities or actions of their officials with a superior tax authority on the application of a taxpayer (fee payer or tax agent), the execution of appealed acts and making of appealed actions may be suspended by decision of a superior tax authority.

#### **Article 139.** Procedure and Deadline for Filing Appeals with Higher Tax Authorities or Higher Officials

*See **Regulations** on considering tax disputes in pre-trial orders, approved by **Order** of the Ministry of Taxation of the Russian Federation No. BG-1-14/290 of August 17, 2001*

**1.** An appeal against an act of a tax authority, actions or inaction of a tax officer shall be filed with the higher tax authority or a higher official of the same tax authority, respectively.

**2.** Unless otherwise provided for by this Code, an appeal to a higher tax authority (higher official) shall be filed within three months from the day when the person learned or ought to have learned of the violation of their interests. Documents supporting the complaint may be appended to this complaint.

In the case of failure to meet the deadline for appeal filing due to good reasons, the period allowed for appeal filing may be renewed at the request of the appellant by the head (deputy head) of the tax authority or by a superior tax authority.

An appeal against a decision of a tax authority on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence shall be filed prior to the **entry** into force of the appealed decision.

An appeal against an effective decision of a tax authority on calling to account for committing a tax offence or a decision on the refusal to call to account for committing a tax offence which has not been appealed in the appellate procedure shall be filed within one year as of the time of rendering the appealed decision.

**3.** An appeal shall be submitted in written form to the relevant tax authority or official, unless otherwise provided for by this Item.

An appeal against the appropriate decision of a tax authority shall be filed with the tax authority that has issued this decision which shall be obliged within three days as of the date of receiving the said appeal to send it together with all materials to a superior tax authority.

**4.** The person who has filed an appeal to the superior authority or the superior official can withdraw it by written request, unless a ruling concerning that appeal has already been rendered.

Withdrawal of an appeal shall deprive the appellant of the right to file a new appeal based on the same reasons with the same tax authority or the same superior official.

A new appeal can be filed with a higher tax authority or higher official within the time limits provided for by **Item 2** of this Article.

## **Chapter 20. Consideration of Appeals and Rendering Decisions**

### **Article 140.** Consideration of Appeals by Superior Tax Authorities or Superior Officials

*On the procedure for examining the taxpayers' complaints, see **Letter of the Ministry of Taxation of the Russian Federation No. VP-6-18/274 of April 5, 2001***

1. An appeal shall be considered by the higher tax authority (higher official).
2. Based on the results of consideration of an appeal against an act of a tax authority, the higher tax authority shall be entitled to:
  - 1) dismiss the appeal;
  - 2) cancel the act of the tax authority;
  - 3) cancel the ruling and dismiss the tax case;
  - 4) alter the decision or render a new decision.

Based on the results of consideration of an appeal against actions or inaction of tax officials, the higher tax authority or official shall be entitled to render a decision on the substance of the case.

On the basis of the results of considering an appeal against a decision a superior tax authority shall be entitled to do the following:

- 1) to leave the decision of a tax authority unchanged and to reject the appeal;
- 2) to reverse or change the decision of tax authority in full or in part and to render a new decision on the case;
- 3) to reverse the decision of a tax authority and to terminate proceedings on the case.

3. A decision in respect of an appeal shall be rendered by a tax authority (official) within one month as of the date of receiving it. The said time period may be extended by the head (deputy head) of a tax authority for the purpose of obtaining the documents (information) required for consideration of the appeal from lower tax authorities but by 15 days at most. The person that has filed an appeal shall be informed in writing about the rendered decision within three days as of the date of adopting it.

#### **Article 141.** Consequences of Appeal Filing

1. Filing an appeal with a superior tax authority or a superior official shall not suspend the execution of the act or the action appealed against, except in cases set forth in this Code.

2. If the tax authority or tax official considering an appeal have ample grounds to believe that the act or action appealed against are not consistent with the legislation of the Russian Federation, the said tax authority shall be entitled to suspend the act or action appealed against in full or in part. The decision to suspend execution of the act (action) shall be taken by the head of the tax authority that passed the actor by a higher tax authority. The person that has filed an appeal shall be informed about the adopted decision in writing within three days as from the date when it is adopted.

#### **Article 142.** Consideration of Appeals in Court

Appeals (statements of claim) against acts of tax control bodies, actions (inaction) of tax officials filed with a court shall be considered and resolved in accordance with the federal law of civil procedure, arbitral procedure and other federal laws.

President of the Russian Federation

B. Yeltsin

Moscow, the Kremlin

**Federal Law No. 166-FZ of December 29, 2000 amended Part Two of the Tax Code of the Russian Federation. The amendments shall enter into force from January 1, 2001**

**See the previous text of Part Two of Tax Code**

## Part Two

(with the Amendments and Additions of December 29, 2000, May 30, August 6, 7, 8, November 27, 29, December 28, 29, 31, 2001, May 29, July 24, 25, December 24, 27, 31, 2002, May 6, 22, 28, June 6, 23, 30, July 7, November 11, December 8, 23, 2003, April 5, June 29, 30, July 20, 28, 29, August 18, 20, 22, October 4, November 2, 29, December 28, 29, 30, 2004, May 18, June 3, 6, 18, 29, 30, July 1, 18, 21, 22, October 20, December 5, 6, 20, 31, 2005, January 10, February 28, March 13, June 3, 30, July 18, 26, 27, October 16, November 3, 10, December 4, 5, 18, 29, 30, 2006, March 23, May 16, 17, July 19, 24, October 30, November 4, 8, 29, December 1, 4, 6, 2007, April 30, June 26, 30, July 22, 23, October 13, November 24, 26, December 1, 4, 22, 25, 30, 2008, March 14, April 28, June 3, 26, July 17, 18, 19, 24, September 27, October 30, November 9, 23, 25, 28, December 17, 27, 2009, April 5, 30, May 8, 19, June 2, 17, July 5, 27, 30, September 28, November 3, 8, 15, 27, December 28, 2010, March 7, April 21, June 3, 4, 7, 21, July 1, 11, 18, 19, 20, 21, November 7, 16, 21, 28, 30, December 3, 6, 2011, March 30, 2012)

Adopted by the State Duma on July 19, 2000

Approved by the Federation Council on July 26, 2000

See *Federal Law No. 118-FZ of August 5, 2000 on Entry into Force of Part Two of the Tax Code of the Russian Federation and on Introduction of Amendments into Certain Russian Federation Legislative Acts on Taxes*

## Section VIII. Federal Taxes

### Chapter 21. Value-Added Tax

#### Article 143. Taxpayers

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 143 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

1. The following shall be recognised as taxpayers for the purposes of value-added tax (hereinafter referred to as "taxpayers"):

organisations;

individual entrepreneurs;

persons recognised as taxpayers of the value-added tax (further in this Chapter - tax) in connection with the movement of goods across the customs border of the Customs Union defined according to the customs legislation of the Customs Union and the customs legislation of the Russian Federation.

2. The following shall not be deemed taxpayers: the organisations that are foreign organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation or foreign market partners of the International Olympic Committee in compliance with **Article 3.1** of

the cited Federal Law, as well as branches and representative offices in the Russian Federation of the foreign organisations that are foreign market partners of the International Olympic Committee in compliance with Article 3.1 of the cited Federal Law, in respect of the operations made within the framework of the organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi.

Organisations that are official broadcasting companies in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation shall not be deemed taxpayers in respect of the operations involved in making and dissemination of mass media products (in particular, as regards official television and radio broadcasting, including via digital and other communication channels) which are effected under a contract made with the International Olympic Committee or an organisation authorised by it within the period, while the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi are held, fixed by **Part 2 of Article 2** of the cited Federal Law.

#### **Article 144. Abrogated**

#### **Article 145. Relief from Performing a Taxpayer's Duty**

1. Organisations and individual businessmen have the right to relief from performing taxpayer's duties relating to tax accrual and payment thereof (hereinafter referred to in this Article as the relief), if the sum of proceeds from the sale of goods (works, services) of such organisations or individual businessmen less the tax has not exceeded an aggregate of 2,000,000 roubles for the three preceding calendar months in a row.

2. The provisions of this Article shall not extend to organisations or individual businessmen selling **excisable goods** within three preceding calendar months, as well as to the organisations cited in **Article 145.1** of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 3 of Article 145 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

3. The relief in compliance with Item 1 of this Article shall not apply inasmuch as it concerns the duties arising in connection with the import to the territory of the Russian Federation and other territories under its jurisdiction of goods taxable under **Subitem 4 of Item 1 of Article 146** of this Code.

Persons contending to be relieved from taxpayer's duties shall file a relevant application in writing and the documents indicated in **Item 6** of this Article, which support their right to such a relief, with the tax body at the place where they are registered.

The said application and documents shall be filed on the 20th day of the month at the latest, beginning from which these persons contend for being relieved from a taxpayer's duties.

The **form** of an application for relief from taxpayer's duties shall be subject to endorsement by the Ministry of Finance of the Russian Federation.

4. The organisations and individual businessmen which have filed with the tax body an application for relief from taxpayer's duties (or for extending the term of relief) may not reject this relief prior to the expiry of 12 calendar months in a row, except for the cases when they forfeit the right to relief under **Item 5** of this Article.

Upon the expiry of 12 calendar months and on the 20th day of the next following month

at the latest, the organisations and individual businessmen which have been relieved from taxpayer's duties shall file with the tax bodies the following:

the documents confirming that within the said term of relief the sum of proceeds from the sale of goods (works, services) calculated in compliance with **Item 1** of this Article less the tax did not exceed 2,000,000 roubles as an aggregate for each three calendar month in a row;

an application for enjoying the right to extend the term of relief to the next 12 calendar months or for the refusal to enjoy such right.

**5.** If within the period in which organisations and individual businessmen were relieved from taxpayer's duties, proceeds from the sale of goods (works, services) less the tax for each three calendar month in a row exceeds 2,000,000 roubles or if a taxpayer has sold excisable goods, the taxpayers, as of the first day of the month when such excess took place or the excisable goods were sold, and to the end of the relief term, shall cease to enjoy the right to the relief.

*Federal Law No. 117-FZ of July 7, 2003 excluded excisable mineral raw materials from the list of taxation objects*

The sum of the tax for the month in which said limit was exceeded or excisable goods and (or) excisable raw materials were sold shall be recovered and paid to the budget in the established manner.

Should a taxpayer fail to submit the documents specified in **Item 4** of this Article (or should the taxpayer submit documents containing unreliable information), or if the tax bodies find that the taxpayer has not observed the limitations established by this Item and **Items 1** and **4** of this Article, the sum of tax shall be recovered and paid to the budget in the established manner, with a relevant tax sanction and penalty being collected from the taxpayer.

**6.** The documents confirming in compliance with **Items 3** and **4** of this Article the right to relief (to extension of the relief term) shall be as follows:

an extract from the balance sheet (to be submitted by organisations);

an extract from the sales book;

an extract from the book of receipts and expenditures and of economic operations (to be submitted by individual businessmen);

a copy of the register of received and issued invoices.

As regards organisations and individual businessmen that have switched from the simplified taxation system to the general tax regime, an extract from the **book** of receipts and expenditures of organisations and individual businessmen applying the simplified taxation system shall be deemed the document proving their right to relief.

As regards individual businessmen who have switched to the general taxation system from the taxation system for agricultural commodity producers (uniform agricultural tax), an extract from the **book** of receipts and expenditures of individual businessmen applying the taxation system for agricultural commodity producers (uniform agricultural tax) shall be deemed the document proving their right to relief.

**7.** In the cases provided for by Items 3 and 4 of this Article a taxpayer shall be entitled to send to the tax body the application and the documents by registered mail. In such case the sixth day as of the date of sending the registered letter shall be regarded as the date of their submission.

**8.** The amounts of the tax to be deducted by taxpayers in compliance with **Articles 171** and **172** of this Code prior to their enjoying the right to relief under this Article with regard to goods (works, services), including fixed assets and intangible assets acquired for the purpose of making operations which are regarded as units of taxation in compliance with this Article but

have not been used for the said operations, after sending by the taxpayers an application for enjoying the right of relief shall be recovered in the last tax period prior to sending an application for enjoying the right to relief by way of reducing tax deductions.

The amounts of the tax paid in respect of the goods (works, services) acquired by taxpayers who have lost the right to relief in compliance with this Article prior to the loss of the said right and used by the taxpayers after their loss of this right in operations regarded as units of taxation in compliance with this Article shall be deducted in the procedure established by **Articles 171** and **172** of this Code.

**Article 145.1.** Relief from Performing a Taxpayer's Duty of an Organisation That Has Obtained the Status of a Participant in the Project Involving Scientific Research Works, Development and Commercialization of Their Results

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 145.1 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**1.** An organisation that has obtained the status of a participant in the project involving scientific research works, development and commercialization of their results in compliance with the **Federal Law** on the Skolkovo Innovation Centre (hereinafter in this article referred to as a project participant) enjoys the right to be relieved from a taxpayer's duty connected with tax estimation and payment (hereinafter in this article referred to as the relief) for ten years as from the date of obtaining the status of a project participant in compliance with the cited Federal Law.

The relief provided for by this article shall not apply in respect of the duties arising in connection with import into the territory of the Russian Federation and other territories under its jurisdiction of commodities which are subject to taxation in compliance with **Subitem 4 of Item 1 of Article 146** of this Code.

**2.** A project participant shall forfeit the right to the relief if:  
the status of project participant has been lost, from the time when such status is lost;  
the aggregate amount of profit of a project participant, estimated in compliance with **Chapter 25** of this Code as progressive total starting from the first day of the year in which the annual amount of proceeds from the sale of commodities (works, services, property rights) of this project participant exceeded a billion roubles, is in excess of 300 million roubles, from the first day of the tax period in which the cited aggregate amount of profit was exceeded;

The tax amount for the tax period, in which the status of project participant was lost or the cited excess of the aggregate amount of profit took place, is subject to restoration and payment to the budget in the established procedure, with the appropriate amount of penalties to be recovered from the project participant.

**3.** A project participant is entitled to use the right to the relief as from the first day of the month following the month when the status of a project participant was obtained.

A project participant that has started to use the right to the relief must forward to the tax authority at the place of registration thereof a notification in writing and the documents cited in **Paragraph Two of Item 6** of this article at the latest on the 20th day of the month following the month starting from which the project participant started to use the right to the relief.

The form of the notification about the use of the right to the relief (about extension of duration of the right to the relief) shall be endorsed by the Ministry of Finance of the Russian Federation.

**4.** A project participant that has sent a notification of exercising the right to the relief (of extending the time period of relief) to a tax authority is entitled to reject the relief by sending an

appropriate notification to the tax authority at the place of registration thereof as a project participant at the latest on the first day of the tax period starting from which the project participant intends to reject the relief.

Such rejection shall be only possible with respect to all the operations made by a project participant.

The relief or its rejection depending on the purchaser (acquirer) of appropriate commodities (works, services) is not allowed.

The relief shall not be repeatedly granted to a project participant that has rejected it.

**5.** Upon the expiry of 12 calendar months, at the latest on the 20th day of the following month, a project participant that has enjoyed the right thereof to the relief shall file the following with the tax authorities:

the documents cited in **Item 6** of this article;

a notification of extension of the exercise of the right to the relief within the subsequent 12 calendar months or on the rejection of the relief.

If a project participant has not presented the documents cited in **Item 6** of this article or has presented documents containing unreliable data, as well as if the circumstances cited in **Item 2** of this article are present, the tax amount is subject to restoration and payment to the budget in the established procedure, with the appropriate amounts of penalties being recovered from the project participant.

**6.** As documents proving the right to the relief (to the extension of the time period of the relief) in compliance with **Items 3** and **5** of this article shall be deemed the following:

the documents proving the status of a project participant and provided for by the **Federal Law** on the Skolkovo Innovation Centre;

an extract from the **register of receipts and expenditures** or a profit and loss report of a project participant proving the annual amount of proceeds from the sale of commodities (works, services, property rights).

A project participant, starting from the year following the year in which the annual volume of proceeds from selling commodities (works, services, property rights) received by the project participant, exceeds a billion roubles must also present to the tax authority simultaneously with the documents cited in Paragraphs Two and Three of this item the estimate of the total amount of profit provided for by **Item 18 of Article 274** of this Code which is computed as progressive total starting from the first day of the year in which the annual volume of proceeds received by this project participant exceeded a billion roubles.

**7.** Where it is provided for by **Items 3** and **5** of this article, a project participant is entitled to forward the notification and documents to a tax authority by registered mail. In such case the date of their filing with the tax authority shall be deemed the sixth day after the date when the registered mail was sent.

**8.** The tax amounts deemed deductible by a project participant in compliance with **Articles 171** and **172** of this Code before exercising the right to the relief in compliance with this article, in respect of commodities (works, services), in particular in respect of the fixed assets and intangible assets acquired for the purpose of making operations, which are recognized as tax objects in compliance with this chapter and not used for the cited operations, after the project participant sends a tax authority notification of exercising the right to the relief, are subject to restoration in the last tax period before sending the tax authority a notice of exercising the right to the relief by way of reducing tax deductions.

The tax amounts paid in respect of the commodities (works, services) acquired by a project participant that has lost the right to the relief in compliance with this article, before the loss of the cited right and used by him after the loss of the cited right in making operations recognized as tax objects in compliance with this article, shall be deductible in the procedure



established by **Articles 171** and **172** of this Code.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 146 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall extend to the legal relations arising from January 1, 2002*

**See the previous text of the Article**

**Article 146.** The Object of Taxation

**1.** The following operations shall be defined as items of taxation:

**1)** sale of goods (works, services) on the territory of the Russian Federation, including the sale of subjects of a pledge and transfer of goods (results of performed works, rendered services) under a compensation agreement or a novation, as well as the transfer of property rights.

For the purposes of this Chapter, the transfer of title to goods, results of performed works, rendered services on gratuitous basis shall be redefined as sale of goods (works, services);

**2)** the transfer of goods (performance of works, provision of services) on the territory of the Russian Federation for own purposes in respect of which expenses are not accepted for offset (in particular, as depreciation deductions) when the tax on the profit of organisations is being calculated;

**3)** performance of construction and erection works for own consumption;

**4)** import of goods to the territory of the Russian Federation and other territories under its jurisdiction.

**2.** For the purposes of this Chapter, the following shall not be recognised as an object of taxation:

**1)** operations listed in **Item 3 of Article 39** of this Code;

**2)** transfer on a gratuitous basis of apartment houses, nursery schools, clubs, sanatoriums and other facilities of social and cultural housing purposes and also roads, electrical grids, substations, gas networks, water intake facilities and other similar objects to public authorities and bodies of local self-government (or by decision of said bodies to specialized organisations operating the aforesaid facilities as per their purpose);

**3)** transfer of property of the state and municipal enterprises redeemed by way of privatization;

**4)** performance of works (rendering of services) to bodies which are included in the system of public authorities and bodies of local self-government within the framework of execution of exceptional authority in a specific area of activities assigned to them, if the mandatory nature of executing said works (rendering of services) is stipulated by legislation of the Russian Federation, legislation of subjects of the Russian Federation, or laws of bodies of local self-government;

**4.1)** the performance of works (provision of services) by state institutions, and also budget-supported and autonomous institutions within the framework of a state (municipal) assignment which has a subsidy out of the relevant budget of the budget system of the Russian Federation as the source of its financing;

**4.2)** rendering the services involved in granting to transport vehicles the right of passage along public toll motor roads of federal importance (toll sections of such motor roads) which are

provided in compliance with an agreement of trust management of motor roads initiated by the Russian Federation, except for the services the payment for which remains at the disposal of the concessioner in compliance with a concession agreement;

**Federal Law** No. 245-FZ of July 19, 2011 reworded Subitem 5 of Item 2 of Article 146 of this Code. The new wording shall **enter into force** upon the expiry of a month after the date when the said Federal Law is officially published and at the earliest on the first day of the next **tax period** for value added tax

5) transfer on a gratuitous basis and rendering the services involved in transfer for gratuitous use of fixed assets to state power bodies and administrative bodies, to local authorities, as well as to state and municipal institutions, state and municipal unitary enterprises;

6) transactions in the sale of land plots or shares thereof.

7) the transfer of the property rights of the organisation to its successor or successors;

8) the transfer of funds or immovable property for the purpose of forming or replenishing the earmarked capital of a not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for Forming and Using the Earmarked Capital of Not-for-Profit Organisations;

8.1) the transfer of immovable property in the event of dissolution of the earmarked capital of a not-for-profit organisation, the cancellation of a donation or in another case when the return of such property that has been transferred for the purpose of replenishing the earmarked capital of the not-for-profit organisation is envisaged by a contract of donation and/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations. The norm of this subitem is applicable when such property is transferred by a not-for-profit organisation being the owner of a earmarked capital to a donor, his heirs (successors) or another not-for-profit organisation in accordance with **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations;

*The provisions of Subitem 9 of Item 2 of Article 146 of this Code shall **cover legal relations arising from January 1, 2008 and shall apply up to January 1, 2017***

9) operations for the sale of goods (works, services) and property rights which are made by approbation of the persons which are foreign organisers of the Olympic Games and Paralympic Games in compliance with Article 3 of the Federal Law on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climate Health Resort and on Amending Certain Legislative Acts of the Russian Federation by taxpayers which are Russian organisers of the Olympic Games and Paralympic Games in compliance with **Article 3** of the Federal Law on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climate Health Resort and on Amending Certain Legislative Acts of the Russian Federation, within the framework of discharging obligations under the agreement made by the International Olympic Committee with the Olympic Committee of Russia and the town of Sochi in respect of holding the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi;

10) rendering services involving the transfer for gratuitous use to non-profit organisations for exercising authorised activities thereof state property which is not assigned to state

enterprises and institutions and which forms part of the public treasury of the Russian Federation, treasury of a republic within the composition of the Russian Federation, treasury of a territory, region, city of federal importance, autonomous region and autonomous area, as well as municipal property which is not assigned to municipal enterprises and institutions and which forms part of the municipal treasury of a corresponding urban settlement, rural settlement or other municipal entity;

11) carrying out works (rendering services) within the framework of additional activities aimed at reducing tensions in the labour market of constituent entities of the Russian Federation which are exercised in compliance with decisions of the Government of the Russian Federation.

12) operations involved in the sale (transfer) in the territory of the Russian Federation of the state or municipal property which is not assigned to state enterprises and institutions and constitutes the public treasury of the Russian Federation, the treasury of a republic within the Russian Federation, the treasury of a territory, region, a city of federal importance, autonomous region or autonomous area, as well as of the municipal property which is not assigned to municipal enterprises and institutions and constitutes the municipal treasury of an appropriate urban and rural settlement or other municipal entity purchased in the procedure established by **Federal Law** No. 159-FZ of July 22, 2008 on the Details of Alienation of the Immovable Property Items in the State Ownership of Subjects of the Russian Federation or Municipal Ownership and Leased by Small and Medium Businesses and on Amending Certain Legislative Acts of the Russian Federation.

**Federal Law** No. 245-FZ of July 19, 2011 amended Article 147 of this Code. The amendments shall **enter into force** upon the expiry of a month after the date when the said Federal Law is officially published and at the earliest on the first day of the next **tax period** for value added tax

**Article 147.** The Place of Sale of Goods

For the purposes of this Chapter, the territory of the Russian Federation shall be recognised as the place of sale of goods if one or several of the circumstances given below exist:

the goods are located on the territory of the Russian Federation and other territories under jurisdiction thereof and are not shipped, and are not transported;

the goods at the time of beginning of the shipment or transportation are located on the territory of the Russian Federation and other territories under jurisdiction thereof.

Paragraph four is **excluded**.

**Article 148.** The Place of Execution of Works (Rendering Services)

**1.** For the purposes of this Chapter the territory of the Russian Federation shall be recognised as the place of sale of works (services) performed if:

1) works (services) are connected directly to real estate (except for aircraft, sea ships and internal navigation ships and also spacecraft) located on the territory of the Russian Federation. Such works (services), in particular, shall include civil engineering, assembly, construction and erection, repair, restoration works, the planting of trees and shrubs, lease services;

2) the works (services) are associated with movable property, with aircraft, sea-going and inland ships on the territory of the Russian Federation. Such works (services) include, in particular, assembly, erection, processing, thorough revision, repair and technical maintenance;

3) services actually performed on the territory of the Russian Federation in the area of culture, arts, education (instruction), physical culture, tourism, recreation and sports;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 4 of Item 1 of Article 148 of this Code. The amendments shall **enter into force** upon the expiry of a month after the date when the said Federal Law is officially published and at the earliest on the first day of the next **tax period** for value added tax

**4)** a buyer of works (services) operates on the territory of the Russian Federation.

The place of activity of the buyer shall be considered the territory of the Russian Federation if the buyer of works (services) specified in these Subitems is actually located on the territory of the Russian Federation on the basis of state registration of an organisation or individual entrepreneur, and if such is not available - on the basis of the place indicated in constituent instruments of the organisation, the place of management of the organisation, seat of its permanent executive board, location of its permanent representation (if the services are rendered through this permanent representation), place of residence of the natural person. The provision of this Subitem shall apply to:

the transfer, granting of patents, licences, trademarks, copyrights or other similar rights;

the rendering of services (carrying out of works) for working out programmes for personal computers and databases (softwares and information products of computer technology), their adaptation and modification;

rendering consulting, legal, accounting, auditing, engineering, advertising, marketing, education services, services in the processing of information, and also in the performance of research and development works. Engineering services shall include engineering and consulting services in the development of a production process and sale of products (works, services), preparation of civil engineering and operation of facilities in industry, infrastructure, agricultural and other objects, predesign and design services (drafting of feasibility studies, the design engineering and other similar services). Services in the processing of information shall include services in the collection, generalization and systematization of information files and furnishing the user with results of this information processing;

leasing of personnel if the personnel works at the place of business activity of the buyer;

letting out movable property, except for ground motor vehicles;

rendering services of an agent who on behalf of the principal participant of the contract would hire a person (organisation or natural person) to render services stipulated by this Subitem;

**abrogated.**

Transfer of emission reduction units (of the rights to emission reduction units) received within the framework of implementation of projects aimed at the reduction of anthropogenic emissions or at an increase of absorption by green house gases' absorbers in compliance with **Article 6** of the Kyoto Protocol to the UN Framework Convention on Climate Change;

4.1) the services directly involved in carriage and/or transportation, as well as the services (works) which are directly connected with carriage and/or transportation (except for the services (works) directly connected with carriage and/or transportation of goods moved under the customs treatment of customs transit when carrying goods from the place of their arrival at the territory of the Russian Federation to the place of their departure from the territory of the Russian Federation and the services cited in **Subitem 4.3** of this item) shall be rendered (carried out) by Russian organizations or individual businessmen, if the point of departure and/or the point of destination are located in the territory of the Russian Federation or by foreign persons which are not registered with tax authorities as taxpayers, if the point of departure and the point of destination are located in the territory of the Russian Federation (except for the services involved in passenger and baggage carriage which are not rendered by a foreign person through a permanent representative office of this foreign person).

The territory of the Russian Federation shall be also recognised as a place of the realisation of services, if transport vehicles are provided under freight contract that presupposes the carriage (transportation) on these transport vehicles by Russian organisations and individual businessmen and the point of departure and/or the point of destination are to be found on the territory of the Russian Federation. In this case aircraft, sea-going and inland ships used for the carriage of goods and/or passengers by the water (sea and river) and the air transport shall be recognised as transport vehicles;

4.2) the works (services) directly involved in carriage and transportation of goods placed under the customs treatment of customs transit (except for the services cited in **Subitem 4.3** of this item) when carrying goods from the place of their arrival at the territory of the Russian Federation to the place of their departure from the territory of the Russian Federation shall be rendered (carried out) by organizations or individual businessmen for which the territory of the Russian Federation is recognized as the place where they exercise their activities;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 1 of Article 148 of this Code with Subitem 4.3. The Subitem shall **enter into force** upon the expiry of a month after the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for the value added tax and shall **extend** to the legal relations arising from January 1, 2011

4.3) the services involved in arranging natural gas transportation by pipeline transport over the territory of the Russian Federation shall be rendered by Russian organisations;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 5 of Item 1 of Article 148 of this Code. The amendments shall **enter into force** upon the expiry of a month after the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax and shall **extend** to the legal relations arising from January 1, 2011

5) activity of organisations or individual entrepreneurs that perform works (render services) shall be performed on the territory of the Russian Federation (as regards the performance of types of works (rendering of types of services) not stipulated by **Subitems 1 - 4.1, 4.3** of this Item.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 1.1 of Article 148 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for value added tax

**1.1.** Unless otherwise provided for by Item 2.1 of this article, for the purposes of this Chapter the territory of the Russian Federation shall not be recognised as a place for the realisation of works (services), if:

1) the works (services) are associated directly with real estate (except for aircraft, sea-going and inland ships, and also space vehicles) located outside the Russian Federation. Such works (services) include, in particular, building, assembly, erection and assembly, repair, restoration, landscape and shade gardening works, and lease services;

2) works (services) are connected directly with movable property located outside the Russian Federation, and also with aircraft, sea-going and inland water ships located outside the Russian Federation. Such works (services) include, in particular, assembly, erection, processing, through revision, repair and technical maintenance;

3) services are rendered in fact outside the Russian Federation in the sphere of culture, art, education (instruction), physical culture, tourism, rest and sport;

4) the buyer of works (services) does not carry on the activity on the territory of the Russian Federation. The provision of this subitem shall apply during the performance of those works and services which are listed in **Subitem 4 in Item 1** of this Article:

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 5 of Item 1.1 of Article 148 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for the value added tax and shall **extend** to the legal relations arising from January 1, 2011

5) The services of carriage (transportation) and the services (works) directly connected with carriage, transportation, freightage are not listed in **Subitems 4.1 - 4.3 of Item 1** of Item 1 of this Article.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 2 of Article 148 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for the value added tax

**2.** The territory of the Russian Federation shall be considered the place of activity of an organisation or individual entrepreneur performing various types of work or rendering various types of service not stipulated by **Subitems 1 - 4.1 of Item 1** of this Article if this organisation or individual entrepreneur is actually present on the territory of the Russian Federation on the basis of state registration, and if such is not available - on the basis of the place stated in constituent documents of the organisation, place of management of the organisation, seat of the organisation's permanent executive board, location of its permanent representation in the Russian Federation (if the works were performed (the services were rendered) through this permanent representation) or place of residence of the natural person.

For the purposes of this Chapter, as the place of the activity performed by the organisation or individual entrepreneur which let use aircraft, sea ships or inland navigation vessels under lease contracts (time chartering) with a crew shall not be recognised the territory of the Russian Federation, if the cited vessels are used outside the territory of the Russian Federation for taking (catching) aquatic biological resources and/or for scientific research purposes or for carriage between points situated outside the territory of the Russian Federation.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 148 of this Code with Item 2.1. The Item shall **enter into force** upon the expiry of a month after the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for value added tax

**2.1.** For the purposes of this chapter, as the place of exercising works (services) shall be recognized the territory of the Russian Federation, if the works are carried out and the services are rendered for the purpose of geological survey, exploration and extraction of hydrocarbon materials on the subsoil plots located in full or in part on the continental shelf and/or in the exclusive economic zone of the Russian Federation. The provisions of this item shall extend to the following kinds of works (services):

1) the works (services) carried out (rendered) on the continental shelf plots and/or in the exclusive economic zone of the Russian Federation involved in the creation, making fit for use (operation), maintenance, repair, reconstruction, modernization, technical re-equipment (other kinds of works of capital nature) of artificial islands, installations and structures, as well as other property located on the continental shelf and/or in the exclusive economic zone of the Russian Federation;

2) the works (services) involved in the extraction of hydrocarbon materials;

3) the words (services) involved in preparation (primary treatment) of hydrocarbon materials;

4) the words "services) involved in carriage and/or transportation of hydrocarbon materials from the points of departure located on the continental shelf of the Russian Federation and/or in the exclusive economic zone of the Russian Federation, as well as the works (services) directly involved in such carriage and/or transportation carried out (rendered) by Russian and/or foreign organizations.

**Federal Law** No. 245-FZ of July 19, 2011 reworded Item 3 of Article 148 of this Code. The new wording shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for value added tax

**3.** Where an organisation or individual businessman are engaged in carrying out (rendering) several kinds of works (services) and where realisation of some kinds of works (services) is of auxiliary nature with respect to realisation of other works (services), as the place of realization of auxiliary works (services) shall be recognized the place of realisation of principal kinds of works (services).

**4.** Documents confirming the place of performance of works (of rendering of services) are:

- 1) a contract with foreign or Russian persons;
- 2) documents confirming the fact of performance of works (of rendering of services).

#### **Article 149.** Operations Which Are Not Taxable (Exempted from Taxation)

**1.** Not subject to taxation (exempt from taxation) letting out premises by a lessor on the territory of the Russian Federation to foreign subjects or to organisations accredited in the Russian Federation.

The provisions of Paragraph One of this Item shall apply when the law of a corresponding foreign state establishes a similar procedure concerning citizens of the Russian Federation and Russian organisations accredited in this foreign state, or if such a standard is stipulated by an international treaty (agreement) of the Russian Federation. The **list** of foreign states in relation to whose citizens and (or) whose organisations are applied the norms of this Item shall be defined by the federal body of executive authorities in the area of international relations jointly with the Ministry of Finance of the Russian Federation.

**2.** Not subject to taxation (tax exempt) shall be the sale (and also transfer, performance, rendering for own needs) on the territory of the Russian Federation of:

- 1) the following domestic and foreign-made medical goods as per under the list approved by the Government of the Russian Federation:  
major and vitally essential medical equipment;

*See the **List** of Major and Vitally Necessary Medical Equipment, the Sale of Which Is Not Liable to the Value-added Tax on the Territory of the Russian Federation approved by **Decision** of the Government of the Russian Federation No. 19 of January 17, 2002*

**artificial limbs and orthopedic articles**, raw materials for their manufacture and semi-finished articles for the above;

**technical facilities**, including motor vehicles, materials which can be used only for disability prevention or rehabilitation of invalids;

*See the **List** of Technical Appliances Used Exclusively for the Prophylaxis of Disability or for*

*the Rehabilitation of Invalids, Whose Realization Shall Not Be Subject to Imposition with the Value-Added Tax, approved by **Decision** of the Government of the Russian Federation No. 998 of December 21, 2000*

glasses (except for sun glasses), lenses and rims for glasses (except sunglasses);

*See the **List** of Lenses and Frames for Spectacles (Except Sun Glasses) Whose Realisation Shall Not Be Subject to Imposition with Value-Added Tax approved by **Decision** of the Government of the Russian Federation No. 240 of March 28, 2001*

**2)** medical services rendered by medical organisations and/or institutions, physicians engaged in private medical practice except for beauty treatment, veterinary and sanitary-and-epidemiological services. Limitations established by this Subitem shall not apply to veterinary and sanitary-and-epidemiological services funded from the budget. For the purposes of this Chapter, the following shall be referred to as medical services:

services defined by the list of services granted under obligatory medical insurance;

services rendered to the population in diagnostics, prevention and treatment irrespective of forms and sources of payment for such under the **list** approved by the Government of the Russian Federation;

services in the collection of blood from the population which are rendered under agreements with stationary medical establishments and by out-patient departments;

first aid services rendered to the population;

services in the duty of medical staff at a patient's bed;

pathology-anatomic services;

services rendered to pregnant women, infants, disabled persons and drug addicts under treatment;

**3)** the services of providing care to sick, disabled and old-age persons whose need for care is confirmed by relevant statements of public-health organisations, social-protection bodies and/or federal medical and social protection institutions;

**4)** the services of providing support to children in the educational organisations implementing a basic pre-school general-education curriculum, the services of holding classes attended by minor children in circles, sections (including sporting ones) and art groups;

**5)** the foodstuffs directly produced by the catering facilities of educational and medical organisations and sold by them in said organisations and also the foodstuffs directly produced by public catering organisations and sold by them to said catering facilities or organisations;

**6)** services in conservation, acquisition and use of archives rendered by archive establishments and organisations;

**7)** services in the carriage of passengers:

by urban public passenger transport (except for taxis, as well as mini-buses). For the purposes of this Article, services in the carriage of passengers by urban public passenger transport shall include services in the carriage of passengers under uniform conditions of carriage of passengers, including at single travel tariffs established by bodies of local self-government which grant all privileges for travel approved in due order;

seagoing, river, railway or motor transport (except for taxis, as well as mini-buses) in suburban transport, provided passengers are carried at single tariffs and all travel privileges are granted as approved in due order;

**8)** undertaker's services, works (services) in the manufacture of gravestone monuments



and registration of graves, and also sale of funeral accessories (according to a **list** endorsed by the government of the Russian Federation);

**9)** postage stamps (except for collectable stamps), marked cards and marked envelopes, lottery tickets of lotteries conducted by decisions of the authorised body;

**10)** services in the provision of living quarters in the housing stock of all forms of ownership;

11) coins made of precious metals which are a legal cash payment instrument of the Russian Federation or of a foreign state (a group of states);

12) shares in the authorised (pooled) capital of organisations, shares in unit funds of co-operatives and unit investment funds, securities and financial instruments of time transactions, except for the base asset of financial instruments of time transactions which is subject to value-added tax.

For the purposes of this Chapter, as the sale of the financial instrument of a time transaction shall be deemed the sale of its base asset, as well as payment of the sums of premiums under a contract, of the sums of variation margin, other periodical or one-time payments by the parties to the financial instrument of the time transaction which are not considered as payment for the base asset in compliance with the terms of the financial instrument of the time transaction.

Financial instruments of time transactions, as well as the base asset thereof, shall be defined in compliance with **Item 1 of Article 301** of this Code;

12.1) depository services rendered by a custodian of assets of the International Monetary Fund, the International Bank for Reconstruction and Development and the International Development Association within the framework of articles of the Agreement of the **International Monetary Fund**, the International Bank for Reconstruction and Development and the International Development Association;

**13)** services rendered without collection of an extra charge to repair and maintain goods and household devices, including medical goods during their warranty period, including the cost of spare parts and details for such;

14) the services in the area of education provided by not-for-profit educational organisations in terms of implementing general-education and/or vocational curricula (basic and/or supplementary), the vocational training curricula specified in a licence or upbringing process and also the supplementary educational services corresponding to the level and orientation of the curricula specified in a licence, except for consulting services and premises leasing services.

The sale by not-for-profit educational organisations of goods (works and services) both of their own manufacture (produced by educational enterprises, for instance education and production workshops, within the framework of basic and supplementary training processes) and purchased from outside is subject to taxation, irrespective of the income from such sale being provided to the given educational organisation or towards direct needs for the promotion of development and the improvement of the teaching process, except as otherwise envisaged by this Code;

14.1) the services of providing social services to minor children; the services of supporting and providing social services to senior citizens, disabled persons, neglected children and the other persons in a difficult life situation who are deemed as such according to the legislation of the Russian Federation on the provision of social services and/or the legislation of

the Russian Federation on the prevention of the neglect of minors and delinquency;

the services of detecting minors in need of the establishment of guardianship or tutelage over them, including an inspection of the living conditions of such minor citizens and the families thereof;

the services of detecting adult citizens lacking capacity or having limited capacity who are in need for the establishment of guardianship or tutelage over them, including an inspection of the living conditions of such citizens and the families thereof;

the services of selecting and training the citizens who have expressed their intent to become guardians or tutors of minor citizens or accept children left without parental care in a foster family in the other forms established by the **family legislation** of the Russian Federation;

the services of selecting and training the citizens who have expressed their intent to become guardians or tutors of adult citizens lacking capacity or having limited capacity;

the services to the public in terms of organising and holding physical-education, physical-education and health-rehabilitation and sporting events;

the services of vocational training, re-training and qualification upgrading provided on a letter of referral of employment service bodies;

**Federal Law** No. 245-FZ of July 19, 2011 reworded Subitem 15 of Item 2 of Article 149 of this Code. The new wording shall **enter into force** on January 1, 2012

15) the works (services) involved in conservation of a cultural heritage unit (historical and cultural monument) of peoples of the Russian Federation included into the comprehensive state register of cultural heritage units (historical and cultural monuments) of peoples of the Russian Federation (hereinafter referred to in this chapter as cultural heritage units), or of a detected cultural heritage unit effected in compliance with the requirements of Federal Law No. 73 of June 25, 2002 on Cultural Heritage Units (Historical and Cultural Monuments) of Peoples of the Russian Federation, of religious buildings and structures used by religious organizations, these including conservation, anti-damage, repair and restoration works, as well as those involved in making a cultural heritage unit or a detected cultural heritage unit fit for present-day use, recovery archeological field works, including scientific research, survey, design and production works, scientific guidance of the works involved conservation of a cultural heritage unit or of a detected cultural heritage unit, technical and author's supervision over carrying out of these works at cultural heritage units and detected cultural heritage units.

The realization of the works (services) cited in this subitem is not subject to taxation (is exempted from taxation), if the following documents are filed with tax authorities:

a reference note proving that a unit pertains to the cultural heritage units included in the comprehensive state register of cultural heritage units (historical and cultural monuments) of peoples of the Russian Federation or a reference note proving that a unit pertains to detected cultural heritage units issued by the federal executive power body authorized by the Government of the Russian Federation as to conservation, use, popularization and state protection of cultural heritage units or by the state power body of a constituent entity of the Russian Federation authorized as to conservation, use, popularization and state protection of cultural heritage units in compliance with Federal Law No. 73 of June 25, 2002 on Cultural Heritage Units (Historical and Cultural Monuments) of Peoples of the Russian Federation";

a copy of the agreement on carrying out the works cited in this subitem;

16) works performed during the sale of target-oriented socio-economic programs (projects) of housing construction for servicemen within the framework of implementation of aforesaid programs, including:

works in the construction of social, cultural purpose or amenities and the associated infrastructure;

works in the creation, construction and maintenance of centers for professional retraining

of servicemen, persons discharged from military service and members of their families.

Operations listed in this Subitem are not subject to taxation (are exempted from taxation), provided these works are financed solely and directly to the charge of loans or credits granted by international organisations and/or governments of foreign states, foreign organisations or natural persons pursuant to inter-governmental or interstate agreements, a party to which is the Russian Federation, and also agreements signed by authorised bodies of state administration on instruction of the Government of the Russian Federation;

17) services rendered by bodies authorised thereto, for which a state duty is collected, all kinds of licence, registration and patent fees and charges, customs fees for storage and also tolls and duties collected by state bodies, bodies of local self-government, by other authorised bodies and officials when granting certain rights to organisations and natural persons (including payments to the budgets for the right to use natural resources);

17.1) services involved in accreditation of operators of the technical inspection to be rendered in compliance with the **legislation** in respect of the technical inspection of transport vehicles by the professional association of insurers established in compliance with **Federal Law** No. 40-FZ of April 25, 2002 on Obligatory Insurance of Civil Liability of Transport Vehicles' Owners and for which payment for accreditation shall be collected;

17.2) services involved in the conduct of the technical inspection to be rendered by technical inspection operators in compliance with the **legislation** on the technical inspection of transport vehicles;

18) goods placed under the customs procedure of duty free shop;

19) goods (works, services) except for excisable goods sold (performed, rendered) within the framework of rendering gratuitous help (assistance) to the Russian Federation according to the **Federal Law** on Gratuitous Help (Assistance) to the Russian Federation and Addenda and Amendments to Certain Laws of the Russian Federation on Taxes and on the Establishment of Privileges under the Payments to State Extra-Budgetary Funds in Connection with the Granting of Gratuitous Help (Assistance) to the Russian Federation.

Sale of goods (works, services) listed in this Subitem shall not be taxable (exempted from taxation) upon submission to the tax authorities of the following documents:

the contract (a copy of the contract) of the taxpayer with the donor (the organisation authorised by the donor) on gratuitous aid (assistance) or with the recipient of gratuitous aid (assistance) in the supply of goods (the performance of works or the rendering of services) within the framework of rendering gratuitous aid (assistance) to the Russian Federation. If a federal executive body of the Russian Federation is a recipient of gratuitous aid (assistance), the contract (a copy of the contract) with the organisation authorised by this federal executive body shall be submitted to the respective tax body;

certificate (notarized copies of the certificate) issued in due order and confirming that the delivered goods (performed works, rendered services) are classed as humanitarian or technical help (assistance);

**Abrogated** from January 1, 2010;

20) the services provided by the organisations pursuing their activities in the area of culture and the arts, which are as follows:

the services of offering for hire audio and video media from the stocks of organisations pursuing their activities in the area of culture and the arts, audio equipment, musical instruments, stage technical facilities, costumes, footwear, stage properties, props, wigmaker's accessories, cultural implements, animals, exhibits and books; the services of making copies for educational purposes and teaching aids, photocopying, reproduction, copying, micro-copying

from printed matter, museum exhibits and documents from the stocks of organisations pursuing activities in the area of culture and the arts; the services of the audio recording of theatre-show, culture-enlightenment and entertainment events, of making copies of audio records from the audio libraries of organisations pursuing activities in the area of culture and the arts; the services of delivering to readers and from readers printed matter from the stocks of libraries; the services of preparing lists, statements and directories of the exhibits, materials and other items and collections constituting a stock of organisations pursuing activities in the area of culture and the arts; the services of offering for lease show and concert venues to other organisations pursuing activities in the area of culture and the arts; the services of distributing tickets specified in Paragraph 3 of this subitem;

the sale of entry tickets and season tickets for attending theatre-show, culture-enlightenment and entertainment events, amusement-park facilities in zoological gardens and culture and recreation parks, excursion tickets and excursion vouchers whose design has been endorsed in the established procedure as a strict-accountability form;

the sale of the programmes of performances and concerts, catalogues and booklets.

For the purposes of this subitem the following are deemed organisations pursuing activities in the area of culture and the arts: theatres, cinemas, concert organisations and groups, theatre and concert box-offices, circuses, libraries, museums, exhibitions, houses and palaces of culture, clubs, houses (for instance, houses of cinema, writers and composers), planetariums, culture and recreation parks, auditoria and people's universities, excursion bureaus (except for tourist excursion bureaus), reserves, botanical gardens and zoological gardens, national parks, nature parks and landscape parks;

**21)** works (services) in the production of cine-products performed (rendered) by organisations of cinematography, of rights to use (including hire and show) cine-products which have received the national film certificate;

**22)** services rendered directly at airports of the Russian Federation and in the air space of the Russian Federation in the service of aircraft, including aero-navigation services;

23) works (services including repair ones) involved in the service of seagoing and inland watercraft, as well as of mixed navigation (river-sea) vessels within mooring periods (all kinds of harbor fees, services of port craft), pilotage, as well as the services involved in vessels' qualification and survey;

24) services of pharmaceutical institutions with regard to production of medicines, as well as to manufacture and repair of spectacle lenses (except for sunglasses), to repair of hearing aids and the prosthetic-and-orthopedic articles enumerated in **Subitem 1 of Item 2** of this Article, services related to prosthetic-and-orthopedic assistance;

25) ferrous and non-ferrous metal scrap;

26) exclusive rights to inventions, utility models, industrial designs, computer programs, data bases, topologies of integrated microcircuits, know-how, and also rights to the use of the indicated results of intellectual activity under a licence agreement.

27) the commodities (works, services) and property rights by taxpayers which are Russian market partners of the International Olympic Committee in compliance **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, except for the branches and representative

offices in the Russian Federation of organisations which are foreign market partners of the International Olympic Committee in compliance with Article 3.1 of the cited Federal Law, in connection with discharge by these organisations of the obligations of a market partner of the International Olympic Committee within the framework of organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi.

**3.** The following operations shall not be subject to taxation (tax exempt) on the territory of the Russian Federation:

1) sale (transfer for own needs) of religious use objects and religious literature (according to the **list** approved by the Government of the Russian Federation upon submission by religious organisations (associations), manufactured by religious organisations (associations) and organisations whose only founders (participants) are religious organisations (associations) and realised by the given or other religious organisations (associations) and by organisations whose only founders (participants) are religious organisations (associations), within the framework of religious activities, apart from excisable goods and mineral raw materials ones and also the organisation and holding by aforesaid organisations of religious rites, ceremonies, prayer assemblies or other cult activities;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 2 of Item 3 of Article 149 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

2) sale (in particular, transfer, performance, provision for own needs) of goods (except for excisable, mineral raw materials and mineral resources, and also other goods according to the **list** approved by the Government of the Russian Federation upon submission by All-Russian public organisations of disabled persons, works, services (except for broker and other intermediary services), effected and sold by:

public organisations of invalids (including those created as unions of public organisations of invalids) at least 80 per cent of whose membership are invalids and their legal representatives;

organisations whose entire authorised capital consists of contributions of public organisations of invalids specified in paragraph two of this Subitem if the average active number of invalids among their workers constitutes no less than 50 per cent, and their share in the fund of wages - no less than 25 per cent;

establishments, whose asset's are owned solely by public organisations of invalids specified in paragraph two of this Subitem and created to achieve educational, cultural, treatment-and-health improvement, physical culture and sports, scientific, information related and other social purposes, and also to render legal and other help to disabled, disabled children and their parents;

state unitary enterprises attached to anti-tuberculosis, psychiatric and psycho-neurological establishments, establishments for social protection or social rehabilitation of the population, by treatment-and production (labour) workshops of such institutions and also by treatment-and-production (labour) workshops of treatment correctional institutions of the criminal-execute system;

state and municipal unitary enterprises if the number of disabled persons on their payroll is at least 50 per cent and their share in the wages fund is at least 25 per cent;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 3 of Item 3 of Article 149 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is officially published and shall **extend** to legal relations arising from June 8, 2007

3) the accomplishment of banking transactions by banks (save cash collection), in particular:

raising organisations' and individuals' funds as deposits;

placing borrowed funds of organisations and individuals in the name of banks and on the account of the banks;

the opening and keeping bank accounts of organisations and natural persons, including bank accounts, used to make settlements with bank cards, and also operations connected with the service of bank cards;

effecting settlements on the instructions of organisations and individuals, in particular, correspondent banks, on their bank accounts;

providing cash services to organisations and individuals;

purchasing/selling foreign currency in cash and in cashless form (in particular, providing mediation services relating to transactions of the purchase/sale of foreign currency);

accomplishing transactions in precious metals and precious stones under the legislation of the Russian Federation;

in the fulfilment of bank guarantees (the issue and cancellation of a bank guarantee, the confirmation and change of the conditions of the said guarantee, the payment under such guarantee, the execution of documents under this guarantee), and also the completion by banks and by a bank for development which is a state corporation of the following operations:

issuing a surety for a third person as providing for performance of obligations in pecuniary form;

providing services relating to the installation and operation of a "client-bank" system, in particular, providing software and personnel training for the said system;

receipt from borrowers of amounts on account of a compensation of insurance premiums (insurance contributions) paid by a bank under agreements of insurance in case of death or onset of disability of said borrowers, in which the bank is the insurer or beneficiary;

3.1) services connected with the service of bank cards;

4) operations performed by organisations that provide information and technological interaction between participants in settlements, including rendering of services in the collection, processing and provision to participants in the settlements of information on bank card operations;

5) performance of certain banking operations by organisations which, according to the legislation of the Russian Federation have the right to perform such without a licence of the Central Bank of the Russian Federation;

6) sale of articles of folk art crafts of recognised artistic value (except for excisable goods) whose samples have been registered in the **order** established by the federal executive body authorised by the Government of the Russian Federation;

7) rendering of services in insurance, co-insurance and re-insurance by insurance organisations, and also rendering of services on non-state pension insurance by non-state pension funds.

For the purposes of this Article, those operations shall be recognised as operations in insurance, co-insurance and reinsurance as a result of which the insurance organisation receives:

insurance (remuneration) payments under insurance, co-insurance and reinsurance contracts, including insurance premium payments, and paid reinsurance commission (including a bonus);

interest charged on deposit of the premium under reinsurance contracts and transferred

by the reinsured to the reinsurer;

insurance premiums received by the authorised insurance organisation which has duly concluded a coinsurance contract for and on behalf of the insurers;

the funds received by the insurer under as subrogation from a person responsible for damage caused to the insured at the rate of insurance indemnity paid to the insured;

the funds received by the insurer under the agreement concluded in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil responsibility of owners of transport vehicles on direct compensation for losses from the insurer that insured the civil responsibility of the person that caused the harm;

target assets received by insurance medical organisations participating in compulsory medical insurance from a regional compulsory medical insurance fund in compliance with an agreement of financial support to compulsory medical insurance;

assets received by insurance medical organisations participating in compulsory medical insurance from a regional compulsory medical insurance fund and intended for covering the outlays on carrying out compulsory medical insurance in compliance with an agreement on financial support to compulsory medical insurance (within the limits of the normative established by the **legislation** of the Russian Federation on compulsory medical insurance);

assets received by insurance medical organisations participating in compulsory medical insurance from a regional compulsory medical insurance fund that constitute the remuneration for taking the actions provided for by an agreement of financial support to compulsory medical insurance;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 3 of Article 149 of this Code with Subitem 7.1. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

7.1) rendering the services involved in insurance, co-insurance and re-insurance of export credits and investments against business and/or political risks;

8) the organisation of totalisators and other games based on risk (including those with the use of slot-machines) by organisations or individual businessmen of gambling business;

8.1) the holding of lotteries by decision of the authorised body of the executive power, including the rendering of the services of selling lottery tickets;

9) the realization of ore, ore concentrates and other industrial products containing noble metals, of the scrap and wastes of noble metals for the production of noble metals and for refining; the realization of noble metals and precious stones by taxpayers (with the exception of those indicated in **Subitem 6 of Item 1 of Article 164** of this Code) to the State Fund of Noble Metals and Precious Stones of the Russian Federation, to the funds of noble metals and precious stones of the subjects of the Russian Federation, to the Central Bank of the Russian Federation and to banks; the realization of precious stones as raw materials (with the exception of uncut diamonds) for processing to enterprises, regardless of the forms of ownership, for subsequent sale for export; the realization of precious stones as raw materials and as cut to specialized foreign economic organisations, to the State Fund of Noble Metals and Precious Stones of the Russian Federation, to the funds of noble metals and precious stones of the subjects of the Russian Federation, to the Central Bank of the Russian Federation and to banks; the realization of noble metals from the State Fund of Noble Metals and Precious Stones of the Russian Federation and from the funds of noble metals and precious stones of the subjects of the Russian Federation to specialized foreign economic organisations, to the Central Bank of the Russian Federation and to banks, as well as the sale of precious metals in bars by the Central Bank of the Russian Federation and by banks to the Central Bank of the Russian Federation and to banks, including under agency contracts, contracts of commission or

brokerage contracts made with the Central Bank of the Russian Federation or banks, regardless of whether these bars are placed in the vault of the Central Bank of the Russian Federation or banks' vaults, as well as to other persons on condition that these bars are kept in one of the vaults (the State Vault of Valuables, the vault of the Central Bank of the Russian Federation or banks' vaults);

10) sale of raw diamonds to processing enterprises of all forms of ownership;

11) intrasystem sale (transfers, performance, rendering for own needs) of goods produced (performed works, rendered services) by organisations and establishments of the penitentiary system;

12) transfer of goods (execution of works, rendering of services) and assignment of property rights free of charge within the framework of charities according to the **Federal Law** on Charities and Charitable Organisations, except for excisable goods;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 13 of Item 3 of Article 149 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

13) sale of entrance tickets whose form is approved in the established manner as a strict accountability form, by organisations of physical culture and sports for entrance to sports and entertainment activities they conduct; rendering of services in leasing out sports facilities to prepare and to conduct aforesaid activities;

14) rendering services by bar associations, law bureau, chambers of lawyers of subjects of the Russian Federation or the Federal Chamber of Lawyers to members of these bar associations in connection with the exercise by them of their professional activity;

15) operations of granting loans in monetary form and in securities, including interest on them, as well as repo transactions, including monetary sums to be paid for providing securities in repo transactions.

For the purposes of this Chapter, as a repo transaction shall be deemed an agreement satisfying the requirements for repo agreements contained in the **Federal Law** on the Securities Market;

15.1) **abrogated** from January 1, 2007;

**16)** performance of research and development works at the expense of funds of budgets, and also funds of the Russian Fund for Fundamental Research, the Russian Fund for Technological Development and extra-budgetary funds of ministries, departments and associations formed for these purposes according to the legislation of the Russian Federation; performance of research and development works by educational and scientific organisations under economic contracts;

16.1) performance by organisations of scientific-research, developmental and technological works relating to the creation of new products and technologies or to the perfection of the manufactured products and technologies if the following types of activity are included in the composition of the scientific-research, developmental and technological works:

elaboration of the design of an engineering facility or a technical system;

elaboration of new technologies, that is methods of uniting physical, chemical, technological and other processes with labour processes into an integral system manufacturing new products (goods, works, services);

creation of pilot, that is not having a conformity certificate, samples of machines, equipment or materials having fundamental features characteristic of innovations and not



intended for realisation to third persons, their testing during the time necessary for the obtaining of data, accumulation of experience and their inclusion in the technical documentation;

17) **Abolished**

18) services of sanatoriums, resorts, health improvement and recreational establishments, organisations of recreation and rehabilitation of children, including children's health camps located on the territory of the Russian Federation which are formalised by authorisations to a course of treatment with board or without it, being strict accountability forms;

19) performance of works (rendering of services) in the fighting of wood fires;

20) sale of products of own manufacture of organisations engaged in the production of agricultural products which generate at least 70 per cent of the overall share of incomes from the sale in the total sum of their incomes, the former made with wages in kind for labour, issues in kind for labor, and also for the public catering of workers involved in agricultural works;

21) **Abolished**

22) the sale of dwelling houses and living accommodation, and also the shares thereof;

23) the transfer of a share in the right to the common property in a multi-flat house in case of the sale of apartments;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 23.1 of Item 3 of Article 149 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

23.1) the services of a developer under a contract for participation in shared construction concluded in accordance with **Federal Law** No. 214-FZ of December 30, 2004 on Participation in the Shared Construction of Blocks of Flats and Other Pieces of Immovable Property and on Amending Certain Legislative Acts of the Russian Federation (except for the services of a developer provided when industrial facilities are being constructed);

For the purposes of this item, as industrial purpose facilities shall be deemed those which are intended for use in making commodities (carrying out works and rendering of services);

24) **abrogated** from January 1, 2008;

25) the transfer of goods (works, services) for advertising purposes, the expenses for the acquisition of units of which do not exceed 100 roubles.

26) operations on the cession (assignment, acquisition) of rights (demands) of a creditor under obligations ensuing from agreements on the granting of loans in monetary form and/or credit agreements, and also on the fulfilment by the borrower of obligations to each new creditor on the initial agreement underlying the cession agreement;

27) execution of work (provision of services) by residents of the by-port special economic zone within the by-port special economic zone;

28) gratuitous rendering of services in the provision of airtime and/or print space in accordance with legislation of the Russian Federation on elections and referendums;

**Federal Law** No. 417-FZ of December 7, 2011 amended Subitem 29 of Item 3 of Article 149 of this Code. The amendments shall **enter into force** on January 1, 2013, but no earlier than upon the expiry of one month from the day of the **official publication** of the said Federal Law and no earlier than the first day of the next **tax period** for value-added tax

29) sale of the municipal services by management organisations, condominiums, building societies, housing or other specialised consumer cooperatives established for the purpose of satisfying citizens' needs for housing and responsible for servicing domestic engineering

systems through which municipal services are rendered, provided that the cited taxpayers acquire municipal services from the organisations pertaining to the utility complex, electric energy suppliers and gas-supply organisations;

30) sale of the works (services) involving maintenance and repair of common property in an apartment building carried out (rendered) by management organisations, condominiums, building societies, housing or other specialised consumer cooperatives established for the purpose of satisfying citizens' needs for housing and responsible for servicing the domestic engineering systems through which municipal services are rendered, provided that the cited taxpayers acquire the works (services) involving the maintenance and repair of common property in the apartment house by the cited taxpayers from the organisations and individual businessmen directly engaged in carrying out (rendering) these works (services).

31) transfer of property rights (in particular granting the right to use intellectual property results and/or individualization means) by an all-Russia public association exercising its activities in compliance with the **legislation** of the Russian Federation on public associations, the Olympic Charter of the International Olympic Committee and on the basis of its recognition by the International Olympic Committee, and by an all-Russia public association exercising its activities in compliance with the legislation of the Russian Federation on public associations, the Constitution of the International Paralympic Committee and on the basis of its recognition by the International Paralympic Committee within the framework of discharging commitments under the agreements made with Russian and foreign organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation.

32) the gratuitous provision of the services of producing and/or disseminating social advertisement in accordance with the **legislation** of the Russian Federation on advertising.

The transactions mentioned in this item are not subject to taxation, given the observance of one of the below requirements applicable to social advertising:

in social advertising disseminated in radio programmes sponsors are mentioned for up to three seconds;

in social advertising disseminated in television programmes and when cinema and video services are provided the sponsors are mentioned for up to three seconds and this mentioning does not occupy more than seven per cent of the shot;

in social advertising disseminated by other means sponsors are mentioned on up to five per cent of advertising area (space).

The requirements established by this subitem as applicable to the mentioning of sponsors shall not extend to the mentioning in social advertising of governmental bodies, other state bodies and local self-government bodies, the municipal bodies not included in the structure of local self-government bodies, socially-oriented not-for-profit organisations and also natural persons who have found themselves in a difficult life situation or are in need for medical treatment, for the purposes of rendering charitable aid thereto.

**Federal Law** No. 336-FZ of November 28, 2011 supplemented Item 3 of Article 149 of this Code with Subitem 33. The Subitem shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the on first day of the next **tax period** for the value-added tax

33) services of the parties to an agreement of investment partnership which are managing partners involved in running the partners common business;

**Federal Law** No. 336-FZ of November 28, 2011 supplemented Item 3 of Article 149 of this Code with Subitem 34. The Subitem shall **enter into force** on January 1, 2012, but at the earliest upon the expiry of a month after the day of the official publication of the said Federal Law and not earlier than on the first day of the next **tax period** for value-added tax

34) transfer of property rights in the form of a deposit under an agreement of investment partnership, as well as transfer of property rights to a party to an agreement of investment partnership in the event of apportionment of the share thereof from the property which is under common ownership of the parties to the cited agreement, or of division of such property - within the limits of the amount of the paid contribution of the given party.

**4.** If the taxpayer performs taxable operations and operations which are not taxable (being released) according to provisions of this Article, the taxpayer is obliged to keep separate accounting of such operations.

**5.** A taxpayer performing operations in the sale of goods (of works, services) stipulated by **Item 3** of this Article shall have the right to refuse the release of such operations from taxation having presented an appropriate application to the tax authorities at the place of registration no later than by the first tax period starting from which the taxpayer is going to refrain from the release or to suspend the latter.

Such refusal or suspension is possible only concerning all operations performed by the taxpayer stipulated by one or several Subitems of Item 3 of this Article. A similar operation may not be released or not tax exempt depending on who the buyer (purchaser) of the corresponding goods (works, services) is.

It is not permitted to refuse or suspension release from tax obligation operations for a period of less than one year.

**6.** Operations listed in this **Article** shall not be subject to taxation (tax exempt), provided the taxpayers performing these operations hold the appropriate licences to carry out the licensed activity according to the legislation of the Russian Federation.

**7.** Release from tax obligation according to provisions of the present Article shall not apply when business activities are performed in the interests of other persons on the basis of contracts of delegation, contracts of commission agency or agency contracts, except as otherwise provided in this Code.

**8.** In the event of amending the wording of **Items 1 - 3** of this Article (cancellation of a relief from taxation or referring taxable operations to the operations which are exempt from taxation) taxpayers shall apply the procedure for determining the tax base (or for relief from taxation) which was effective on the date of shipping goods (carrying out works and rendering services), regardless of the date of paying them.

**Federal Law** No. 306-FZ of November 27, 2010 amended Article 150 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**Article 150.** Import of Goods to the Territory of the Russian Federation and Other Territories under Its Jurisdiction Not Taxable (Tax Exempt)

*According to **Federal Law** No. 118-FZ of August 5, 2000 (in the wording of **Federal Law** No. 92-FZ of June 24, 2008) from January 1, 2007 but not earlier than the first day of the next **tax period** for value-added tax till January 1, 2012 there shall not be subject to taxation (there*

*shall be exempt from taxation) with value-added tax the import into the customs territory of the Russian Federation of pedigree horned cattle, pedigree pigs, sheep and goats, semen and embryos of the said pedigree animals, pedigree horses and pedigree ova carried out by **agricultural commodity producers** and by Russian organisations engaged in leasing activity with their subsequent delivery to agricultural commodity producers by the **list** of commodity codes in accordance with the Commodity Classification of Foreign Economic Activity of the Russian Federation determined by the Government of the Russian Federation*

Not taxable (tax exempt) shall be the import to the territory of the Russian Federation and other territories under its jurisdiction of:

1) goods (except excisable goods) imported as gratuitous aid (assistance) to the Russian Federation, in accordance with the manner established by the Government of the Russian Federation pursuant to the **Federal Law** on Gratuitous Aid (Assistance) to the Russian Federation and the Introduction of Amendments and Addenda to Certain Legislative Acts of the Russian Federation on Taxes and on the Establishment of Privileges on Payments to the State Extra-Budgetary Funds in Connection with the Granting of Gratuitous Aid (Assistance) to the Russian Federation;

2) goods listed in **Subitem 1 of Item 2 of Article 149** of this Code and also the raw material and component parts for their production;

3) materials for production of medical immunobiological drugs for diagnostics, prevention and/or treatment of infectious diseases (under the **list** approved by the Government of the Russian Federation);

4) cultural valuables acquired on account of the federal budget, budgets of constituent entities of the Russian Federation and local budgets, cultural valuables handed over as gifts to the state and municipal institutions of culture, to the state and municipal archives, as well as cultural valuables handed over as gifts to the institutions referred by the laws of the Russian Federation to highly valuable items of cultural and national heritage of the peoples of the Russian Federation;

5) all types of printed publications received by state and municipal libraries and museums under international exchanges of books and also of products of cinematography imported by specialized state organisations for the purposes of international non-commercial exchanges;

6) goods produced as a result of economic activity of Russian organisations on land lots being the territory of a foreign state covered by the Russian Federation's right of land use on the basis of an international treaty;

7) process equipment (in particular component and spare parts for it) whose analogues are not produced in the Russian Federation according to the **list** endorsed by the Government of the Russian Federation;

8) raw natural diamonds;

9) goods intended for official use by foreign diplomatic representations and agencies equated thereto, and also for personal use by diplomatic and administrative-clerical personnel of these agencies, including members of their families living with them;

10) currency of the Russian Federation and foreign currency, notes being legal tender (except for those intended for collecting), and also financial credit instruments - shares, bonds, certificates, bills of exchange;

11) sea products caught and/or processed by the fishing-production enterprises (organisations) of the Russian Federation.

12) ships subject to registration in the Russian International Register of Ships.

13) goods, except for excisable goods, by the list approved by the Government of the Russian Federation transferred within the framework of international cooperation of the Russian Federation in the field of investigation and use of outer space and also of agreements on

services in the launching of spacecraft;

14) **abrogated**;

15) **invalid** from January 1, 2010.

16) unregistered medicines intended for the provision of medical aid for the sake of life-saving for specific patients and hematopoietic stem cells and bone marrow for exogamous transplantation.

The provisions of this subitem are applicable if the following is shown to customs bodies: a relevant permit issued by the federal executive governmental body carrying out the functions of state policy elaboration and normative legal regulation in the area of public health and transactions in medicines for medical use.

**Federal Law** No. 306-FZ of November 27, 2010 amended Article 151 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**Article 151.** Peculiarities of Taxation When Goods Are Imported into the Territory of the Russian Federation and Other Territories Which Are under Its Jurisdiction and When They Are Exported from the Territory of the Russian Federation

1. When goods are imported to the territory of the Russian Federation and other territories under its jurisdiction depending on the selected customs procedure the tax shall be levied in the following manner:

1) when placing commodities under the customs procedure of release for internal consumption the tax shall be paid in full;

2) when goods are placed under the customs procedure of reimport, the taxpayer shall pay the amounts of tax from which he had been released or the amounts which were repaid to him due to the **export of goods** according to this Code in the order stipulated by the customs legislation of the Customs Union and the customs legislation of the Russian Federation;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 3 of Item 1 of Article 151 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

3) when goods are placed under the customs procedures of transit, **customs warehouse, re-export, duty free, free custom zone, free warehouse, destruction, refusal in favour of the state** or a **special customs procedure**, as well as when effecting the customs declaration of supplies no tax shall be paid;

4) when goods are placed under the customs procedure of processing in the customs territory the tax shall not be paid on the condition that the processed products are exported out of the customs territory of the Customs Union within a certain term;

5) when goods are placed under the customs procedure of temporary import, the complete or partial release from payment of tax in the order stipulated by the customs legislation of the Customs Union and the customs legislation of the Russian Federation shall be applied;

6) in case of the import of products of processing of goods placed under the customs procedure of processing outside of the customs territory the full or partial exemption of payment of tax in the order stipulated by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation shall be applied;

7) when goods are placed under the customs procedure of processing for internal consumption the tax shall be paid in full.

2. When goods are exported from the territory of the Russian Federation, the tax shall be

levied in the following order:

1) in case of export of goods from the territory of the Russian Federation under the customs procedure of export, no tax shall be paid.

The taxation procedure indicated in this Subitem shall also be applied when goods are placed under the customs procedure of a bonded warehouse for the purpose of the subsequent exportation of these goods in keeping with the customs procedure of export, and also when goods are placed under the customs procedure of a free customs zone;

2) in case of export of goods beyond the boundaries of the territory of the Russian Federation and of other territories within the scope of its jurisdiction under the customs treatment of re-export, tax shall not be paid and the amount of tax paid upon import into the territory of the Russian Federation and other territories under its jurisdiction shall be repaid to the taxpayer in the procedure stipulated by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation;

**Federal Law** No. 245-FZ of July 19, 2011 reworded Subitem 3 of Item 2 of Article 151 of this Code. The new wording shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

3) when exporting from the territory of the Russian Federation supplies, as well as other commodities for the purpose of completing a special customs procedure, tax shall not be paid;

4) in case of export of goods from the territory of the Russian Federation and other territories under its jurisdiction in accordance with customs procedures different from those specified in **Subitems 1 to 3** of this Item, neither exemption from taxation shall be granted nor shall paid amounts of tax be reimbursed, unless otherwise stipulated by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**3.** When natural persons move goods intended for personal, family, household and other needs not relating to the pursuance of entrepreneurial activity the procedure for payment of the tax payable in connection with the movement of the goods across the customs border of the Customs Union shall be determined by the customs legislation of the Customs Union.

**Article 152. Abrogated** from January 1, 2011.

**Article 153.** The Tax Base

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 153 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**1.** The tax base in case of sale of goods (works, services) is defined by the taxpayer according to this Chapter depending on the peculiarities of the sale of goods (works, services) produced by him or purchased by him.

In case of transfer of goods (performance of works, rendering of services) for one's own needs and recognised as an item of taxation in conformity with **Article 146** of this Code, the tax base shall be defined by the taxpayer according to this Chapter.

In case of import of goods to the territory of the Russian Federation and other territories under its jurisdiction, the tax base shall be defined by the taxpayer according to this Chapter and the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

When the taxpayers apply various tax rates during sale (transfer, performance, provision for own needs) of goods (works, services) the tax base shall be defined separately for each type

of good (works, services) taxed at different rates. When identical tax rates are used, the tax base shall be defined summarily for all types of operations taxed at this rate.

During the transfer of property rights the tax base shall be determined subject to the peculiarities stipulated by this chapter.

**2.** When determining the tax base, the proceeds from the sale of goods (works, services), the transfer of property rights shall be defined on the basis of all incomes of the taxpayer associated with settlements under the payment for aforesaid goods (works, services), property rights received by him in cash and/or in kind, including the payment by means of securities.

Incomes specified in this Item shall be taken into account if the former can be evaluated, and to the degree to which they can be evaluated.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 3 of Article 153 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for the value added tax**

**3.** When determining the tax base, the proceeds (expenses) of the taxpayer in foreign currency shall be converted into roubles at the exchange rate of the Central Bank of the Russian Federation according to the date that corresponds to the time of determining the tax base during the sale (transfer) of goods (works, services), property rights established by **Article 167** of this Code or on the date when the expenses were actually borne. With this, the tax base when selling the commodities (works, services) provided for by **Item 1 of Article 164** of this Code and when settlements in such operations are made in foreign currency shall be determined in roubles at the exchange rate of the Central Bank of the Russian Federation as of the date of shipment (transfer) of commodities (carrying out of works, rendering of services).

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 153 of this Code with Item 4. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for the value added tax**

**4.** If when selling commodities (works, services) or property rights under contracts that provide for the obligation to pay them in roubles in the amount which is equivalent to a definite amount of foreign currency or conditional monetary units, the time of determining the tax base shall be deemed the date of shipment (transfer) of commodities (works, services) and property rights, the foreign currency or conditional monetary units, and when determining the tax base foreign currency shall be converted into roubles at the exchange rate of the Central Bank of the Russian Federation as of the date of shipment (transfer) of commodities (carrying out of works, rendering services) or transfer of property rights. When commodities (works, services) or property rights are subsequently paid for, the tax base shall not be corrected. The sum differences of the tax which a taxpayer being the seller has when subsequently paying for commodities (works, services) or property rights shall be accounted within the composition of off-sale incomes in compliance with **Article 250** of this Code or within the composition of off-sale income in compliance with **Article 256** of this Code.

#### **Article 154.** The Procedure for the of Determination of the Tax Base When Selling Goods (Works, Services)

**1.** Except as otherwise envisaged by this Article, tax base for the purposes of the taxpayer's selling of goods (works, services) shall be assessed as the value of these goods (works, services) calculated on the basis of the prices defined according to **Article 105.3** of this Code, with account being taken of excise taxes (for excisable goods) and without the tax being

included in the prices.

When the taxpayer receives a payment or partial payment setting off a forthcoming delivery of goods (performance of works, provision of services) the tax base shall be assessed on the basis of the sum of the payment received, with account being taken of the tax. The following shall not be included in the tax base: a payment or partial payment received by the taxpayer setting off a forthcoming delivery of goods (performance of works, provision of services):

whose production cycle duration exceeds six months, if the taxpayer does his tax base assessment as such goods are shipped (transferred) (works performed, services provided) in compliance with the provisions of **Item 13 of Article 167** of this Code;

which are taxable at zero per cent tax rate in compliance with **Item 1 of Article 164** of this Code;

which are not subject to taxation (are exempt from taxation).

When goods (works, services) are shipped setting off a payment or partial payment received earlier and included in the tax base earlier the taxpayer shall make his tax base assessment in the procedure established by **Paragraph 1** of this Item.

**2.** When goods (works, services) are sold under commodity swap (barter) transactions and sale of goods (works, services) on a gratuitous basis, transfer of title to the subject of pledge to the pledgee in case of default on an obligation secured by the pledge for the transfer of goods (results of performed works, rendering of services) when paying wages in kind, the tax base shall be defined as the cost of aforesaid goods (works, services) estimated on the basis of prices defined in compliance with the procedure similar to that of **Article 105.3** of the present Code, with allowance for excise taxes (for excisable goods) and without inclusion into such of the tax.

In the case of the sale of goods (works, services) involving subsidies granted by the budgets of the budget system of the Russian Federation in connection with a taxpayer's application of state regulated prices or involving the privileges granted to specific consumers under the federal legislation, the tax base shall be assessed as the value of the goods (works, services) sold calculated proceeding from their actual selling prices.

The sums of subsidies granted by the budgets of the budget system of the Russian Federation in connection with the use by the taxpayer of state-controlled prices or benefits granted to particular consumers in keeping with legislation, shall not be reckoned during the estimation of the tax base.

**3.** In case of sale of assets subject to record-keeping at cost with account taken of the paid tax, the tax base shall be defined as the difference between the price of sold property defined with due regard to the provision of **Article 105.3** of this Code, with allowance for the tax, excise taxes (levied on excisable goods), and cost of sold assets (residual cost with account for reassessments).

**4.** In the case of the sale of agricultural products and products resulting from processing thereof purchased from natural persons (not being taxpayers) according to the **list** endorsed by the Government of the Russian Federation (save excisable goods), the tax base shall be assessed as a difference between the price determined in compliance with **Article 105.3** of this Code with account taken of the tax and the purchasing price of said products.

**5.** The tax base in case of services in the manufacture of goods from raw material made on commission (materials) shall be defined as the cost of their treatment, processing or another transformation with account for excise taxes (for excisable goods) and without including in it the tax.



**5.1.** In the realisation of motor vehicles acquired from natural persons (who are not taxpayers) for resale, the tax base shall be determined as the difference between the price determined in accordance with **Article 105.3** of this Code taking into account the tax, and the price of the acquisition of such motor vehicles.

**6.** In case of sale of goods (works, services) under time transactions (transactions providing for the delivery of goods (performance of works, rendering of services), upon expiration of the term established by an agreement (contract) at the price fixed directly in this agreement or contract), of financial instruments of time transactions which do not circulate in the organised market, the tax base shall be defined as the cost of these goods (works, services), the cost of the base asset (in respect of financial instruments of time transactions which do not circulate in the organised market) which is stated directly in the agreement (contract), but it shall not be below their cost estimated on the basis of prices defined in accordance with the procedure similar to that which is provided for by **Article 105.3** of this Code and effective on the date that corresponds to the time of estimation of the tax base fixed by **Article 167** of this Code with account for excise taxes (for excisable goods) and without the inclusion into such of the tax.

When selling the base asset of financial instruments of time transactions circulating in the organised market and involving the supply of the base asset (except for the sale of the base asset of option agreements (contracts), the tax base shall be defined as the cost at which the base asset must be sold and which is defined in compliance with the terms of the specification of the financial instrument of a time transaction endorsed by an exchange. The tax base shall be defined, when selling such base asset, as of the date which corresponds to the time for defining the tax base which is fixed by **Article 167** of this Code, with account taken of excise taxes (for excisable goods) and without the inclusion of the tax into them.

When selling the base asset of option agreements (contracts) circulating in the organised market and involving the supply of the base asset, the tax base shall be defined as the cost at which the base asset must be sold and which is defined in compliance with the terms of the specification of the financial instrument of a time transaction endorsed by an exchange, but it shall not be below their cost estimated on the basis of prices defined in accordance with the procedure provided for by **Article 105.3** of this Code and effective on the date that corresponds to the time of estimation of the tax base fixed by **Article 167** of this Code with account for excise taxes (for excisable goods) and without inclusion into such of the tax.

For the purposes of this Article, the specification of the financial instrument of a time transaction means the document of an exchange defining the terms of the financial instrument of a time transaction.

**7.** In the case of the sale of goods in returnable tare having pledge prices the pledge prices of the tare shall not be included in the tax base if the said tare is subject to return to the seller.

**8.** Depending on peculiarities of the sale of goods (works, services), the tax base shall be defined according to Articles 155 - 162 of this Chapter.

**9. Abrogated** from January 1, 2008.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 154 of this Code with Item 10. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is **officially published** and at the earliest on the first day of a regular **tax period for** the value added tax

**10.** A change causing an increase in the cost (less taxes) of shipped commodities (carried out works, rendered services) or transferred property rights, in particular because of a price (tariff) rise and/or an increase in the number (volume) of shipped commodities (carried out works, rendered services) or transferred property rights, shall be accounted when a taxpayer

determines the tax base for the tax period within which appropriate commodities were shipped (works were carried out, services were rendered) or property rights were transferred.

**Article 155.** The Special Aspects of the Estimation of the Tax Base During the Transfer of Property Rights

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 1 of Article 155 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**1.** Upon the assignment of the monetary claim that follows from the contract for the sale of goods (works, services), the operations in the sale of which are subject to taxation (are not released from taxation in keeping with **Article 149** of this Code) or upon the transfer of the said claim to another person on the basis of law the tax base for the operations in the sale of said goods (works, services) shall be determined in the procedure stipulated by **Article 154** of this Code, unless otherwise provided for by this item.

The tax base, in case of assignment by the original creditor of a monetary claim resulting from a contract of sale of commodities (works, services) or when the cited claim is transferred to another person on the basis of law, shall be defined as the amount of the excess of the sum of income derived by the original creditor assigning the rights of claim over the sum of the monetary claim the rights to which have been assigned.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 2 of Article 155 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**2.** Upon the assignment by a new creditor of the monetary claim that follows from the contract for the sale of goods (works, services), the tax base shall be determined as a sum of the excess of the sum of the income received by the new creditor upon the subsequent assignment of the claim or upon the cessation of the corresponding obligation over and above the sum of expenses on the acquisition of the said claim.

**3.** With the transfer of property rights by taxpayers, including the participants in share construction, to residential houses or living quarters, the shares in residential houses or living quarters, garages or machine-places the tax base shall be determined as the difference between the cost at which property rights are transferred with due account of the tax and the expenses on the acquisition of said rights.

**4.** Upon the acquisition of a monetary claim from third persons the tax base shall be determined as a sum of the excess of the sum of incomes received from a debtor and/or with the subsequent assignment over and above the sum of expenses on the acquisition of the said claim.

**5.** Upon the transfer of the rights associated with the right of concluding a contract and of lease rights the tax base shall be estimated in the order provided for by **Article 154** of this Code.

**Article 156.** Peculiarities of Determination of Tax Base by Taxpayers Receiving an Income on the Basis of Contracts of Delegation, Contracts of Commission Agency or Agency Contracts

**1.** When accomplishing a business activity in the interests of another person on the basis of contracts of delegation, contracts of commission agency or agency contracts, the taxpayers

shall determine the tax base as an amount of income received by them in the form of compensations (any other incomes) upon the performance of any of the aforesaid contracts.

The tax base in case of the sale of an object of the uncalled pledge belonging to the pledger shall be determined in a similar way in the order prescribed by the legislation of the Russian Federation.

**2.** Operations in the sale of services rendered on the basis of contracts of delegation, contracts of commission agency or agency contracts, and associated with the sale of goods (works, services) not subject to taxation (exempted from taxation) according to **Article 149** of this Code, shall not be covered by exemption from taxation, except for intermediary services in the sale of goods (works, services) specified in **Item 1** and **Subitems 1** and **8 of Item 2** and **Subitem 6 of Item 3 of Article 149** of this Code.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 157 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall extend to the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 157.** Peculiarities of Determination of Tax Base and Peculiarities of Payment of Tax upon the Accomplishment of Carriage and Sale of International Communications Services

*Federal Law No. 117-FZ of July 7, 2003 amended Item 1 of Article 157 of this Code. The amendments shall enter into force from January 1, 2004*

*See the previous text of the Item*

**1.** In case of performance of carriage (except for suburban carriage according to **paragraph three of Subitem 7 of Item 2 of Article 149** of the present Code) of passengers, luggage, cargo, luggage-freight or mail by railway, motor vehicle, air, sea or river transport, the tax base shall be defined as the cost of carriage (without inclusion of the tax). Upon the accomplishment of air carriage, the boundaries of the territory of the Russian Federation shall be defined at the starting and destination points of the air trip.

**2.** In case of the sale of travel documents at reduced rates, the tax base is calculated on the basis of such reduced rates.

**3.** The provisions of this Article shall be applied taking into account the provisions of **Item 1 of Article 164** of this Code and shall not apply to the carriage specified in **Subitem 7 of Item 2 of Article 149** of this Code, nor to the carriage stipulated by international treaties (agreements).

**4.** When prior to the beginning of a trip, cash is returned to customers for unused travel documents, the returnable amount shall include the entire amount of the tax. If the passengers turn in the travel documents in transit due to termination of the trip, the returnable amount shall include the amount of the tax at the rate corresponding to the distance not yet covered by the passengers. In such a case when the tax base is being assessed, no account shall be taken of the amounts actually refunded to the passengers.

**5.** In case of a sale of international communication services the amounts received by telecommunication agencies as a result of selling said services to foreign purchasers shall not be accounted when determining their tax base.

**Article 158.** Peculiarities of Determination of Tax Base in Case of Sale of an Enterprise as a Whole Property Complex

1. The tax base in case of sale of an enterprise as a whole property complex shall be defined separately on each type of asset of the enterprise.

2. If the price at which the enterprise is sold turned out to be below the book value of sold assets, a correction factor shall be applied for the purposes of taxation which is calculated as the relation of the selling price of the enterprise to the book value of said assets.

If the price at which the enterprise is sold turned out to be above the book value of sold assets, a correction factor shall be applied for the purposes of taxation calculated as the relation of the selling price of the enterprise marked down by the book value of debt receivable, (and by the cost of securities if no decision was made to revalue such) to the book value of sold assets and marked down by the book value of debt receivable (and for the cost of securities if no decision was made to revalue such) is accepted. In this case the correction factor shall not be applied to the amount of debt receivable (and the cost of securities).

3. For the purposes of taxation, the price of each type of assets shall be accepted as the product of its book value and the correction factor.

*Federal Law No. 117-FZ of July 7, 2003 amended Item 4 of Article 158 of this Code. The amendments shall enter into force from January 1, 2004*

4. The vendor of the enterprise shall draw up a summary invoice which is to state in the column "Total, including VAT" the price at which the enterprise was sold. In so doing, it is necessary to make separate entries in the summary invoice for fixed assets, intangible assets, other types of assets of industrial and non-productive purpose, the amount of debt receivable, and the value of securities and other items of assets of the balance sheet. The summary invoice shall enclose the statement of inventory taking.

In the summary invoice, the price of each type of asset shall be accepted as the product of its book value into a correction factor.

For each type of asset whose sale is taxed, it is necessary to state in the columns "Rate of VAT" and "Amount of VAT" the corresponding settlement tax rate of 15.25 per cent and the amount of the tax defined as the percentage share of the tax base corresponding to the settlement tax rate of 15.25 per cent.

**Article 159.** The Procedure for the Determination of Tax Base When Performing Operations on the Transfer of Goods (Performance of Works, Rendering of Services) for Own Needs and the Execution of Civil and Erection Works for One's Own Consumption

*Federal Law No. 117-FZ of July 7, 2003 amended Item 1 of Article 159 of this Code. The amendments shall enter into force from January 1, 2004*

*See the previous text of the Item*

1. When a taxpayer transfers goods (performs works, renders services) for their own needs, expenses under which are not accepted for deduction (in particular, through depreciation deductions) in the calculation of tax levied on profit of organisations, the tax base shall be defined as the cost of these goods (works, services) estimated on the basis of sale prices of identical (and in their absence, homogeneous) goods (similar works, services) effective in the previous tax period, and in their absence - on the basis of market prices, taking into account excise taxes (for excisable goods) and without inclusion into such tax.

2. In case of performance of civil and erection works for one's own consumption, the tax base shall be defined as the cost of performed works calculated on the basis of all actual

expenses borne by the taxpayer in their performance including the expenses of the reorganised (or being reorganised) organisation.

**Federal Law** No. 306-FZ of November 27, 2010 amended Article 160 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**Article 160.** The Procedure for the Determination of Tax Base When Importing Goods to the Territory of the Russian Federation and Other Territories under Its Jurisdiction

**1.** In case of import of goods (except for goods specified in **Items 2** and **4** of this Article and with allowance for **Articles 150** and **151** of this Code) into the territory of the Russian Federation and other territories under its jurisdiction, the tax base shall be defined as the amount of:

- 1) the customs value of these goods;
- 2) payable customs duty;
- 3) payable excises (on excisable goods).

**2.** In case of import to the territory of the Russian Federation and other territories under its jurisdiction of goods which had been previously exported from it to be processed outside the customs territory according to the customs procedure of outward processing, the tax base shall be defined as the cost of such processing.

**3.** The tax base shall be defined separately for each group of goods of the same name, type and brand imported to the territory of the Russian Federation and other territories under its jurisdiction.

If a consignment of goods imported into the customs territory of the Russian Federation contains both excisable goods and non-excisable goods, the tax base shall be defined separately for each group of aforesaid goods. The tax base shall be defined in a similar order if a consignment of goods imported to the customs territory of the Russian Federation contains products of processing of goods which have been previously exported from it in compliance with the customs procedure of processing outside the customs territory of the Russian Federation.

**4. Abrogated** from January 1, 2011.

**5.** The tax base, when Russian goods are brought in and placed under the customs procedure of a free customs zone to the remaining part of the territory of the Russian Federation and other territories under its jurisdiction or when they are transferred on the territory of a special economic zone to the persons who are not residents of such a zone, shall be defined in accordance with **Item 1** in this Article subject to the peculiarities stipulated by the the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**Article 161.** Peculiarities of Determination of Tax Base by Tax Agents

**1.** In case of sale of goods (works, services) whose place of sale is the territory of the Russian Federation, for foreign persons being taxpayers who have not registered with the tax authorities as the taxpayers, the tax base shall be defined as the sum of income from sale of these goods (works, services) taking into account the tax.

The tax base shall be defined separately in case of performance of each operation of sale of goods (works, services) on the territory of the Russian Federation taking into account this Chapter.

**2.** The tax base specified in Item 1 of this Article shall be defined by tax agents. In so doing, the tax agents shall be recognised as organisations and individual entrepreneurs registered with the tax authorities, who purchase on the territory of the Russian Federation of

goods (works, services) from the foreign persons indicated in Item 1 of this Article. The tax agents are to calculate, withhold from the taxpayer, and pay to the budget the relevant amount of tax regardless of whether they execute obligations of the taxpayer associated with the calculation and payment of tax and also other obligations established by this Chapter.

**3.** When rendering on the territory of the Russian Federation services by bodies of public authority and government, bodies of local self-government relating to the hiring out of federal property, property, of constituent entities of the Russian Federation and municipal property the tax base shall be defined as the amount of rental taking into account the tax. In so doing, the tax base shall be defined by the tax agent separately for each leased item of property. In this case, lessors of the aforesaid property shall be recognised as tax agents. Said persons are to calculate and withhold from the incomes paid to the lessor and to pay to the budget the appropriate amount of the tax.

When selling (transferring) in the territory of the Russian Federation state property which is not assigned to state enterprises and institutions, and which form part of the state treasury of the Russian Federation, the treasury of a republic within the Russian Federation, the treasury of a territory, region, city of federal importance, autonomous region and autonomous area, as well as municipal property which is not assigned to municipal enterprises and institutions and form part of the municipal treasury of an appropriate urban or rural settlement, or other municipal entity, the tax base shall be determined as the amount of income derived from the sale (transfer) of this property with account taken of tax. With this, the tax base shall be determined separately for every transaction of selling (transferring) the said property. In this case, as tax agents shall be recognised the purchasers (recipients) of the said property, except for natural persons who are not individual businessmen. The said persons are obliged to calculate by using the computation method, to deduct from paid out income and to pay to the budget the appropriate amount of tax.

**4.** When selling on the territory of the Russian Federation confiscated property, property to be sold by court decisions (except for the sale provided for by **Item 4.1** of this Article), ownerless valuables, treasures and bought valuables, as well as valuables transferred to the state by heirship, the tax base shall be determined by the cost of sold property (valuables) involving the provisions of **Article 105.3** of this Code involving excise duties (as regards excisable goods). In this case, the bodies, organisations or individual businessmen authorised to sell said property shall be recognised as tax agents.

**Federal Law** No. 245-FZ of July 19, 2011 Article 161 of this Code with Item 4.1. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**4.1.** When selling in the territory of the Russian Federation the property or property rights of debtors declared bankrupt in compliance with the legislation of the Russian Federation, the tax base shall be determined as the amount of income derived from this property's sale subject to tax. In so doing, the tax base shall be determined by a tax agent separately in respect of each operation involved in the sale of the cited property. On such occasion, the purchasers of the cited property and/or property rights shall be deemed tax agents, except for natural persons who are not individual businessmen. The cited persons are bound to calculate by applying the computation method, to deduct from paid incomes and pay to the budget an appropriate tax amount.

**5.** In case of the sale of goods, transfer of property rights, provision of services in the

territory of the Russian Federation by foreign persons who are not placed on the records of tax bodies as taxpayers, the organisations and individual businessmen engaged in business with the participation in settlements on the basis of contracts of agency, contracts of commission or agency agreements with the said foreigners shall be recognised as tax agents. In this case, the tax base shall be determined by a tax agent as the value of such goods (works, services) and property rights with the account taken of excises (for excisable goods) and without the inclusion of the tax amount in them.

**6.** If within forty five calendar days as from the time of transfer of ownership of a vessel from the taxpayer to the customer the vessel is not registered in the **Russian International Register of Ships**, the tax base shall be estimated by a tax agent as the cost at which this vessel was sold to the customer subject to tax.

In so doing, as a tax agent shall be deemed the person possessing the vessel upon the expiry of forty five calendar days as from the time of such ownership's transfer.

The tax agent shall be obliged to estimate at the tax rate provided for by **Item 3 of Article 164** of this Code an appropriate amount of tax and to remit it to the budget.

#### **Article 162.** Peculiarities of Determination of Tax Base Taking into Account Amounts Associated with Settlements for the Payment for Goods (Works, Services)

**1.** The tax base determined according to **Articles 153 - 158** of the present Code shall be increased by the following amounts:

**1) abolished** from January 1, 2006;

2) received amounts for sold goods (works, services) in the form of financial assistance and designed to replenish special purpose funds, towards the increase of incomes, or otherwise associated with payment for sold goods (works, services);

3) amounts received in the form of interest (discount) on the bonds received as offsetting payment for sold goods (works, services) and bills of exchange, interest under credits against goods in the part exceeding the interest rate calculated on the basis of the **refinancing rates** of the Central Bank of the Russian Federation, effective in the periods for which interest is being calculated;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 4 of Item 1 of Article 162 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

4) indemnities received under contracts of insurance of risk of default on contractual obligations by a contractor of the insurant creditor if under the insured contractual obligations the insurant is to deliver goods (works, services) whose sale is recognised as an item of taxation according to **Article 146** of this Code, except for the sale of the commodities cited in **Subitem 1 of Item 1 of Article 164** of this Code;

**2.** Provisions of **Item 1** of this Article shall not cover operations of the sale of goods (works, services) which are not subject to taxation (are released from taxation), as well as in respect of goods (works and services) which are not sold in compliance with **Articles 147** and **148** of this Code on the territory of the Russian Federation.

**3.** The monetary assets received by management organisations, condominiums, building societies, housing or other specialised consumer cooperatives, established for the purpose of satisfying citizens' needs for housing and responsible for servicing the domestic engineering systems through which municipal services are rendered, for forming the reserve for making

running repairs and overhaul of common property in an apartment building shall not be included into the tax base.

**Article 162.1.** The Special Aspects of Taxation in Case of the Reorganisation of Organisations

**1.** During the reorganisation of a body in the form of separation, the sums of the tax shall be subjected to deductions from the reorganised (being reorganised) organisation being calculated and paid by it from the amounts of advance or other payments against the forthcoming deliveries of goods (the performance of works or the rendering of services), sold on the territory of the Russian Federation in case of the transfer of the debt upon the reorganisation to the successor or successors under the obligations associated with the sale of goods (works, services) or with the transfer of property rights.

Deductions of the tax amounts indicated in this Item shall be made in full scope after the transfer of the debt to the successor or successors under the obligations associated with the sale of goods (works, services) or with the transfer of property rights.

**2.** In case of the reorganisation of a body in the form of separation the tax base of the successor or successors shall be increased by the amounts of advance and other payments against the forthcoming deliveries of goods (the performance of works or the rendering of services) received by way of succession from the reorganised (being reorganised) organisation and subjected to accounting by the successor or successors.

**3.** In the event of reorganisation in the form of a merger, incorporation, division or transformation, the tax amounts shall be deducted from the successor or successors being calculated and paid by the reorganised organisation from the sums of advance or other payments received against the forthcoming deliveries of goods (the performance of works or the rendering of services).

**4.** Deductions of the tax amount calculated and paid from the sums of advance and other payments provided for by **Item 2** of this Article, and also the tax amounts indicated in **Item 3** of this Article shall be made by the successor or successors after the date of the sale of corresponding goods (works, services) or after the reflection of operations in the accounting of the successor or successors in cases of the dissolution of a relevant contract or of the change of its terms and of the repayment of the corresponding advance payments before the end of one year since the time of such repayment.

**5.** In the event of the reorganisation of a body, regardless of the form of the reorganisation the tax amounts subject to accounting by the successor or successors being presented by the reorganised (being reorganised) organisation and/or paid by this organisation during the acquisition (import) of goods (works, services) but not presented by it for a deduction shall be subjected to a deduction by the successor or successors of this organisation in the order stipulated by this chapter.

Deductions of the tax amounts indicated in the **first paragraph** in this Item shall be made by the successor or successors of the reorganised (being reorganised) organisation on the basis of the invoices (copies of invoices) put up by the reorganised (being reorganised) organisation or of the invoices put up to the successor or successors by sellers when they acquired goods (works, services), and also on the basis of the copies of the documents confirming the actual payment by the reorganised (being reorganised) organisation of the tax amounts to sellers during the acquisition of goods (works, services) and/or of the documents confirming the actual payment of the tax amounts to sellers during the acquisition of goods (works, services) by the successor or successors of this organisation.

**6.** The transfer by the taxpayer of the claim to the successor or successors in case of reorganisation of the organisation shall not be recognised as payment for goods (works, services) for the purposes of the present Chapter. With the transfer of the right of claim from the



reorganised (being reorganised) organisation to the successor or successors the tax base shall be determined by the successor or successors receiving the right of claim at the time of defining the tax base in accordance with the order established by **Article 167** of the present Code with account of the clauses provided for by **Subitems 2-4 of Item 1** and by **Item 2 in Article 162** of this Code.

**7.** In the event of the reorganisation of a body the provisions stipulated by **Subitems 2 and 3 of Item 5 in Article 169** of this Code for the acceptance of the tax amounts for a deduction or compensation by the successor or successors of the reorganised (being reorganised) organisation shall be regarded as fulfilled in the presence of an invoice of the requisites of the reorganised (being reorganised) organisation.

**8.** With the transfer to the successor or successors of goods (works, services, property rights), including fixed assets and intangible assets, with the acquisition (import) of which the tax amounts were accepted by the reorganised (being reorganised) organisation for deduction in the order stipulated by this Chapter, the corresponding tax amounts shall not be restored and paid to the budget of the reorganised (being reorganised) organisation.

**9.** In the event of the reorganisation of a body, regardless of the form of reorganisation, the tax amounts which are subject to accounting by the successor or successors and which in keeping with **Articles 176 and 176.1** of this Code are subject to compensation, but which were not compensated by the reorganised (being reorganised) organisation before the completion of the reorganisation, shall be reimbursed to the successor or successors in the order established by this Chapter.

**10.** With the presence of several successors the share of each of them during the completion of operation in conformity with this Article shall be determined on the basis of the act of conveyance or the dividing balance.

**11.** For the purpose of this Chapter the organisation being reorganised shall be understood to mean the organisation, the reorganisation of which is carried out in the form of separation until the time of the completion of its reorganisation or until the date of the state registration of the latter from among the newly-emerged organisations.

#### **Article 163.** Tax Period

A quarter shall be established as a tax period (in particular for taxpayers discharging the duties of tax agents, hereinafter referred to as tax agents).

*On the examination of constitutionality of provisions of Article 164 of the Tax Code of the Russian Federation, see **Decision** of the Constitutional Court of the Russian Federation No. 12-P of July 14, 2003*

#### **Article 164.** Tax Rates

**1.** Taxation shall be imposed at 0 per cent tax rate on the sale of:

**1)** goods that have been exported in the customs procedure and also goods placed under the **customs procedure of a free customs zone** provided that documents required under **Article 165** of this Code are submitted to the tax authorities;

**2)** **abrogated** from January 1, 2011;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 2.1 of Item 1 of Article 164 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**2.1)** services involved in international carriage of commodities.

For the purposes of this article, international carriage of commodities means carriage of commodities by sea and river vessels, mixed navigation vessels (for river and sea navigation), aircraft, railway transport and motor vehicles when the point of departure or the point of destination of goods is located outside the Russian Federation.

The provisions of this subitem shall also extend to the following services rendered by Russian organisations and individual businessmen:

services involved in providing railway rolling stock and/or containers for international carriage held in ownership or on a leasehold basis (in particular on the basis of financial lease (leasing));

forwarding services rendered on the basis of a freight forwarding agreement when arranging international carriage. For the purposes of this Article, as forwarding services shall be deemed participation in talks for making contracts of goods' purchase and sale, legalization of documents, cargo acceptance and release, cargo delivery and pickup, loading and unloading, as well as storage services, informational services, preparation and additional equipping of transport vehicles, services involved in arranging cargo insurance, payment and financial services, services involved in customs clearance of cargo and of transport vehicles, as well as development and coordination of technical regulations on cargo loading and fixing, cargo tracing after the expiry of its delivery term, control over the observance of the completeness of equipment when shipping it, cargo remarking, maintenance and repair of consignors' general-purpose containers, maintenance of refrigerator containers and cargo storage in a forwarding agent's storage space and on open sites.

The provisions of this subitem shall not extend to the services of the Russian railway carriers cited in **Subitem 9** of this item.

The provisions of this subitem shall also extend to the services cited in **Paragraphs Four** and **Five** of this subitem rendered when arranging and effecting carriage by rail from the place of commodities arrival at the customs territory of the Russian Federation (from ports or border railway stations located in the territory of the Russian Federation) to the railway station of commodities' destination located in the territory of the Russian Federation;

2.2) works (services) carried out (rendered) by the organisations engaged in pipeline transportation of oil and oil products involving the following:

transportation of oil and oil products, irrespective of the date of their placement under an appropriate customs procedure, from a point of departure located in the territory of the Russian Federation to the border of the Russian Federation for their subsequent delivery by pipeline transport beyond the boundaries of the territory of the Russian Federation, or to seaports of the Russian Federation for their subsequent delivery beyond the boundaries of the territory of the Russian Federation, or to the point of their transshipment (reloading, discharge, running) to other modes of transport, including pipeline one) which is located in the territory of the Russian Federation for their subsequent delivery outside the boundaries of the territory of the Russian Federation by other modes of transport, including pipeline one;

transshipment and/or reloading of oil and oil products exported beyond the boundaries of the territory of the Russian Federation, in particular at sea and river ports, irrespective of the date when they are placed under an appropriate customs procedure.

For the purposes of this article, transshipment means loading, unloading, discharge, running, marking, assortment, packing and movement within the boundaries of a sea or river port, technological cargo accumulation, making cargo transportable, its fixing and separation.

For the purposes of this Chapter, as pipeline transport organisations engaged in transportation of oil and oil products shall be deemed the Russian organisations exercising the activities involved in transportation of oil and oil products via trunk pipelines.

This subitem shall extend to the works (services) carried out (rendered) on the basis of

an agreement (contract) made with:

a foreign or Russian person that has made a foreign economic transaction involving the sale of oil or oil products to be transported outside the territory of the Russian Federation or is the person on whose behalf or on whose instructions the cited foreign trade transaction has been made;

an agent (commission agent) of a foreign or Russian person that has made a foreign economic transaction involving the sale of oil and/or oil products to be transported beyond the boundaries of the territory of the Russian Federation or is the person on whose behalf or on whose instructions the cited foreign economic transactions has been made.

the provisions of this subitem shall also extend to the works (services) carried out (rendered) by organisations engaged in pipeline transportation of oil and oil products as to transportation, transfer and/or overloading of oil and oil products placed under the customs treatment of customs transit, as well as exported from the territory of the Russian Federation into the territory of a member state of the Customs Union, subject to the specifics stated in this subitem.

This subitem shall not extend to the works (services) carried out (rendered) on the basis of contracts in which solely organisations engaged in pipeline transportation of oil and oil products participate;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 2.3 of Item 1 of Article 164 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

2.3) services involved in arranging transportation by pipeline transport of natural gas moved beyond the boundaries of the territory of the Russian Federation (moved into the territory of the Russian Federation), including the one placed under the customs treatment of customs transit, as well as services involved in transportation (arrangement of transportation) by pipeline transport of natural gas moved into the territory of the Russian Federation for processing in the territory of the Russian Federation.

For the purposes of this Chapter, as arrangement of natural gas transportation by pipeline transport shall be deemed the services rendered by the owner of trunk pipelines on the basis of a separate agreement which provides for arrangement of natural gas transportation;

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Item 1 of Article 164 of this Code with Subitem 2.4. The Subitem shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

2.4) services rendered by the organisation engaged in managing the unified national (all-Russia) power grid which are involved in transmittance via the unified national (all-Russia) power grid of the electric energy supplied from the electric energy system of the Russian Federation to electric energy systems of foreign states;

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Item 1 of Article 164 of this Code with Subitem 2.5. The Subitem shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

2.5) works (services) carried out (rendered) by Russian organisations (except for pipeline transport organisations) at sea and river ports which are involved in transshipment and storage of commodities moved across the border of the Russian Federation in whose transportation documents is cited the point of departure and/or the point of destination which is located beyond

the boundaries of the territory of the Russian Federation;

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Item 1 of Article 164 of this Code with Subitem 2.6. The Subitem shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

2.6) works (services) involved in processing commodities placed under the customs procedure of processing in the customs territory;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 2.7 of Item 1 of Article 164 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

2.7) services involved in providing railway rolling stock and/or containers, as well as transportation-and-shipping services, which are rendered by Russian organisations or individual businessmen holding railway rolling stock and/or containers in their ownership or on a leasehold basis (in particular on the basis of financial lease (leasing)) for carrying or transporting by rail commodities or derived products to be exported, provided that the point of departure and the point of destination are located in the territory of the Russian Federation.

The provisions of this subitem shall apply upon condition that transportation documents have the notes of customs authorities which are cited in **Subitem 3 of Item 3.7 of Article 165** of this Code.

The provisions of this subitem shall not extend to the services rendered by the Russian railway carriers cited in **Subitem 9** of this item and to the services cited in **Subitem 2.1** of this item;

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Item 1 of Article 164 of this Code with Subitem 2.8. The Subitem shall **enter into force** on January 1, 2011 but not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

2.8) works (services) carried out (rendered) by inland water transport organisations in respect of the goods exported in the customs procedure of export when carrying (transporting) commodities within the boundaries of the territory of the Russian Federation from the point of departure to the point of unloading or reloading (transshipment) on sea vessels, mixed navigation vessels (for river and sea navigation) or other modes of transport.

For the purposes of this article, as inland water transport organisations shall be deemed the Russian organisations navigating the inland water routes of the Russian Federation and exercising other activities connected with navigation via inland water routes of the Russian Federation, as well as with entry into the internal waters and exit from the territorial sea of the Russian Federation;

3) the works or services directly connected with the carriage or transportation of goods placed under the customs procedure of customs transit when carrying foreign goods from the customs authority at the place of arrival at the territory of the Russian Federation to the customs authority at the place of their departure from the territory of the Russian Federation;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 1 of Article 164 of this Code with Subitem 3.1. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

3.1) services rendered to organisations or individual businessmen:

involving the provision of rolling stock and/or containers owned or possessed on a leasehold basis (in particular on the basis of financial lease (leasing) for rendering the services involved in carriage or transportation by rail of commodities moved across the territory of the Russian Federation from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union or from the territory of a member state of the Customs Union into the territory of another foreign state, in particular of the one which a member of the Customs Union;

which are transportation-shipping services rendered on the basis of a contract of transport expedition when rendering the services involved in carriage or transportation by rail of commodities moved across the territory of the Russian Federation from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union or from the territory of a member state of the Customs Union into the territory of another foreign state, in particular of the one which a member of the Customs Union.

The provisions of this subitem shall not extend to the services rendered by Russian railway carriers;

4) services in the carriage of passengers and luggage on condition that the departure point or destination point of passengers and luggage is located outside the territory of the Russian Federation, provided the carriage is registered on the basis of uniform international documents of carriage;

5) goods (works, services) in the area of space activity.

The provisions of this Subitem shall extend to the space hardware, space facilities and space infrastructure items which are subject to obligatory certification in compliance with the **legislation** of the Russian Federation on space activity, as well as to the space hardware, space facilities and space infrastructure items of military and dual purpose, to works (services) carried out (rendered) with the use of the hardware which is located directly in space, including that which is controlled from the surface and/or from the atmosphere of the Earth; preparatory and/or indirect (accompanying) land works (services) which are relevant (necessary) from the technological point of view and which are inevitably related to the performance of works (rendering of services) involving space exploration and/or to the performance of works (rendering of services) with the use of the equipment which is located directly in outer space;

6) of noble metals by taxpayers, engaged in their extraction or production out of scrap and wastes, containing noble metals, to the State Fund of Noble Metals and Precious Stones of the Russian Federation, to the funds of noble metals and precious stones of the subjects of the Russian Federation, to the Central Bank of the Russian Federation and to banks;

7) goods (works, services) for official use by foreign diplomatic representations and agencies **equated** to such or for personal use by diplomatic or administrative-clerical personnel of such agencies, including members of their families staying with them.

The sale of goods (performance of works, rendering of services) specified in this Subitem shall be subject to taxation at 0 per cent when the legislation of the corresponding foreign state establishes a similar order concerning diplomatic agencies and those equated to such, of the Russian Federation, diplomatic and administrative-clerical personnel of such agencies (including members of their families staying with them), or if such standard is stipulated in an international treaty of the Russian Federation. The **list** of foreign states concerning whose agencies the standards of this Subitem are applied shall be defined by a federal body of executive power in the area of international relations jointly with the Ministry of Finance of the Russian Federation.

The **order** of application of this Subitem shall be established by the Government of the

Russian Federation.

8) supplies exported from the territory of the Russian Federation. For the purposes of this Article supplies shall mean fuel and combustive-lubricating materials which are necessary for ensuring the normal operation of aircraft and sea ships, as well as mixed navigation vessels (for rivers and sea).

9) works (services) performed by Russian carriers on the railway transport:

in the carriage or transportation of goods exported beyond the borders of the territory of the Russian Federation and exportation from the territory of the Russian Federation of products of processing on the territory of the Russian Federation;

and connected with the carriage or transportation mentioned in paragraph two of this Subitem whose value is indicated in the carriage documents for the carriage of the goods being exported (products of processing being exported).

The provisions of this Subitem shall be applicable on condition that on the carriage documents there are put down the notes of the customs bodies mentioned in **Item 5 of Article 165** of this Code;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 1 of Article 164 of this Code with Subitem 9.1. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is **officially published** and at the earliest on the first day of a regular **tax period for** the value added tax

9.1) works (services) carried out (rendered) by Russian railway carriers:

which are Involved in carriage or transportation of commodities exported from the territory of the Russian Federation into the territory of a member state of the Customs Union and which are directly involved in carriage or transportation of the cited commodities whose cost is shown in their shipping documents;

which are involved in carriage or transportation of commodities moved across the territory of the Russian Federation from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union or from the territory of a member state of the Customs Union into the territory of another foreign state, in particular of the one which a member of the Customs Union, and which are directly involved in carriage or transportation of the cited commodities whose cost is shown in their shipping documents;

10) built-up ships subject to registration in the Russian International Register of Ships, provided that the documents stipulated by **Article 165** of this Code are submitted to the tax authorities.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 1 of Article 164 of this Code with Subitem 11. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is **officially published** and at the earliest on the first day of a regular **tax period for** the value added tax

11) commodities (works, services) intended for the official use by international organizations and their representative offices exercising their activities in the territory of the Russian Federation. A list of international organizations, which the rules of this subitem apply to, shall be defined by the federal executive power body in charge of international relations jointly with the Ministry of Finance of the Russian Federation.

The 0 tax rate shall apply to the commodities (works, services) sold for the official use by international organizations and their representative offices exercising their activities in the

territory of the Russian Federation on the basis of the provisions of international treaties made by the Russian Federation which provide for exemption from tax.

12) works (services) involved in carriage (transportation) of commodities exported outside the territory of the Russian Federation or imported into the territory of the Russian Federation by seagoing ships and mixed navigation (river-sea) vessels on the basis of time charter contracts.

**2. Taxation shall be imposed at 10 per cent in case of sale of:**

1) the following food articles:

cattle and poultry in live weight;

meat and meat products (except for gourmet articles: tenderloin, veal, tongue, sausage articles - fresh smoked of best quality, fresh smoked semi-dry, of best quality, fresh seasoned, stuffed of best quality; smoked articles made of pork, mutton, beef, veal, poultry - balyk, karbonade, neck, ham, pastorma, loin; baked pork and beef; canned ham, bacon, karbonade and tongue in marinade);

milk and dairy products (including ice-cream produced on their basis, except for ice-cream produced on a fruits-and-berry basis, fruit and food ice);

eggs and egg based products;

vegetable oil;

margarine;

sugar, including raw sugar;

salt;

grain, compound food, fodder mixes, grain waste;

oilseeds and products of their processing (coarsely cut, oilcakes);

bread and baked food articles (including fancy bread, rusk and roll articles);

groats;

flour;

pasta;

live fish (except for valuable species: white salmon, Baltic and Far Eastern salmon, sturgeon (beluga, bester, sturgeon, sevryuga, sterlet), salmon, trout (except for sea trout), nelma, keta, chavycha, kizhuch, muksun, omul, Siberian and Amur sig, chir);

seafood and fish products, including cooled, frozen or of another kind of processing, herring, canned food and pickled canned food (except for gourmet articles: caviar of sturgeon and salmon species; of white salmon, Baltic salmon, of sturgeon fish - beluga, bester, sturgeon, sevryuga, sterlet; salmon; backs and flanks of nelma, cold smoked; light-, medium- and semuzh- pickled keta and chavycha; backs of keta, chavycha and cold smoked kizhuch, flanks of keta and sides of cold smoked chavycha; backs of muksun, omul, Siberian and Amur sig, cold smoked chir; pickled canned fillet slices of Baltic salmon and Far Eastern salmon; crab meat and sets of cooked-and-frozen separate limbs of crabs; of spiny lobsters);

children's and diabetic foods;

vegetables (including potatoes);

See **List** of the Codes of the Types of Foodstuffs in Accordance with the All-Russia Classifier of Products Imposable with Value-Added Tax at the 10 per Cent Tax Rate in Their Realisation and **List** of the Codes of the Types of Foodstuffs in Accordance with the Commodity Classification of Foreign Economic Activity of the Russian Federation Imposable with Value-Added Tax at the 10 per Cent Tax Rate in Import into the Customs Territory of the Russian Federation approved by **Decision** of the Government of the Russian Federation No. 908 of December 31, 2004

2) the following goods for children:

knitted articles for the newborn and children of day care, pre-school, junior and senior school age groups: outdoor knitted articles, knitted underwear articles, socks and stockings, other knitted articles: gloves, mittens, headgear;

ready-made garments, including garments made of natural sheepskin and rabbit (and likewise ready-made garments from natural sheepskin and rabbit with leather insets) for new born children and for children of nursery age, pre-school, junior and senior school age, outer clothing (including dresses and suits), underwear articles, headgear, clothes and articles for new-born children and children of nursery age. The provisions of this Paragraph shall not extend to ready-made garments made of natural leather and natural fur, except for natural sheepskin and rabbit;

footwear (except for sports): footwear for the newborn and children of day care groups, of pre-school, and school; made of felt or rubber: small children's sizes, childrens, pupils';

children's beds;

children's mattresses;

perambulators;

school exercise-books;

toys;

plasticine;

pencil cases;

counting sticks;

school abacuses;

school diaries;

drawing-books;

albums for drawing;

albums for plotting;

folders for exercise-books;

covers for textbooks, diaries, exercise-books;

holders of cards with figures and letters;

diapers.

3) periodical printed publications, except for periodical printed publications of advertising or erotic nature;

education, science and culture books, safe for promotional and erotic books;

Paragraphs from three to six are **abrogated** from January 1, 2005.

*See the **List** of types of periodical printed publications and book products associated with education, science and culture and sales of which are subject to value-added tax at the rate of 10 per cent, approved by **Decision** of the Government of the Russian Federation No. 41 of January 23, 2003. This Decision shall **cover** legal relations that have arisen since January 1, 2002*

For the purposes of this Subitem the "periodical printed publication" is a newspaper, magazine, almanac, bulletin, another publication with a permanent title, current number and issued at least once a year.

For the purposes of this Subitem the "periodical printed publications of advertising nature" are periodical printed publications in which advertisement occupies over 40 per cent of the volume of one issue of the periodical publication;

4) the following medical goods, Russian and foreign-made:

medicinal preparations, in particular medicinal preparations intended for clinical testing,



medicinal substances including in particular those made by a chemist's shop;  
medical-purpose articles.

*See the **List** of codes of medical goods in accordance with the All-Russia Classification of products imposable with value-added tax at a 10 per cent tax rate in their realisation approved by **Decision** of the Government of the Russian Federation No. 688 of September 15, 2008*

**3.** Taxation shall be at the 18 per cent tax rate in the cases not specified in **Items 1, 2** and **4** of this Article.

**4.** When receiving monetary assets connected with payments for the goods (works and services) provided for by **Article 162** of the this Code and also upon the receipt of payment or partial payment against the forthcoming deliveries of goods (the performance of works and the rendering of services), the transfer of property rights provided for by **Items 2 - 4 in Article 155** of this Code, when deducting the tax by tax agents in compliance with **Items 1 - 3 of Article 161** of this Code, when selling property purchased elsewhere and taxable under **Item 3 of Article 154** of this Code, when selling agricultural products and products of processing thereof in accordance with **Item 4 of Article 154** of this Code, in the realisation of motor vehicles in accordance with **Item 5.1 of Article 154** of this Code, during the transfer of property rights in conformity with **Items 2 - 4 of Article 155** of this Code, as well as in other cases where in compliance with this Code the amount of the tax should be determined by way of calculations, the tax rate shall be determined as percentage of the tax rate provided for by **Item 2** or **Item 3** of this Article, to the tax base taken as 100 and increased by the appropriate amount of the tax rate.

**5.** In case of the import of goods to the territory of the Russian Federation and other territories which are under its jurisdiction, the tax rates specified in **Items 2** and **3** of this Article shall be applied.

*According to **Federal Law 118-FZ** of August 5, 2000 (in the wording of **Federal Law No. 338-FZ** of November 28, 2011) up to January 1, 2018 realisation of services in the transfer of pedigree cattle and poultry for ownership and use under agreements of financial lease (leasing) with the right of buy-out, the taxation with value-added tax shall be made at the tax rate of 10 per cent*

**6. Abolished** from January 1, 2007.

*On the examination of constitutionality of provisions of Article 165 of the Tax Code of the Russian Federation, see **Decision** of the Constitutional Court of the Russian Federation No. 12-P of July 14, 2003*

**Article 165.** The Order of Confirmation of the Right to Receive Reimbursements in Case of Taxation at the 0 Per Cent Tax Rate

**1.** In case of sale of goods specified by **Subitem 1** of **Item 1** and (or) **Subitem 8 of Item 1** of Article 164 of this Code for confirmation of justification of application of the 0 per cent tax rate (or peculiarities of taxation) and tax deductions, the following documents shall be submitted to the tax authorities unless otherwise is stipulated by **Items 2** and **3** of this Article;

1) the contract (copy of the contract) made by the taxpayer with a foreign person for delivering goods (supplies) beyond the borders of the united customs territory of the Customs

Union (hereinafter referred to in this Code as the customs territory of the Customs Union) and/or supplies beyond the boundaries of the Russian Federation. If the contracts contain information constituting a state secret, instead of copies of the complete text of the contract an abstract thereof shall be submitted containing the information required to effect the tax control (in particular, information on the terms of delivery, on its time, on products' price and type);

2) **abrogated**;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 3 of Item 1 of Article 165 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

3) **a customs declaration** (its copy) with marks of the Russian customs authority which has released goods in the procedure of export and of the Russian customs authority of the place of departure through which the goods were exported from the territory of the Russian Federation and from other territories which are under its jurisdiction (hereinafter referred to in this article as the Russian customs authority of the place of departure).

When goods are brought out in the customs procedure of export by the pipeline transport or by electric power transmission lines, a full customs declaration or its copy shall be presented with the notes by the Russian Customs agency, which confirm the placement of goods under the customs procedure of export.

In case of export of goods in the customs procedure of export across the border of the Russian Federation with a member state of the Customs Union on which the customs control has been cancelled, the customs declaration (its copy) shall be submitted to third countries with notes of the customs authority of the Russian Federation effecting the customs clearance of the said exportation of goods.

**abrogated** from January 1, 2009.

When exporting supplies from the territory of the Russian Federation, the customs declaration in respect of the supplies (a copy thereof) shall be presented, bearing notes of the customs authority, in whose area of operation a port (airport) opened for international carriage is located, in respect of the supplies exportation outside the Russian Federation (where customs declaring is provided for by the customs legislation of the Customs Union).

Paragraph six is **abrogated**:

Paragraph seven is **abrogated**;

Paragraph eight is **abrogated**;

In the **procedure** determined by the Ministry of Finance of the Russian Federation a taxpayer may submit the following by approbation of the federal executive body in charge of customs affairs:

a register of customs declarations containing data on actually exported commodities bearing notes of the Russian customs authority at the place of departure instead of the customs declarations (copies thereof) whose submission is provided for by Paragraph One of this Subitem;

a register of customs declarations containing data on customs clearance of commodities under the customs procedure of export bearing notes of a customs agency of the Russian Federation proving the fact of placing commodities under the customs procedure of export instead of the customs declarations (copies thereof) whose submission is provided for by Paragraphs Two and Three of this Subitem;

4) copy of the transport, shipping and/or of other documents with marks of the customs authorities at the places of departure confirming the export of goods from the territory of the Russian Federation. The taxpayer can submit any of the listed documents taking into account the following.

In case of export of goods under the customs procedure of export on ships through seaports, the taxpayer shall submit to the tax authorities the following documents to confirm that the goods have been exported from the territory of the Russian Federation and other territories which are under its jurisdiction:

a copy of an order to ship the exported goods, including the name of the port of discharge with a mark "Loading permitted" of a border custom-house of the Russian Federation. In case of exportation of catches of aquatic biological resources, as well as fish and other products made of them that have been delivered into the territory of the Russian Federation in compliance with the **legislation** on fishing and conservation of aquatic biological resources without their unloading into the land territory of the Russian Federation, such copy of an order shall not be filed by a taxpayer with tax authorities;

a copy of a bill of lading, a sea waybill or any other document that confirms the acceptance of export goods for carriage and indicates in the column "Port of unloading" the place located outside the territory of the Russian Federation and other territories which are under its jurisdiction;

In the case of export of goods under customs procedure of export across the border of the Russian Federation with a member state of the Customs Union, where customs control has been abolished, copies of carriage and forwarding documents shall be presented as bearing annotations of the customs body of the Russian Federation which has completed customs formalities in respect of said export of the goods.

In case of export of goods under the regime of export by air transport, the taxpayer shall submit to tax authorities a copy of the international air cargo waybill which is to name the airport of discharge located outside the territory of the Russian Federation and of other territories which are under its jurisdiction, in order to confirm the export of goods beyond the boundaries of the territory of the Russian Federation and of other territories which are under its jurisdiction.

Copies of transport, shipping and/or other documents confirming the export of goods from the territory of the Russian Federation and other territories which are under its jurisdiction can not be submitted in case of export of goods under the customs procedure of export by pipeline transport or via transmission lines.

When exporting supplies from the territory of the Russian Federation, shall be submitted copies of transportation, shipping and other documents, containing, in particular, data on the quantity of supplies, confirming the export of the supplies from the customs territory of the Customs Union and/or beyond the boundaries of the territory of the Russian Federation by aircraft and sea ships, as well as by mixed navigation vessels (for inland and sea navigation).

In case if the loading of goods and the customs clearance of them, when goods are brought in the customs procedure of export by ships are carried out outside the region of the activity of a border customs agency, the following documents shall be presented to tax bodies for the confirmation of the export of goods from the territory of the Russian Federation and other territories which are under its jurisdiction:

a copy of the order on the unloading of export cargoes with the note "Loading is permitted" of the Russian customs agency which carried out the customs clearance of the said export of goods, and also with the note of the Russian customs authority at the place of departure that confirms the export of goods from the territory of the Russian Federation;

a copy of a bill of lading, a sea waybill or any other document which confirms the acceptance of export goods for carriage and which indicates in the column "Port of unloading" the place located outside the territory of the Russian Federation and other territories which are under its jurisdiction.

Paragraph twelve is **abrogated**;

5) when the goods are placed under the customs procedure of free customs zone, it is required to present:

the contract (copy of contract) made with the resident of special economic zone;  
a copy of the certificate of registration of the person as a resident of the special economic zone issued by the federal executive body authorised to perform the functions of managing special economic zones or by its territorial body;

paragraph four is **abrogated**;

**customs declaration** (or its copy) bearing the notes of the customs body on the release of goods in line with the customs procedure of free customs zone or in case of import into the by-port special economic zone of Russian goods placed outside the by-port special economic zone under the customs procedure of export or when moving supplies, customs declaration (its copy) bearing the notes of the customs body that released the goods in line with the applied-for customs procedure and of the customs body authorised to carry out customs procedures and customs operations upon customs clearance of goods in accordance with the customs procedure of free customs zone and within whose area of activity the by-port special economic zone is situated;

documents specified under **Subitem 1** of this Item, in case of import into the by-port special economic zone of goods placed outside the by-port special economic zone under the customs procedure of export or when moving supplies.

**2.** In case of sale of goods stipulated by **Subitem 1** or **8 of Item 1** of Item 1 of Article 164 of this Code, through a commission agent, an attorney or an agent under a contract, of commission agency, contract of delegation or agency contract, the following documents shall be submitted to the tax authorities in order to prove the propriety of the application of the 0 per cent tax rate (or peculiarities of taxation) and tax deductions:

1) the contract of commission agency, contract of delegation or agency contract (or copies) of the taxpayer with a commission agent, attorney or agent;

2) the contract (or a copy thereof) of the person effecting the delivery of goods for export or delivery of supplies on the instruction of the taxpayer (according to the contract of commission agency, contract of delegation or agency contract) with a foreign person to deliver goods (supplies) from the customs territory of the Customs Union and/or supplies beyond the boundaries of the Russian Federation;

3) **abrogated**;

4) documents stipulated by **Subitems 3 - 5 of Item 1** of this Article.

**3.** In case of sale of goods stipulated by **Subitem 1 of Item 1** of Article 164 of this Code, towards the servicing of the debt of the Russian Federation and of the former USSR or to offset the extension of state credits to foreign states, the following documents shall be submitted to the tax authorities in order to prove the propriety of the application of the 0 per cent tax rate (or peculiarities of taxation) and tax deductions:

1) a copy of an agreement between the Government of the Russian Federation and the government of a corresponding foreign state on the settlement of indebtedness of the former USSR (the Russian Federation) or to offset the extension of state credits to foreign states;

2) a copy of an agreement between the Treasury of the Russian Federation and the taxpayer about the funding of deliveries of goods towards the repayment of state debt or to offset the extension of state credits to foreign states;

3) **abrogated**;

4) documents stipulated by **Subitems 3** and **4 of Item 1** of this Article or when the goods are placed under the customs procedure of free customs zone, documents specified under **Subitem 5 of Item 1** of this Article.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.1. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.1 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply to works (services) carried out (rendered) after the date when the said Federal Law enters into force***

**3.1.** When selling the services provided for by **Subitem 2.1 of Item 1 of Article 164** of this Code, the following documents shall be filed with tax authorities to prove the reasonableness of applying the 0 per cent tax rate by taxpayers:

1) a contract (a copy thereof) of rendering the cited services made by a taxpayer with a foreign or Russian person. In the event of exporting goods from the territory of the Russian Federation to the territory of a member state of the Customs Union or in the event of importing goods to the territory of the Russian Federation from the territory of a member state of the Customs Union and of making by the taxpayer of a contract of rendering the cited services with a person that does make a foreign economic transaction in the goods being moved, apart from the cited contract (a copy thereof), shall be filed a copy of the contract made by this person with the person making a foreign economic transaction in the goods being moved;

2) **abrogated**;

3) copies of transportation, shipping and/or other documents proving exportation of goods beyond the boundaries of the territory of the Russian Federation (import of goods into the territory of the Russian Federation), in particular subject to the following specifics.

When exporting goods beyond the boundaries of the customs territory of the Customs Union, in particular across the territory of a member state of the Customs Union, by a sea or river vessel or by a mixed navigation vessel (for inland and sea navigation), the following shall be filed with tax authorities;

a copy of the instructions to ship goods citing the port of their unloading and bearing the note "Loading is permitted" of the Russian customs authority at the place of departure;

a copy of a bill of lading, sea waybill or any other document proving the goods' acceptance for transportation in whose column "Port of unloading" is cited the place which is located outside the customs territory of the Customs Union.

If goods are unloaded and their customs clearance, in case of goods' exportation by using a sea vessel, or river vessel, or a mixed navigation vessel (for inland and sea navigation), is effected outside the area of operation of the Russian customs authority of the place of departure, the following shall be filed with tax authorities:

a copy of the instructions to ship goods bearing the note "Loading is permitted" of the Russian customs authority engaged in the goods' customs clearance, as well as a note of the customs authority at the place of departure proving exportation of goods outside the territory of the Russian Federation;

a copy of a bill of lading, sea waybill or any other document proving the goods' acceptance for transportation in whose column "Port of unloading" is cited the place which is located outside the customs territory of the Customs Union.

When importing goods by a sea or river vessel, or by a mixed navigation vessel (for inland and sea navigation) from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union, with tax authorities shall be filed a copy of a bill of lading, sea waybill or any other document proving the acceptance of goods for carriage, in whose column "Port of loading" is cited the place which is located outside the customs territory of the Customs Union.

When exporting commodities beyond the boundaries of the territory of the Customs

Union, in particular across the territory of a member state of the Customs Union, by air transport, with the tax authorities shall be filed a copy an airway bill citing the airport of unloading (reloading) located outside the customs territory of the Customs Union.

When importing goods by air from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union, with tax authorities shall be filed a copy of an airway bill citing the airport of loading (reloading) located outside the customs territory of the Customs Union.

When exporting goods by motor transport outside the customs territory of the Customs Union, in particular across the territory of a member state of the Customs Union, with tax authorities shall be filed a copy of transportation, shipping and/or other document bearing a note of a Russian customs authority that proves the goods' exportation beyond the boundaries of the territory of the Russian Federation.

When importing goods by motor transport from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union, with tax authorities shall be filed a copy of the transportation, shipping and/or other document bearing a note of a Russian tax authority proving import of goods to the territory of the Russian Federation.

In case of exportation of goods by rail outside the customs territory of the Customs Union, in particular across the territory of a member state of the Customs Union, with tax authorities shall be filed a copy of the transportation, shipping and/or other document bearing a note of a customs authority that proves exportation of goods outside the territory of the Russian Federation or placement of commodities under the customs procedure which stipulates the goods' departure from the customs territory of the Customs Union.

In case of import of goods by rail from the territory of a foreign state which is not a member of the Customs Union, in particular across the territory of a member state of the Customs Union, with tax authorities shall be filed a copy of the transportation, shipping and/or other document bearing a note of a customs authority that proves import to the territory of the Russian Federation.

In the event of exportation of goods from the territory of the Russian Federation to the territory of a member state of the Customs Union or in the event of import of goods to the territory of the Russian Federation from the territory of a member state of the Customs Union by sea or river vessels, or mixed navigation vessels (for inland and sea navigation), by aircraft, railway transport and motor vehicles, with tax authorities shall be filed copies of transportation, shipping and/or other documents citing the places of unloading or places of loading (the railway station of destination or the railway station of departure) located in the territory of another member state of the Customs Union.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.2. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.2 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply** to works (services) carried out (rendered) after the date when the said Federal Law **enters into force***

**3.2.** When selling the works (services) provided for by **Subitem 2.2 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

1) a contract (a copy thereof) of carrying out the cited works (rendering the cited services) made by a taxpayer with the person cited in **Paragraphs Six-Eight of Subitem 2.2 of**

**Item 1 of Article 164** of this Code;

2) **abrogated**;

3) the complete customs declaration (a copy thereof) bearing notes of the Russian customs authority (if the Russian customs authority registers the customs declaration) or of the customs authority of a member state of the Customs Union (if the customs declaration is registered by the cited customs authority) that has released commodities (oil or oil products), or the documents (copies thereof) that prove rendering the services involved in oil and oil products transportation by pipeline transport, if customs declaring is not provided for by the **customs legislation** of the Customs Union);

4) copies of transportation, shipping and/or other documents proving goods' exportation outside the territory of the Russian Federation. The provisions of this subitem shall apply subject to the specifics stipulated by **Subitem 4 of Item 1** of this article.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.3. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.3 of Article 165 of this Code (in the wording of the **Federal Law** No. 309-FZ of November 27, 2010) shall **apply to works (services) carried out (rendered) after the date when the said Federal Law enters into force***

**3.3.** When selling the services provided for by **Subitem 2.3 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

1) a contract (a copy thereof) of rendering the cited services made by a taxpayer with a foreign or Russian person;

2) **abrogated**;

3) the complete customs declaration (a copy thereof) bearing notes of a Russian customs authority in respect of making customs operations (if customs declaration has been submitted) or the documents (copies thereof) which prove rendering the services involved in arranging transportation (the services involved in transportation in the event of import into the territory of the Russian Federation) of natural gas by pipeline transport (if customs declaration has not been submitted).

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.4. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.4 of Article 165 of this Code (in the wording of the **Federal Law** No. 309-FZ of November 27, 2010) shall **apply to works (services) carried out (rendered) after the date when the said Federal Law enters into force***

**3.4.** When selling the services provided for by **Subitem 2.4 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

1) a contract (a copy thereof) of rendering the cited services made by a taxpayer with a Russian person;

2) copies of the reports on rendering the services involved in electric energy transmission and/or of other documents proving electric energy transmission which is supplied from the electric energy system of the Russian Federation to electric energy systems of foreign states;

3) a bank abstract (a copy thereof) proving an actual entry of proceeds from the Russian person that is the purchaser of the cited services onto the taxpayer's account opened with a Russian bank.

If foreign currency proceeds from selling services in the territory of the Russian Federation are not entered in compliance with the procedure provided for by the **currency legislation** of the Russian Federation, a taxpayer shall file with tax authorities the documents (copies thereof) which prove the right not to enter foreign currency proceeds in the territory of the Russian Federation.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.5. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.5 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply to works (services) carried out (rendered) after the date when the said Federal Law enters into force***

**3.5.** When selling the works (services) provided for by **Subitem 2.5 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

1) a contract (a copy thereof) of carrying out the cited work (rendering the cited services) made by a taxpayer with a foreign or Russian person;

2) a bank abstract (a copy thereof) proving an actual entry of proceeds from the foreign or Russian person that is the purchaser of the cited services onto the taxpayer's account opened with a Russian bank;

3) copies of transportation, shipping and/or other documents proving exportation of goods beyond the boundaries of the territory of the Russian Federation and other territories which are under its jurisdiction (import of goods into the territory of the Russian Federation and other territories which are under its jurisdiction) subject to the following specifics.

In case of goods' exportation by a sea or river vessel, a mixed navigation vessel (for inland and sea navigation) the following shall be filed with tax authorities:

a copy of the instructions to ship commodities citing the port of unloading and bearing the note "Loading is permitted" of the Russian customs authority at the place of departure;

a copy of a bill of lading, sea waybill or any other document proving the goods' acceptance for transportation in whose column "Port of unloading" is cited the place which is located outside the territory of the Russian Federation.

In case of goods' importation by a sea or river ship, a mixed navigation ship (for inland and sea navigation), a taxpayer shall file with tax authorities a copy of the bill of lading, sea waybill or any other document proving the goods' carriage in whose column "Port of loading" is cited the place located outside the territory of the Russian Federation and which bears a note of the customs authority operating at a border checkpoint.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.6. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.6 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply to works (services) carried out (rendered) after the date when the said Federal Law enters into force***



**3.6.** When selling the works (services) provided for by **Subitem 2.6 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

1) a contract (a copy thereof) of carrying out the cited works (rendering the cited services) made by a taxpayer with a foreign or Russian person;

2) a bank abstract (a copy thereof) proving an actual entry of proceeds from the foreign or Russian person that is the purchaser of the cited services onto the taxpayer's account opened with a Russian bank;

3) copies of the customs declarations in compliance with which the customs clearance of goods imported to the territory of the Russian Federation for processing and of derived products was effected;

4) copies of transportation, shipping and/or other documents proving importation of goods into the territory of the Russian Federation for processing and exportation of derived products beyond the boundaries of the territory of the Russian Federation, subject to the specifics provided for by **Subitem 3 of Item 3.1** of this article.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.7. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.7 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply** to works (services) carried out (rendered) after the date when the said Federal Law **enters into force***

**3.7.** When selling the services provided for by **Subitem 2.7 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

1) a contract (a copy thereof) of rendering the cited services made by a taxpayer with a foreign or Russian person;

2) a bank abstract (a copy thereof) proving an actual entry of proceeds from the foreign or Russian person that is the purchaser of the cited works (services) onto the taxpayer's account opened with a Russian bank.

If foreign currency proceeds from selling works (services) in the territory of the Russian Federation are not entered in compliance with the procedure provided for by the **currency legislation** of the Russian Federation, a taxpayer shall file with tax authorities the documents (copies thereof) which prove the right not to enter foreign currency proceeds in the territory of the Russian Federation.

3) copies of transportation, shipping and/or other documents bearing notes of Russian customs authorities which prove placement of goods under the customs procedure of export or placement of derived products exported outside the territory of the Russian Federation under the procedure of customs transit.

The provisions of this subitem shall apply subject to the specifics provided for by **Subitem 3 of Item 3.5** of this article.

**Federal Law** No. 309-FZ of November 27, 2010 supplemented Article 165 of this Code with Item 3.8. The Item shall **enter into force** not earlier than upon the expiry of one month from the day of **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*The provisions of Item 3.8 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply** to works (services) carried out (rendered) after the*

*date when the said Federal Law enters into force*

**3.8.** When selling the works (services) provided for by **Subitem 2.8 of Item 1 of Article 164** of this Code, taxpayers shall file with tax authorities the following documents proving the reasonableness of applying the 0 per cent tax rate:

- 1) a contract (a copy thereof) of carrying out the cited works (rendering the cited services) made by a taxpayer with a foreign or Russian person;
- 2) a bank abstract (a copy thereof) proving an actual entry of proceeds from the foreign or Russian person that is the purchaser of the cited works (services) onto the taxpayer's account opened with a Russian bank.

If foreign currency proceeds from selling works (services) in the territory of the Russian Federation are not entered in compliance with the procedure provided for by the **currency legislation** of the Russian Federation, a taxpayer shall file with tax authorities the documents (copies thereof) which prove the right not to enter foreign currency proceeds in the territory of the Russian Federation.

- 3) copies of transportation, shipping and/or other documents which prove exportation of commodities beyond the boundaries of the territory of the Russian Federation, subject to the following specifics.

In case of carriage (transportation) of goods exported in the customs procedure of export by inland water transport organisations within the boundaries of the territory of the Russian Federation from the point of departure to the point of unloading or reloading (transshipment) on sea vessels, mixed navigation vessels (for inland and sea navigation) or to other modes of transport, the following shall be filed with tax authorities:

a copy of the instructions to ship goods, bearing a note "Loading is permitted" of a Russian tax authority, to a river vessel (if cargo customs clearance was effected at the port of unloading or transshipment, this document shall not be filed);

a copy of a bill of lading, sea waybill or any other document of a river vessel proving the goods' acceptance for transportation in whose column "Port of unloading" is cited the place of transshipment (unloading) which is located in the territory of the Russian Federation;

a copy of the instructions to ship goods of the sea vessel to which the cargo was transhipped (loaded) bearing a note "Loading is permitted" of the Russian customs authority that effected customs clearance of the goods' exportation in the customs procedure of export, with a list of transport means (river vessels) that have delivered the cargo to be attached thereto;

a copy of a bill of lading, sea waybill or any other document of a sea vessel proving the goods' acceptance for transportation in whose column "Port of unloading" is cited the place which is located outside the territory of the Russian Federation.

*The provisions of Item 4 of Article 165 of this Code (in the wording of the **Federal Law No. 309-FZ of November 27, 2010**) shall **apply to works (services) carried out (rendered) after the date when the said Federal Law enters into force***

**4.** In case of the sale of works (services) stipulated by **Subitem 3 of Item 1 of Article 164** of this Code, the following documents shall be submitted to the tax authorities in order to prove the propriety of application of the 0 per cent tax rate (or peculiarities of taxation) and tax deductions, unless otherwise is stipulated by **Item 5** of this Article:

- 1) a contract (copy of the contract) of the taxpayer with a foreign or Russian person to perform aforesaid works (to render aforesaid services);

2) **abrogated;**

**Federal Law** No. 245-FZ of July 19, 2011 reworded Subitem 3 of Item 4 of Article 165 of

this Code. The new wording shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

3) a customs declaration (its copy) with marks of the Russian customs authorities at the place of commodities arrival and at the place of commodities departure through which the commodities have been imported into the territory of the Russian Federation and into other areas under its jurisdiction and exported outside the territory of the Russian Federation and other areas under its jurisdiction, subject to the specifics provided for by **Subitem 3 of Item 1** of this article;

**Federal Law** No. 245-FZ of July 19, 2011 reworded Subitem 4 of Item 4 of Article 165 of this Code. The new wording shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

4) copies of transport, shipping and/or other documents proving commodities importation into the territory of the Russian Federation and other areas under its jurisdiction and exportation of commodities outside the territory of the Russian Federation and other areas under its jurisdiction in compliance with **Subitem 3 of Item 1 of Article 164** of this Code. The provision of this subitem shall apply subject to the specifics provided for by **Subitem 4 of Item 1** of this article.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 165 of this Code with Item 4.1. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**4.1.** When selling the services provided for by **Subitem 3.1 of Item 1 of Article 164** of this Code, the following documents shall be filed with tax authorities to prove the reasonableness of applying the 0 per cent tax rate and tax deductions;

the contract (a copy of the contract) of rendering the cited services made by a taxpayer with a foreign or Russian person;

copies of shipping documents drawn up in case of carrying commodities with participation of railway transport, citing the denominations and codes of the railway stations of commodities departure, denominations and codes of entry and exit Russian border and/or port railway stations, denominations and codes of railway stations of destination.

**5.** During the realisation by Russian carriers on the railway transport of the works (services) stipulated by **Subitems 3 and 9 of Item 1 in Article 164** of this Code, it is necessary to submit the following documents to tax bodies in order to confirm the soundness of the application of the zero per cent tax rate (or the peculiarities of taxation) and of tax deductions:

paragraph two is **abrogated**;

the register of the carriage documents executed in case of the carriage of goods in the international communication, with an indication in it of the names or codes of incoming and leaving border and/or port railway stations, of the cost of works (services), the dates of notes by customs agencies on carriage documents testifying to placement of goods in compliance with the customs **legislation** of the Customs Union and the legislation of the Russian Federation under the customs procedure of export or the customs procedure of customs transit when carrying foreign goods from the customs authority at the place of arrival to the customs authority at the place of departure or testifying to placement of processing products to be exported from the territory of the Russian Federation under the customs procedure of customs transit.

In the event of a selective reclaiming by a tax body of the carriage documents included in

registers, copies of the said documents shall be presented by the carriers indicated in the **first paragraph** of this Item within 30 calendar days of the date of the receipt of the relevant claim of the tax body. The carriage documents included in the register shall bear the note of customs which testifies to the carriage of goods placed under the customs regime of export or the customs regime of international customs transit, or indicative of the placement of processing products exported from the customs territory of the Russian Federation under the procedure of internal customs transit.

During the realisation of the services provided for by **Subitem 4 of Item 1 in Article 164** of this Code by the carrier indicated in the **first paragraph** of this Item, it is necessary to submit to tax bodies for the confirmation of the soundness of the application of the zero per cent tax rate (or of the peculiarities of taxation) and of tax deductions the registers of uniform carriage documents which are executed for the carriage of passengers and luggage in direct international communication and which determine the route of following, with an indication of the points of departure and destination, or other documents stipulated by the agreements concluded by the carriers indicated in the first paragraph of this Item with the railways of foreign States or by the international agreements of the Russian Federation.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 165 of this Code with Item 5.1. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**5.1.** When selling by Russian railway carriers the works (services) provided for by **Subitem 9.1 of Item 1 of Article 164** of this Code, to prove the reasonableness of applying the 0 per cent tax rate and tax deductions with the tax authorities shall be filed a list of shipping documents drawn up while carrying commodities by rail citing therein the date of sale of the works (services), the cost of the works (services), denominations or codes of the states of commodities departure, denominations or codes of entry and exit Russian border and/or port railway stations, denominations or codes of the states of commodities destination.

In the event of selective obtainment on demand by a tax authority of the individual shipping documents included into the register, copies of the cited documents shall be presented within 30 calendar days as from the date when an appropriate demand of a tax authority is received;

**6.** In case of rendering services stipulated by **Subitem 4 of Item 1 of Article 164** of this Code, the following documents shall be submitted to the tax authorities, unless otherwise provided for by **Item 5** of this Article, in order to prove the propriety of application of the 0 per cent tax rate (or peculiarities of taxation) and tax deductions:

- 1) **abrogated**;
- 2) a register of the uniform international documents of carriage on the carriage of passengers and luggage which are to give details on the route and specify the departure and destination points.

**7.** When the goods (works, services) envisaged by **Subitem 5 of Item 1 of Article 164** of this Code are sold the following documents shall be filed with tax bodies to confirm the existence of good reason for the application of zero tax rate and tax deduction:

- 1) the taxpayer's agreement or contract (a copy of the agreement or contract) with foreign or Russian persons for the sale (delivery) of the goods, performance of the works, provision of the services;
- 2) **abrogated**;
- 3) a certificate of acceptance or other documents (copies thereof) confirming that the goods have been sold (delivered), the works have been completed, the services have been

provided;

4) a certificate (a copy thereof) issued in compliance with the **legislation** of the Russian Federation for the space hardware sold, including space facilities, space infrastructure items (goods) or, if space hardware, including space facilities and space infrastructure items (goods) of military and dual purpose are sold, -the warrant (a copy thereof) issued by a military representation office of the Ministry of Defence of the Russian Federation.

**8.** In case of sale of goods stipulated by **Subitem 6 of Item 1 of Article 164** of this Code, the following documents shall be submitted to the tax authorities in order to prove the propriety of application of the 0 per cent tax rate (or peculiarities of taxation) and tax deductions:

- 1) the contract (copy of the contract) on the sale of precious metals or precious stones;
- 2) documents (their copies) confirming that precious metals or precious stones have been transferred to the State Fund of Precious Metals and Precious Stones of the Russian Federation, the Central Bank of the Russian Federation, banks.

**9.** The documents (their copies) specified in **Items 1 - 3** of the present Article shall be submitted by the taxpayers to prove the propriety of application of the 0 per cent tax rate upon the sale of goods (works, services) specified in **Subitems 1 and 8 of Item 1 of Article 164** of this Code, no later than within 180 calendar days beginning from the date of the placement of goods under the customs procedures of export, a **free customs zone**, the **movement of provisions**. The said procedure shall not extend to the taxpayers who in keeping with **Item 4** of this Article do not present customs declarations to customs bodies.

If upon expiration of 180 calendar days beginning from the date the goods were released by the customs agencies in the customs procedures of export, a free customs zone, international customs transit and the movement of provisions the taxpayer failed to submit said documents (their copies), the aforesaid operation on the sale of goods (performance of works, rendering of services) shall be taxable under the rates stipulated by **Items 2 and 3 in Article 164** of this Code. If subsequently the taxpayer submits to the tax authorities documents (their copies) justifying the application of the 0 per cent tax rate, then the paid amounts of the tax shall be returnable to the taxpayer in the manner and on conditions which are stipulated by **Articles 176 and 176.1** of the present Code.

The documents indicated in **Item 5** of this Article shall be presented by taxpayers for the confirmation of the soundness of the application of the zero per cent tax rate during the performance of works or the rendering of services provided for by **Subitems 3 and 9 of Item 1 in Article 164** of this Code, within 180 calendar days of the day of putting down on carriage documents a customs note that testifies to the placement of goods under the customs procedure of export or the customs procedure of international customs transit or indicative of the placement of processing products exported from the territory of the Russian Federation and other territories which are under its jurisdiction under the procedure of customs transit. If upon the expiry of 180 calendar days the taxpayer failed to submit the documents indicated in **Item 5** of this Article, the operations in the sale of works (services) shall be liable to taxation at the tax rate of 18 per cent. If subsequently the taxpayer submits to tax bodies the documents warranting the application of the zero per cent tax rate, the paid sums of the tax shall be liable to the return to the taxpayer in the order and on the terms stipulated by **Articles 176 and 176.1** of this Code.

Provisions of this Item shall not apply to taxpayers released from performance of the taxpayer obligation according to **Article 145** of this Code.

The documents cited in **Items 3.1 - 3.8, 4 and 14** of this article shall be filed by taxpayers to prove the reasonableness of the 0 per cent tax rate in the following order:

the documents cited in **Item 3.1** of this article shall be filed with a tax authority at the

latest in 180 calendar days as from the date of the note made by customs authorities in the documents provided for by Subitem 3 of Item 3.1 of this article or, in case of exportation of goods from the territory of the Russian Federation to the territory of a member state of the Customs Union or importation of commodities into the territory of the Russian Federation from the territory of a member state of the Customs Union, as from the date of drawing up transportation, shipping and/or other documents citing the place of unloading or the place of loading (the railway station of destination or the railway station of departure) which is located in the territory of another member state of the Customs Union;

the documents cited in **Item 3.2** of this article shall be filed with a tax authority at the latest in 180 calendar days from the date of making by tax authorities in the customs declaration the note cited in **Subitem 3 of Item 3.2** of this article or from the date of drawing up the document that prove rendering of the services involved in oil and oil products transportation by pipeline transport (if the customs declaring is not provided for by the **customs legislation** of the Customs Union);

the documents cited in **Item 3.3** of this article shall be filed with a tax authority at the latest in 180 calendar days as from the date of the note made by customs authorities in the complete customs declaration (if customs declaration has been submitted) or as from the date of drawing up the documents which prove rendering the services involved in arranging transportation (the services involved in transportation in case of importation into the territory of the Russian Federation) of natural gas by pipeline transport (if customs declaration has not been submitted);

the documents cited in **Item 3.4** of this article shall be filed with a tax authority at the latest in 180 calendar days as from the date of drawing up the reports cited in **Subitem 2 of Item 3.4** of this article;

the documents cited in **Item 3.5** of this article shall be filed with a tax authority at the latest in 180 calendar days as from the date of the note made by customs authorities in the documents provided for by **Subitem 3 of Item 3.5** of this article;

the documents cited in **Item 3.6** of this article shall be filed with a tax authority at the latest in 180 calendar days as from the date of the note proving exportation of derived products beyond the boundaries of the territory of the Russian Federation made by customs authorities in the customs declarations provided for by **Subitem 3 of Item 3.6** of this article;

the documents cited in **Item 3.7** of this article shall be filed with a tax authority at the latest in 180 calendar days as from the date of the note of Russian customs authorities which is cited in **Subitem 3 of Item 3.7** of this article and which proves placement of goods under the customs procedure of export or placement of derived products exported beyond the boundaries of the territory of the Russian Federation under the procedure of customs transit;

the documents cited in **Item 3.8** of this article shall be filed with tax authorities at latest in 180 calendar days as from the date of making by customs authorities the note "Loading is permitted" on the commodities shipment order of the sea ship provided for by Paragraph Five of **Subitem 3 of Item 3.8** of this article;

the documents cited in **Item 4** of this article shall be filed with a tax authority at the latest in 180 calendar days as from the date of the note made by customs authorities in the custom declaration provided for by **Subitem 3 of Item 4** of this article which proves exportation of goods beyond the boundaries of the territory of the Russian Federation.

the documents cited in **Item 14** of this article shall be filed with the tax authority at latest in 180 calendar days as from the date of drawing up the documents mentioned in **Subitem 2 of Item 14** of this article. If upon the expiry of 180 calendar days the taxpayer has not filed with the tax authority the documents cited in Item 14 of this article, the operations involved in the sale of the works (services) provided for by **Subitem 12 of Item 1 of Article 164** of this Code are subject to taxation at the rate fixed by **Item 3 of Article 164** of this Code.

If upon the expiry of 180 calendar days cited in **Paragraphs Five - Fourteen** of this item a taxpayer does not present the mentioned documents, the operations involved in the sale of the works (services) provided for by **Subitems 2.1-2.8** and **3 of Item 1 of Article 164** of this Code shall be subject to taxation at the rate provided for by **Item 3 of Article 164** of this Code.

If afterwards the taxpayer files with tax authorities the documents substantiating application of the 0 per cent tax rate, the paid tax amounts are subject to repayment to the taxpayer in the procedure and under the terms which are provided for by **Articles 176** and **176.1** of this Code.

Paragraph 18 (earlier considered as **17**) shall not **apply** from January 1, 2011.

The documents cited in **Items 4.1** and **5.1** of this article shall be filed with a tax authority at latest in 180 calendar days as from the date of making in the shipping document the calendar stamp of a border railway station (when moving commodities from the territory of the Russian Federation through exit railway stations) or the calendar stamp of the railway station of destination (when moving commodities from the territory of the Russian Federation through exit port railway stations) in the event of carrying out the works (rendering the services) cited in **Subitem 3.1** and in **Paragraph Three of Subitem 9.1 of Item 1 of Article 164** of this Code, or as from the date of making a calendar stamp of the railway station of departure when carrying out the works (rendering the services) cited in **Paragraph Two of Subitem 9.1 of Item 1 of Article 164** of this Code. If upon the expiry of 180 calendar days a tax payer does not present the cited documents, the operations involved in the sale of works (services) provided for by **Subitems 3.1** and **9.1 of Article 164** of this Code shall be taxable at the rate provided for by **Item 3 of Article 164** of this Code.

If afterwards a taxpayer files with tax authorities the documents substantiating the application of the 0 per cent tax rate, the paid sums of tax are subject to reimbursement to the taxpayer in the procedure and under the conditions which are provided for by **Articles 176** and **176.1** of this Code.

**9.1.** In the event of the reorganisation of a body its successor or successors shall submit to the tax body in the place of registration the documents, including their with the requisites of the reorganised (being reorganised) organisation which are provided for by this Article in respect of the operations in selling goods (works, services) which are indicated in **Item 1 of Article 164** of this Code and which were carried out by the reorganised (being reorganised) organisation, if at the time of the completion of the reorganisation the right to apply the zero per cent tax rate for such operations is not confirmed;

**10.** The documents indicated in this Article shall be submitted by taxpayers to justify the application of the 0 per cent tax rate simultaneously with the submission of the **tax declaration**. The procedure for determining the tax amount relating to goods (works, services), property rights acquired for production purposes and/or the sale of goods (works, services), the operations for the sale of which are assessed with the zero per cent tax rate, shall be established by the accounting policy adopted by the taxpayer for taxation purposes.

**11. Abrogated** from January 1, 2011.

**12.** The **procedure** for the application of the zero per cent tax rate established by the international agreements of the Russian Federation, during the sale of goods (works, services) for official use by international organisations and their representative offices carrying on their activity on the territory of the Russian Federation, shall be determined by the Government of the Russian Federation.

**13.** When selling the commodities provided for by **Subitem 10 of Item 1 of Article 164** of this Code, the following documents shall be submitted to the tax authorities for proving the validity of applying 0 per cent tax rate and tax deductions:

1) the contract (a copy of the contract) of a ship's sale made by the taxpayer with the

customer and containing a provision on obligatory registration of a built-up ship at the Russian International Register of Ships within 45 calendar days as of the time of the ship's ownership transfer from the taxpayer to the customer;

2) an extract from a register of ships under construction indicating that upon finishing a ship's construction it shall be subject to registration in the Russian International Register of Ships;

3) the documents proving the fact of a ship's ownership transfer from the taxpayer to the customer;

4) **abrogated** from January 1, 2012.

**14.** When selling the works (services) provided for by **Subitem 12 of Item 1 of Article 164** of this Code, the following documents shall be filed with the tax authorities to prove the reasonableness of applying the 0 per cent tax rate and tax deductions:

1) the contract (a copy of the contract) of providing the cited services made by the taxpayer with a foreign or Russian person;

2) copies of shipping, transportation and/or other documents proving exportation of goods outside the territory of the Russian Federation or importation of goods into the territory of the Russian Federation, subject to the following specifics:

when exporting goods outside the territory of the Russian Federation by a seagoing ship or a mixed navigation (river-sea) vessel, with the tax authorities shall be filed a copy of the consignment, of the sea waybill or any other document proving the acceptance of goods for carriage in whose column "Port of unloading" is cited the place of unloading located outside the territory of the Russian Federation;

when importing goods by a seagoing ship or a mixed navigation (river-sea) vessel from the territory of a foreign state into the territory of the Russian Federation, with the tax authorities shall be filed a copy of the consignment, of the sea waybill or any other document proving the acceptance of goods for carriage in whose column "Port of loading" is cited the place of loading located outside the territory of the Russian Federation and in the column "Port of unloading" is cited the place of unloading located in the territory of the Russian Federation.

#### **Article 166.** The Procedure for Calculation of the Tax

**1.** The amount of tax when determining the tax base according to **Articles 154 - 159** and **162** of this Code shall be calculated as the percentage share corresponding to the tax rate of the tax base, and in case of separate record-keeping - as the amount of tax received as a result of additional amounts of taxes calculated separately as percentage shares of appropriate tax bases corresponding to tax rates.

**2.** The total amount of tax in case of sale of goods (works, services) shall be defined as an amount resulting from additional amounts of tax calculated according to the procedure laid down by Item 1 of the present Article.

**3.** The total amount of tax shall not be calculated by taxpayers being foreign organisations who are not registered with tax authorities as taxpayers. In such a case amount of tax shall be calculated by tax agents separately on each operation in the sale of goods (works, services) on the territory of the Russian Federation according to the order established by **Item 1** of this Article.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 4 of Article 166 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for the value added tax**

**4.** The total amount of tax in case of sale of goods (works, services) shall be calculated by the results of each tax period as applied to all operations recognised as a tax base under



**Subitems 1 - 3 Item 1 Article 146** of this Code, the time for the determination of the tax base of which is established by **Article 167** of this Code, refers to the corresponding tax period taking into account all changes that increase or reduce the tax base over the appropriate tax period, unless otherwise provided for by this chapter.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 5 of Article 166 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**5.** The total amount of tax in case of import of goods to the territory of the Russian Federation and other territories under its jurisdiction shall be calculated as the percentage share of the tax base estimated according to **Article 160** of this Code and corresponding to the tax rate.

If according to the requirements established by **Item 3 of Article 160** of this Code, the tax base shall be defined separately for each group of imported goods, then for each of the aforesaid tax bases the amount of tax shall be calculated separately according to the order established by paragraph one of this Item. In doing so, the total amount of tax shall be calculated as the amount received as a result of addition of amounts of taxes estimated separately for each of such tax bases.

**6.** The amount of tax on operations of sale of goods (works, services) taxed according to **Item 1, Article 164** of this Code under the 0 per cent tax rate shall be calculated separately on each such operation according to the procedure established by **Item 1** of this Article.

**7.** If the taxpayer maintains no book-keeping or record-keeping of items of taxation, tax authorities shall have the right to calculate tax amounts payable on the basis of data available on other similar taxpayers.

#### **Article 167.** The Moment of Determining the Tax Base

**1.** For the purpose of this Chapter the earliest date from among the following dates is the moment of determining the tax base, unless otherwise is provided for by **Items 3, 7 - 11, 13 - 15** in the present Article:

- 1) the day of shipment (transfer) of goods (works, services), the day of property rights;
- 2) the day of payment or partial payment against the forthcoming deliveries of goods (the performance of works or the rendering of services), of the transfer of property rights.

**2. Abolished** from January 1, 2006.

**3.** In cases when goods are not shipped or transported, but there is conveyance of property to these goods, such conveyance of property for the purposes of this Chapter shall be equated to its shipment.

**4. Abolished** from January 1, 2006.

**5. Abolished** from January 1, 2006.

**6. Abolished** from January 1, 2006.

**7.** In case of sale by the taxpayer of goods transferred to him for storage as per a contract of warehouse storage involving the issue of the warehouse certificate, the time for the estimation of the tax base for the said goods shall be defined as the day of sale of the warehouse certificate.

**8.** During the transfer of property rights in the case provided for by **Item 2 of Article 155** of this Code, the time for the estimation of the tax base shall be determined as a day of the assignment of a monetary claim or a day of the cessation of the corresponding obligation; in the cases stipulated by **Items 3 and 4 of Article 155** of this Code the time for the estimation of the tax base shall be determined as a day of assignment (subsequent assignment) of a claim or as a day of the execution of the obligation by a debtor, and in the case stipulated by **Item 5 of**

**Article 155** of this Code - as a day of the transfer of property rights.

**9.** When selling goods (works, services) stipulated by **Subitems 1, 2.1 - 2.8, 3, 3.1, 8, 9, 9.1 and 12 of Item 1 of Article 164** of this Code, the moment of determining the tax base with regard to the said goods (works, services) shall be the last date of the quarter in which a complete set of the documents provided for by **Article 165** of this Code is prepared.

If a complete set of the documents provided for by **Article 165** of this code is not compiled within the time periods cited in **Item 9 of Article 165** of this code, the time for assessing the tax base in respect of the mentioned goods (works, services) shall be fixed in compliance with **Subitem 1 of Item 1** of this article, if not otherwise provided for by this item. If the complete set of the documents provided for by **Item 5 of Article 165** of this Code is not compiled on the 181st calendar day from the day of the putting down on the documents of carriage of the note of the customs bodies indicative of the placement of goods under the customs procedure of export or the customs procedure of customs transit when carrying foreign goods from the customs authority at the place of arrival at the territory of the Russian Federation to the customs authority at the place of departure from the territory of the Russian Federation or indicative of the placement of processing products exported from the territory of the Russian Federation and other territories which are under its jurisdiction under the procedure of internal customs transit, the time for determining the tax base in respect of the said works and services shall be fixed in compliance with Subitem 1 of Item 1 of this Article. In the event of the reorganisation of a body, if the 181st calendar day coincides with the date of the completion of the reorganisation or commences after the said date, the time for defining the tax base shall be determined by the successor or successors as the date of the completion of the reorganisation (as the date of the state registration of each newly-emerged organisation and in the event of reorganisation in the form of incorporation as the date of the entry of a record of the cessation of the activity of each incorporated organisation in the single state register of juridical persons).

In case of importing into the by-port special economic zone Russian goods placed outside the by-port special economic zone under the customs procedure of export or when exporting supplies, the time limits for submission of documents fixed under Item 9 of Article 165 of this Code shall be determined from the date of placement of the said goods under the customs procedure of export or from the date of declaring supplies (or, as regards the taxpayers selling supplies in respect of which customs declaring is not provided for by the customs legislation of the Customs Union, as from the date drawing up transport, shipping and other documents proving exportation of supplies outside the territory of the Russian Federation by aircrafts and sea ships, as well as by mixed navigation (river - sea) vessels.

The time for determining the tax base provided for by this item which is connected with the time period for presenting the documents cited in **Items 1-4 of Article 165** of this Code shall be increased by 90 calendar days, if the commodities are placed accordingly under the customs regimes of export, international customs transit, free customs zone and moving of supplies within the period from July 1, 2008 up to March 31, 2010 inclusive.

**9.1.** If within forty five calendar days as from the time of transfer of a vessel's ownership from the taxpayer to the customer the vessel is not registered in the **Russian International Register of Ships**, the time for determining the tax base by a tax agent shall be fixed in compliance with **Subitem 1 of Item 1** of this article.

**10.** For the purpose of this Chapter the last date of each calendar period shall be the time for the estimation of the tax base during building and assembly works for internal consumption.

**11.** For the purposes of this Chapter, the time for the estimation of the tax base during the transfer of goods (the performance of works or the rendering of services) for one's own needs recognised as an item of taxation according to this **Chapter** shall be defined as the day

of performance of aforesaid transfer of goods (performance of works, rendering of services).

**12.** The accounting policy adopted by the organisation for the purposes of taxation shall be approved by appropriate orders and orders of the head of the organisation.

The accounting policy shall be applied for the purposes of taxation from January 1 of the year following the year of its approval by an appropriate order, order of the chief of the organisation.

The accounting policy for the purposes of taxation adopted by organisation shall be obligatory for all separate units of the organisation.

The accounting policy for the purposes of taxation adopted by the newly founded organisation shall be approved no later than the end of the first tax period. The accounting policy for the purposes of taxation accepted by the newly founded organisation shall be considered as being applied from the date of creation of the organisation.

**13.** In the event of the receipt by the taxpayer who manufactured goods (works, services) of payment or partial payment against the forthcoming deliveries of goods (the performance of works or the rendering of services) the activity of the production cycle of the manufacture of which exceeds six months (according to the list defined by the Government of the Russian Federation), the taxpayer who manufactured the said goods (works, services) shall have the right to define the time of the estimation of the tax base as a day of shipment (transfer) of the said goods (the performance of works or the rendering of services) in the presence of a separate accounting of operations and of the tax amounts on the acquired goods (works, services), including fixed assets and intangible assets, property rights used for the realisation of operations in the production of goods (works, services) of a long production cycle and other operations.

Upon the receipt of payment or partial payment by the taxpayer who manufactured goods (works, services) it is necessary to submit to tax bodies together with a tax declaration a contract with the buyer (a copy of such a contract certified with the signature of the manager and the chief accountant), and also the document which confirms the duration of the production cycle of goods (works, services), with an indication of their names, the period of manufacture, the name of the manufacturing taxpayer by the federal executive body that exercises the functions of mapping out a state policy and carrying out the normative legal regulation in the sphere of industrial, defence-industrial, and fuel and power complexes, and also which is signed by the authorised person and attached with the seal of this body.

**14.** If the day of payment or partial payment for forthcoming deliveries of goods (the performance of works or the rendering of services) or the day of the transfer of property rights is the time for the estimation of the tax base, then on the day of the shipment of goods (the performance of works or the rendering of services), or on the day of the transfer of property rights against the earlier received payment or partial payment there also emerges the time for determining the tax base.

**15.** For the tax agents indicated in **Items 4 and 5 in Article 161** of this Code the time for estimating the tax base shall be determined in the order established by **Item 1** of this Article.

#### **Article 168.** The Amount of Tax Presented by the Vendor to the Buyer

**1.** In case of sale of goods (works, services), transfer of property rights the taxpayer (the tax agent indicated in **Items 4 and 5 of Article 161** of this Code) in addition to the price (tariff) of sold goods (works, services), transferred property rights is obliged to present an appropriate amount of tax for payment to the buyer of property rights).

In the event of receiving by a taxpayer the amounts of payment or partial payment on account of forthcoming supplies of commodities (carrying out of works, rendering of services), transfer of property rights to be sold in the territory of the Russian Federation, the taxpayer is

obliged to surrender to the purchaser of these commodities (works, services) or property rights the amount of tax calculated in the procedure established by **Item 4 of Article 164** of this Code.

**2.** The amount of tax presented by the taxpayer to the buyer of goods (works, services), property rights shall be calculated on each kind of these goods (works, services), property rights the percentage share corresponding to the tax rate specified in Item 1 of this Article of the prices (tariffs).

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 3 of Article 168 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**3.** In case of sale of goods (works, services), transfer of property rights, as well as when receiving the amounts of payment or partial payment for future supplies of commodities (carrying out of works, rendering of services), and transfer of property rights, the relevant invoices shall be presented at the latest in five calendar days from the day of shipment of goods (performance of works, rendering of services), from the day of transfer of property rights or from the day of receiving the amounts of payment or partial payment for future supplies of commodities (performance of works, rendering of services) or the transfer of property rights.

When calculating the amount of tax in compliance with **Item 1 - 3 of Article 161** of this Code by the tax agents cited in **Items 2 and 3 of Article 161** of this Code, invoices shall be drawn up in the procedure established by **Items 5 and 6 of Article 169** of this Code.

In case of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights, the seller shall make out for the purchaser an adjustment invoice at latest in five working days as from the date of drawing up the documents cited in **Item 10 of Article 172** of this Code.

**4.** The appropriate amount of tax shall be stated in a separate line in settlement documents, including in the registers of cheques and registers to receive funds from the letter of credit, primary registration documents and in invoices.

**abrogated** from January 1, 2009.

**5.** In case of sale of goods (works, services), the operations on which sale are not subject to taxation (are exempt from taxation), and also when according to **Article 145** of this Code a taxpayer is released from performance of the taxpayer obligation, the settlement documents and the primary registration documents shall be made out and invoices shall be submitted without pointing out the corresponding amount of tax. In so doing, the appropriate inscription shall be made or the stamp "Without the tax (VAT)" shall be affixed to said documents.

**6.** In case of sale of goods (works, services) to the population at wholesale prices (tariffs) the appropriate amount of tax shall be included in said prices (tariffs). In so doing, the amount of tax shall not be stated on labels of goods and price tags which are handed out by vendors nor on receipts and other documents issued to buyers.

**7.** In case of the sale of goods in cash by retail and public catering organisations (enterprises) and individual businessmen and also other organisations, individual businessmen performing works and providing services for a fee immediately to the general public, the requirement laid down by **Items 3 and 4** of this Article concerning registration of settlement documents and making out invoices shall be considered fulfilled if the vendor has issued to the buyer a cash voucher or another document of an established form.

## **Article 169.** The Invoice

*On the Application of Invoices When Calculating the Value-Added Tax, see **Letter of the Ministry of Taxation of the Russian Federation No. VG-6-03/404 of May 21, 2001***

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 1 of Article 169 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for the value added tax**

**1.** An invoice is the document used as the basis to accept by the buyer the presented by the seller of goods (works, services) and property rights (including (the commission agent and agent who sell goods (works, services) and property rights on their behalf) amounts of tax for deduction in the order stipulated by this Chapter.

An invoice may be drawn up and made out using a paper medium and/or in electronic form. Invoices shall be drawn up in electronic form by mutual consent of the parties to a transaction and when the cited parties have compatible technical facilities and capacities for acceptance and processing of these invoices in compliance with the established formats and procedure.

An **adjustment invoice** made out by the seller for the purchaser of commodities (works, services) and property rights in case of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights by way of its reduction, in particular in case of reduction of the price (tariff) and/or decrease of the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights, shall be deemed the document serving as the basis for deduction by the seller of the commodities (works, services) and property rights of the tax amounts in the procedure provided for by this chapter.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 2 of Article 169 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for the value added tax**

**2.** Invoices shall serve as a ground to accept for deduction the tax amounts presented to the purchaser by the vendor, if the requirements established by **Items 5, 5.1 and 6** of this Article are satisfied. An adjustment invoice made out by the seller for the purchaser of commodities (works, services) and property rights in case of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights by way of its reduction, in particular in case of reduction of the price (tariff) and/or decrease of the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights shall serve as the basis for deduction of tax amounts by the seller of commodities (works, services) and property rights while satisfying the requirements established by **Items 5.2 and 6** of this article.

Errors in invoices and in adjustment invoices, which do not prevent tax authorities from identifying while holding a tax inspection the vendor and the purchaser of commodities (works, services) and property rights, the denomination of commodities (works, services) and property rights, their value, as well as the tax rate and the amount of tax advanced to the purchaser, shall not serve as a ground to deny acceptance of the tax amounts for deduction.

A failure to satisfy requirements for an invoice which are not provided for by **Items 5 and 6** of this Article may not serve as a ground for the denial to accept for deduction the amounts of tax presented by the vendor. Failure to satisfy the requirements for an adjustment invoice made out by the seller for the purchaser of commodities (works, services) and property rights in case of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights by way of its reduction, in particular in case of reduction of the price

(tariff) and/or decrease of the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights, which are not provided for by **Item 5.2** and **6** of this article, may not serve as the ground for the refusal to deduct the tax amounts by the seller.

**3.** The taxpayer is obliged to make out the invoice, to keep log-books of received and issued invoices, books of purchases and books of sales, unless otherwise stipulated by Item 4 of this Article:

1) in case of performance of operations defined as items of taxation according to this **Chapter** including those not taxable (exempt from taxation) according to **Article 149** of this Code;

2) in other duly defined cases.

**4.** Invoices shall not be made out by taxpayers on operations of sale of securities (except for broker and intermediary services), and also banks, by a bank for development which is a state corporation, insurance organisations, the professional association of insurers established in compliance with **Federal Law** No. 40-FZ of April 25, 2002 on Obligatory Insurance of Civil Liability of Transport Vehicles' Owners, and non-state pension funds on operations which are not taxable (exempt from taxation) according to **Article 149** of this Code.

**5.** An invoice drawn up when selling commodities (carrying out works, rendering services) and transferring property rights, shall state:

1) the serial number and date of making out the invoice;

2) the name, address and identification numbers of the taxpayer and buyer;

3) the name and address of the consignor and consignee;

4) the number of the settlement document when an advance or other payments are received against future deliveries of goods (performance of works, rendering of services);

5) the name of the delivered (shipped) goods (description of the executed works, rendered services) and unit of measurements (where it is possible to indicate);

6) the quantity (volume) of goods (works, services) delivered (shipped) under the invoice on the basis of units of measurement accepted for it (where it is possible to indicate);

6.1) denomination of currency;

7) the price (tariff) per unit of measurement (where it is possible to indicate) under an agreement (contract) less the tax, and if state controlled prices (tariffs) are used, including the tax, with allowance for amounts of the tax;

8) the cost of goods (works, services), property rights for the entire quantity of delivered goods (shipped) on the invoice (executed works, rendered services), transferred property rights less the tax;

9) the sum of excise duty levied on excisable goods;

10) the tax rate;

11) the amount of tax the buyer of goods (works, services), property rights is charged which is defined on the basis of effective tax rates;

12) the cost of the entire quantity of delivered (shipped) goods (executed works, rendered services), transferred property rights under the invoice with allowance for the amount of tax;

13) the country of origin of goods;

14) the number of the **customs declaration**.

Information stipulated by Subitems 13 and 14 of this Item shall be submitted concerning goods whose country of origin is not the Russian Federation. The taxpayer selling aforesaid goods shall be responsible only for the conformity of aforesaid information in the invoices presented by him to the information contained in the invoices received by him and in the

shipping documents.

**5.1.** The following shall be cited in the invoice drawn up when receiving payment or partial payment for future supplies of commodities (carrying out of works, rendering of services) or transfer of property rights:

- 1) ordinal number and date of making out of the invoice;
- 2) name, address and identification numbers of the taxpayer and purchaser;
- 3) number of the payment and settlement document;
- 4) denomination of supplied commodities (description of works or services), property rights;
  - 4.1) denomination of currency;
- 5) amount of payment or partial payment for future supplies of commodities (carrying out of works, rendering of services) or transfer of property rights;
- 6) tax rate;
- 7) amount of tax presented to the purchaser of commodities (works, services) or property rights determined on the basis of applicable tax rates.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 169 of this Code with Item 5.2. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**5.2.** The following shall be cited in an adjustment invoice made out in case of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and property rights:

- 1) the denomination "adjustment invoice", ordinal number and date of drawing up the adjustment invoice;
- 2) the ordinal number and date of drawing up the invoice under which the cost of shipped commodities (carried out works, rendered services) and transferred property rights, is altered, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and transferred property rights;
- 3) the denomination, addresses and taxpayers' identification numbers of the taxpayer and purchaser;
- 4) the denomination of commodities (description of carried out works, rendered services) and property rights, as well as and the measurement unit (where it is possible to cite it) in respect of which the price (tariff) is altered and/or the quantity (volume) is specified;
- 5) the quantity (volume) of commodities (works, services ) according to the invoice in the measurement units used in it ( where it is possible to cite them) prior to and after specifying the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and transferred property rights;
- 6) the currency denomination;
- 7) the price (tariff) per one measurement unit (where it is possible to cite it) less the tax or, in case of applying state-controlled prices (tariffs) including the tax, subject to the amount of tax before and after alteration of the price (tariff);
- 8) the cost of the total quantity of commodities (works, services) and property rights according to the invoice less the tax and after adjustment;
- 9) the excise tax amount, as regards excisable commodities;
- 10) the tax rate;

11) the tax amount estimated on the basis of applicable tax rates before and after alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and transferred property rights;

12) the cost of the total quantity of commodities (works, services) and property rights according to the invoice subject to the amount of tax before and after changing the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and transferred property rights;

13) the difference between the indices in the invoice on the basis of which the cost of shipped commodities (carried out works, rendered services) and transferred property rights is altered, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and transferred property rights, and the indices estimated after alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular in case of alteration of the price (tariff) and/or specification of the quantity (volume) of supplied (shipped) commodities (carried out works, rendered services) and transferred property rights.

With this, in the event of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights by way of reduction, the appropriate difference between the tax amounts estimated before and after their alteration shall be shown with the minus sign.

**6.** The invoice shall be signed by the head and chief accountant of the organisation or other officials authorised thereto by an order (by other administrative document) of the organisation or by a letter of authority on behalf of the organisation. When an invoice is drawn up by an individual businessman the invoice shall be signed by the individual businessman, and state the requisites of the state registration certificate of such individual businessman.

An invoice drawn up in electronic form shall be signed by the **electronic digital signature** of the organisation's head or of other persons authorised to do this by an order (by some other administrative document) issued by the organisation or by a letter of attorney issued by an organisation or individual businessman in compliance with the legislation of the Russian Federation.

**7.** In case when an obligation is denominated in a foreign currency under the terms of a transaction, the amounts of money specified in an invoice, can be stated in foreign currency.

**8.** The form of an invoice and procedure for completing it, forms of and procedure for keeping a log-book of received and drawn-up invoices, books of purchases and books of sales shall be established by the Government of the Russian Federation.

**9.** The procedure for making out and receiving invoices in electronic form via telecommunication channels using an **electronic digital signature** shall be established by the Ministry of Finance of the Russian Federation.

Formats of an invoice and of a log-book of received and drawn up invoices in electronic form shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**Article 170.** The Order of Referring Tax Amounts to the Costs of Production and Sale of Goods (Works, Services)



**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 170 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

1. Amounts of tax a taxpayer is charged when buying goods (works, services), property rights or actually paid by him when importing goods to the territory of the Russian Federation and other territories under its jurisdiction, unless otherwise established by provisions of the present Chapter, shall not be included in the expenses accepted for **deduction** when calculating the tax levied on profit of organisations (income tax of natural persons), except for cases stipulated by Item 2 of this Article.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 2 of Article 171 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

2. Subject to deductions shall be the amounts of tax presented to the taxpayer when purchasing goods (works, services) and also property rights in the territory of the Russian Federation or paid by the taxpayer when importing goods into the territory of the Russian Federation and other territories under its jurisdiction under the customs procedure of release for internal consumption, temporary import and processing outside of the customs territory or in case of importing goods moved across the customs border of the Russian Federation without customs control and customs clearance, in relation to the following:

1) acquiring (importing) goods (works, services), including fixed assets and intangible assets used for operations related to the production and (or) sale (as well as to transfer of goods, carrying out works and rendering services for own needs) of goods (works, services) which are not taxable (exempt from taxation);

2) acquiring (importing) goods (works, services), including fixed assets and intangible assets used for operations related to the production and (or) sale of goods (works, services) whose place of sale is not recognised as the territory of the Russian Federation;

3) the acquisition (importation) of goods (works, services), in particular fixed assets and intangible assets by persons not being by the taxpayers of the value-added tax or relieved from the duty to act as a taxpayer in terms of tax calculation and payment;

4) the acquisition (importation) of goods (works, services), including fixed and intangible assets and property rights, for the production and/or the sale (transfer) of goods (works, services), the operations in the sale (transfer) of which are not recognised as the sale of goods (works, services) in accordance with **Item 2 in Article 146** of this Code, unless the contrary is established by this Chapter.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 2 of Article 170 of this Code with Subitem 5. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

5) acquiring commodities by banks applying the procedure for tax accounting provided for by **Item 5** of this article, including fixed assets and intangible assets, as well as property rights which will be afterwards sold by banks before starting to use them for making bank transactions, for letting them on lease or before their putting in operation.

3. The tax amounts accepted for deduction by the taxpayer on goods (works, services), including fixed and intangible assets, and property rights in the order stipulated by this Chapter shall be liable to the restoration by the taxpayer in the following cases:

1) the transfer of property, intangible assets, property rights as a contribution in the authorised (contributed) capital of economic companies and partnerships, the contribution under an agreement of investment partnership or share contributions to the share funds of cooperatives and also the transfer of immovable property for the purpose of replenishing the earmarked capital of a not-for-profit organisation in the procedure established by **Federal Law No. 275-FZ** of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations.

It is necessary to restore the sums of the tax in the amount earlier accepted for deduction and in respect to fixed and intangible assets - in the amount of the sum of money proportional to residual (balance-sheet) value disregarding revaluation.

Tax amounts subject to restoration in keeping with this subitem shall not be included in the value of property, intangible assets and property rights and shall be liable to a tax deduction from the accepting organisation (in particular from the party to an agreement of investment partnership which is a managing partner) in the order established by this Chapter. The sum of the restored tax shall be indicated in the documents which execute the transfer of the said property, intangible assets and property rights;

2) further use of such goods (works, services), including fixed assets and intangibles, and property rights for performing the operations mentioned in **Item 2** of this Article, except for the operation stipulated by **Subitem 1** of this Item; performance of works (rendering of services) outside the territory of the Russian Federation by Russian aircraft enterprises within the framework of peacemaking activity and carrying out international cooperation in solving international problems of humanitarian nature within the framework of the United Nations Organisation (with respect to aircraft, engines and spare parts therefor); transfer of fixed assets, intangibles and/or other property, property rights to a legal successor (or legal successors) in reorganisation of legal entities; transfer of property to a participant of an agreement of simple partnership (agreement of joint activity), an agreement of investment partnership or his legal successor in the event of apportioning his share from the property in common ownership of the participants of the agreement, or division of such property.

Tax rates in the amount earlier accepted for a deduction shall be subject to restoration; as for fixed and intangible assets, they are restored in the amount of the sum proportional to residual (balance sheet) value disregarding revaluation.

Tax rates subject to restoration in accordance with this subitem shall not be included in the value of the said goods (works, services), fixed and intangible assets and property rights, but shall be reckoned within other expenses in keeping with **Article 264** of this Code.

Tax amounts shall be restored in that tax period in which goods (works, services), including fixed and intangible assets and property rights were transferred or are used by the taxpayer for the realisation of operations indicated in **Item 2** of this Article.

When the taxpayer goes over to special tax regimes in keeping with **Chapters 26.2** and **26.3** of this Code, the tax amounts accepted for deduction by the taxpayer for goods (works, services), including fixed and intangible assets and property rights in the order provided for by this Chapter shall be restored in the tax period that precedes the transition to said tax regimes.

The provisions of this Item shall not apply to the taxpayers who go over to the special tax regime in accordance with **Chapter 26.1** of this Code;

3) in the event of remittance by the purchaser of the amounts of payment or partial payment for future supplies of commodities (carrying out of works, rendering of services) or transfer of property rights.

The amount of tax shall be restored by the purchaser in the tax period in which the amounts of tax on acquired commodities (works, services), or property rights are subject to

deduction in the procedure established by this Code or in the tax period in which the terms of the appropriate contract were changed or it was dissolved and the appropriate amounts of payment or partial payment received by the taxpayer for future supplies of goods (carrying out of works, rendering of services) were returned.

Sums of tax in the amount previously intended for deduction in respect of payment or partial payment for future supplies of commodities (carrying out works, rendering of services) or transfer of property rights are subject to restoration.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 3 of Article 170 of this Code with Subitem 4. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

4) alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights by way of reduction, in particular in the event of reduction of the price (tariff) and/or reduction of the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights.

The tax sums shall be restored in the amount of the difference between the tax sums estimated on the basis of the cost of shipped commodities (carried out works, rendered services) and transferred property rights before and after such reduction.

The tax sums shall be restored by the purchaser in the tax period on which the earliest of the following dates falls:

the date when the purchaser receives the basic documents as to alteration by way of reduction of the cost of acquired commodities (carried out works, rendered services) and acquired property rights;

the date when the purchaser receives the adjustment invoice made out by the seller in case of alteration by way of reduction of the cost of shipped commodities (carried out works, rendered services) and transferred property rights;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 3 of Article 170 of this Code with Subitem 5. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

5) further use of commodities (works, services), including fixed assets and intangible assets, and of property rights for making the operations involved in the sale of commodities (works, services) provided for by **Item 1 of Article 164** of this Code.

The tax sums shall be subject to restoration in the amount which has been earlier deducted.

The tax sums shall be restored in the tax period in which the commodities (works, services) provided for by **Item 1 of Article 164** of this Code are shipped (carried out, rendered).

The restored tax sums are subject to deduction (except for the tax sums restored in compliance with **Subitem 6** of this item) in the appropriate tax period on which falls the time of determining the tax base for the operations involved in the sale of commodities (works, services) provided for by **Item 1 of Article 164** of this Code, subject to the specifics established by **Article 167** of this Code;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 3 of Article 170 of this Code with Subitem 6. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

6) in the event of receiving by a taxpayer in compliance with the legislation of the Russian

Federation subsidies from the federal budget to compensate for the outlays connected with payment for acquired commodities (works, services), subject to the tax, as well as to compensate for the outlays on paying tax when importing commodities into the territory of the Russian Federation and other areas which are under its jurisdiction.

The tax sums shall be subject to restoration in the amount which has been earlier deducted.

The tax sums which are subject to restoration in compliance with this item shall not be included in the cost of the cited commodities (works, services) and shall be accounted within the composition of miscellaneous costs in compliance with **Article 264** of this Code.

The tax sums shall be restored in the tax period in which the granted subsidies are received.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 4 of Article 170 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

4. The amounts of tax, taxpayers making both taxable operations and those exempted from taxation are charged with by sellers of goods (works, services), property rights:

shall be included into the cost of such goods (works, services), property rights under **Item 2** of this Article - with regard to goods (works, services), including fixed assets and intangible assets, property rights used in operations on which value-added tax is not levied;

shall be deducted under **Article 172** of this Code - with regard to goods (works, services), including fixed assets and intangible assets, property rights used in operations on which value-added tax is levied;

shall be deducted or included into the cost thereof proportionally to their use for production and (or) sale of goods (works, services), property rights, operations in sale of which are taxable (exempt from taxation) - with regard to goods (works, services) including fixed assets and intangible assets, property rights used in both taxable operations and in those exempted from taxation, in the order established by the accounting policy adopted by the taxpayer for taxation purposes.

The said proportion shall be determined reasoning from the cost of shipped goods (works, services), property rights and operations in the sale of which are taxable (exempted from taxation), as compared to the total cost of goods (works, services) shipped within a tax period. In respect of the fixed assets and intangible assets accounted in the first and second months of a quarter a taxpayer is entitled to determine the cited proportion on the basis of the cost of shipped commodities (carried out works, rendered services) and transferred property rights in an appropriate month, in respect of which the operations involved in their sale are taxable (are exempt from taxation), in the total cost of the commodities (works, services) and property rights shipped (transferred) within the month.

Separate accounting of amounts of the tax by the taxpayers who have transferred to payment of the uniform tax on imputed earnings for certain types of activity shall be carried out in a similar procedure.

With this, a taxpayer shall be obliged to keep separate records of the amounts of tax with regard to acquired goods (works, services), including fixed assets and intangible assets, property rights, used in both taxable operations and those not subject to taxation (exempted from taxation).

Where there are no separate records kept, the amounts of tax with regard acquired goods (works, services), including fixed assets and intangible assets, property rights, shall not be deducted and shall not be included into the expenses deducted in the course of calculating the profit tax on organisations (the income tax on natural persons).

A taxpayer is entitled not to apply the provisions of this Item in respect of the tax periods where the share of aggregate expenditures with regard to acquisition, production and/or sale of goods (works, services) and property rights, operations in sale of which are not taxable, does not exceed 5 per cent of the total amount of aggregate expenditures with regard to acquisition, production and/or sale of the goods (works, services) and property rights. With this, the total amounts of the tax, such taxpayers are charged with by sellers of goods (works, services) and property rights within the said tax period, are subject to deduction in compliance with the procedure provided for by **Article 172** of this Code.

For the purpose of estimation of the proportion cited in **Paragraph Five** of this Item in respect of financial instruments of time transactions shall be taken the cost of financial instruments of time transactions involving the supply of the base asset which is estimated according to the rules established by **Article 154** of this Code, provided that the base asset of appropriate financial instruments of time transactions is shipped (transferred) within a tax period, the amount of the net profit derived by a taxpayer in the current tax period from financial instruments of time transactions as a result of the discharge (termination) of obligations which are not connected the base asset's sale (in particular, the obtained amounts of the variation margin and premiums under a contract), including the amounts of money to be received under such obligations in future tax periods, if the date when the corresponding right of claim in respect of financial instruments of time transactions is determined (when it rises) is within the current tax period (month).

When estimating the proportion cited in **Paragraph Five** of this Item, an organisation engaged in clearing activity in the securities market (the activity of defining (collating) obligations under civil law contracts made in the course of trading arranged by an exchange and/or by trade promoters in the securities market whose subject matter are goods or foreign currency of financial instruments of time transactions, as well as of ensuring their execution and/or of exercising control over it (hereinafter referred to in this Code as clearing organisations) shall not account for the transactions in securities, financial instruments of time transactions and other transactions for which such clearing organisation is a party for the purpose of effecting their clearing, as well as the transactions made by a clearing organisation for the purpose of discharging obligations of such clearing participants.

**Federal Law** No. 336-FZ of November 28, 2011 amended Item 5 of Article 170 of this Code. The amendments shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**5.** Banks, insurance institutions, and non-state pension funds shall have the right to include in the costs accepted for deduction when calculating tax levied on profit of organisations the amounts of tax paid to suppliers for the purchased goods (works, services). Here, the entire amount of tax received by them under taxable operations shall be payable to the budget.

The party to an agreement of investment partnership which is the managing partner responsible for keeping tax records is entitled to include in deductible outlays when estimating for the accounting (tax period) the profit (loss) resulting from the activities within the framework of the investment partnership in compliance with **Article 278.2** of this Code the tax amounts paid by suppliers with respect to the commodities (works, services) being acquired. In so doing, the total sum of tax received by an investment partnership on taxable operations is subject to payment to the budget.

**6. Removed.**

**7.** Organisations that are not taxpayers or that are relieved of taxpayer's duties and individual businessmen are entitled to include into the expenditures deductible in compliance with Chapters **25**, **26.1** and **26.2** of this Code the amounts of tax which were estimated and paid

to the budget by them when discharging the duties of a tax agent in compliance with **Item 2 of Article 161** of this Code in the event of returning commodities to the seller (in particular during the warranty period), their rejection, modification of the terms, or dissolution, of appropriate contracts and return of advance payments.

#### **Article 171.** Tax Deductions

**1.** The taxpayer shall have the right to reduce the total amount of tax calculated according to **Article 166** of this Code by tax deductions established by this Article.

**2.** Subject to deductions shall be amounts of tax presented to the taxpayer when purchasing goods (works, services) and also property rights on the territory of the Russian Federation or paid by the taxpayer when importing goods to the customs territory of the Russian Federation under the customs treatment of **release for internal consumption, temporary import** and **processing outside of the customs territory** or in case of the import of goods moved across the customs border of the Russian Federation without customs control and customs clearance, in relation to:

1) goods (works, services) and also property rights purchased to carry out operations recognised as items of taxation according to the present Chapter, except for the goods specified by **Item 2** of Article 170 of this Code;

2) goods (works, services) purchased for resale.

**3.** Subject to deductions shall be amounts of tax paid according to **Article 173** of this Code by buyers and the tax agents.

Buyers and tax agents registered with the tax authorities and acting as taxpayers according to this **Chapter** shall have the right to the aforesaid tax deductions. Tax agents making the operations indicated in **Items 4 and 5 of Article 161** of this Code shall not be entitled to include into tax deductions the amounts of the tax paid in respect of these operations.

The provisions of this Item shall be applicable if the goods (works, services), property rights were acquired by a taxpayer being a tax agent for the purposes specified in **Item 2** of this Article and if the taxpayer paid tax in compliance with this Article when they were being acquired.

**Federal Law** No. 306-FZ of November 27, 2010 amended **Item 4** of Article 171 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**4.** Subject to deduction shall be amounts of tax presented by the vendors to a foreign person being a taxpayer not registered with tax authorities of the Russian Federation, when said taxpayer buys goods (works, services), property rights, or pays the foreign person when importing goods to the territory of the Russian Federation and other territories under its jurisdiction for his production purposes or for the accomplishment of his other activities.

Said amounts of tax shall be subject to deduction or refund to a foreign person being a taxpayer after a tax agent pays the tax withheld from incomes of this taxpayer and only in the part in which the bought or imported goods (works, services), property rights have been used in the production of goods (performance of works, rendering of services) sold by the tax agent who withheld the tax. The specified amounts of tax shall be subject to deduction or reimbursement, provided the foreign person acting as the taxpayer registers with the tax authorities of the Russian Federation.

**Federal Law** No. 245-FZ of July 19, 2011 amended **Item 5** of Article 171 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said

Federal Law is officially published and at the earliest on the first day of a regular **tax period for the value added tax**

**5.** Subject to deductions shall be amounts of tax presented by the vendor to the buyer and paid by the vendor to the budget when selling goods, if these goods are returned (including during warranty period) to the vendor or such were rejected. Subject to deductions shall be amounts of tax paid when performing works (rendering services) if these works (services) are rejected.

Subject to deductions shall be amounts of tax calculated by the vendors and paid by them to the budget from amounts of payment or partial payment for goods (performance of works, rendering of services) sold on the territory of the Russian Federation in case of the change of the conditions or cancellation of the corresponding contract and return of the appropriate amounts of advance payments.

The provisions of this Item shall extend to taxpaying purchasers discharging the duties of a tax agent in compliance with **Item 2 and 3 of Article 161** of this Code.

**6.** Deductible shall be the tax amounts presented to a taxpayer by contracting organisations (developers or technical orderers) during capital construction (liquidation of fixed assets), the assembly (demolition) of fixed assets, installation (dismantling) of fixed assets, the tax amounts presented to a taxpayer for goods (works, services) acquired by him for the performance of building and assembly works, and the tax amounts presented to a taxpayer when he acquires incomplete capital construction facilities.

In the event of reorganisation deductible from the successor or successors shall be the tax amounts which are presented to the reorganised (being reorganised) organisation for goods (works, services) acquired by the reorganised (being reorganised) organisation for the performance of building and assembly works for internal consumption and which are accepted for a deduction, but not accepted by the reorganised (being reorganised) organisation for a deduction at the time of the completion of the reorganisation.

Deductible shall be the tax amounts calculated by taxpayers in accordance with **Item 1 in Article 166** of this Code during building and assembly works for internal consumption, which are connected with the assets which are intended for the realisation of the operations taxable in accordance with this Chapter and the value of which is included in expenses (especially through depreciation deductions at the time of calculating the tax on the profit of organisations).

Tax amounts presented to the taxpayer when contractors carry out the capital construction of the facilities of real estate (fixed assets), when he acquires real estate (except for aircraft, sea-going and inland water ships, and also space objects), and other kinds of commodities (works, services) for carrying out construction-assembly works and calculated by the taxpayer during building and assembly works for internal consumption, and also accepted for deduction in the order stipulated by this Chapter, shall be restored if the said facilities of real estate (fixed assets) are subsequently used for the realisation of the operations indicated in **Item 2 in Article 170** of this Code, except for the fixed assets which are fully amortised or which were put into operation by the given taxpayer for more than 15 years.

In the case indicated in the **fourth paragraph** of this Item, the taxpayer shall be obliged to reflect the restored tax amount upon the end of each calendar year beginning with the year when the time has arrived, as envisaged in **Item 4 in Article 259** of this Code. He shall reflect this tax amount in the tax declaration to be presented to the tax bodies in the place of his registration for the last tax period of each calendar year during ten years. The tax amount subject to restoration and payment to the budget shall be calculated on the basis of 1/10 of the sum of the tax accepted for a deduction in the corresponding share. The said share shall be determined proceeding from the value of shipped goods (performed works or rendered services) transferred property rights, which are not assessed with the tax and indicated in **Item 2 of**

**Article 170** of this Code, in the total value of goods (works, services) and property rights shipped or transferred over the calendar year. The tax amount liable to restoration shall not be included in the value of this property but shall be accounted within other expenses in keeping with **Article 264** of this Code.

If an immovable property (fixed assets) item has been updated (reconstructed), in particular after the expiry of the time period fixed in **Paragraph Four** of this item, this causing the alteration of its initial cost, the tax amounts in respect of construction-assembly works, as well as in respect of the commodities (works, services) acquired for carrying out construction-assembly works in the course of updating (reconstruction) deducted in the procedure provided for by this chapter are subject to restoration, if the cited immovable property items are subsequently used for making the operations cited in **Item 2 of Article 170** of this Code.

In the instance cited in **Paragraph Six** of this item a taxpayer is bound at the end of every calendar year within 10 years starting from the year, in which on the basis of **Item 4 of Article 259** of this Code depreciation is charged upon the altered initial cost of an immovable property item, to show the restored tax amount in the tax return to be filed with the tax authorities at the place of registration thereof for the last tax period of each calendar year within these 10 years. The tax amount to be restored and paid to the budget shall be estimated on the basis of one tenth of the tax amount deducted in respect of construction-assembly works, as well as of the commodities (works, services) acquired for carrying out the construction-assembly works in the course of updating (reconstruction), as regards the appropriate share thereof. The cited share shall be estimated on the basis of the cost of shipped commodities (carried out works, rendered services) and transferred property rights which are not taxable and which are cited in **Item 2 of Article 170** of this Code in the total cost of the commodities (works, services) and property rights shipped (transferred) within a calendar year. The tax sum to be restored shall not be included in the cost of the cited property and shall be accounted within the composition of miscellaneous costs in compliance with **Article 164** of this Code.

If before the expiry of the time period cited in **Paragraph Four** of this item the immovable property item being updated (reconstructed) is excluded from the composition of depreciable property and is not used in the taxpayer's activities within a year or within several full calendar years, the deducted tax amount shall not be restored for these years. Starting from the year in which on the basis of **Item 4 of Article 259** of this Code depreciation is charged upon the altered initial cost of an immovable property item, a taxpayer is bound in the tax return filed with the tax authorities at the place of registration thereof for the last tax period of each calendar year from among those left before the end of the ten-year time period cited in **Paragraph Five** of this item to show the restored tax amount. The tax sum which is subject to restoration and payment to the budget shall be estimated on the basis of the tax amount calculated as the difference between the deductible tax sum cited in Paragraph Four of this item and the tax sum resulting from addition of one tenth of the tax amount cited in Paragraph Five of this item for the years preceding the full calendar year when depreciation was not charged upon the immovable property item which is being updated (reconstructed) and the immovable property item is not used in the taxpayer's activities in the appropriate share, divided by the number of years left before the expiry of the ten-year time period cited in Paragraph Five of this item. The cited share shall be estimated on the basis of the cost of shipped commodities (carried out works, rendered services) and transferred property rights which are not taxable and which are cited in **Item 2 of Article 170** of this Code in the total cost of the commodities (works, services) and property rights shipped (transferred) within a calendar year. The tax amount to be restored shall not be included in the cost of this property and shall be accounted within the composition of miscellaneous costs in compliance with **Article 264** of this Code. The tax amount to be restored in respect of construction-assembly works, as well as in respect of the commodities (works, services) acquired for carrying out construction-assembly works in the course of updating



(reconstruction) shall be estimated in the procedure established by **Paragraph Seven** of this item.

**7.** Subject to deductions shall be amounts of tax paid on expenses borne during business trips (expenses in travel to the place of the business trip and back, including expenses to use bed linen in overnight trains, and also expenses in renting housing) and representation expenses accepted for deduction when calculating the tax levied on profit of organisations.

Where under **Chapter 25** of this Code for the purposes of taxation expenditures are taken according to normative standards, the amounts of tax with regard to such expenditures shall be subject to deduction in the amount corresponding to such normative standards.

**8.** Subject to deductions shall be amounts of tax calculated by the taxpayer on amounts of payment or partial payment received against future deliveries of goods (works, services).

**9. Removed.**

**10.** Deductible shall be the tax amounts calculated by the taxpayer in the absence of the documents provided for by **Article 165** of the present Code on the operations of selling goods (works, services) indicated in **Item 1 of Article 164** of this Code.

**11.** The tax amounts which were restored by the shareholder (participant, partner) in the order established by **Item 3 in Article 170** of this Code, if they are used for the realisation of the operations recognised as objects of taxation in keeping with this chapter, shall be subject to deductions from the taxpayer who received as a contribution to the authorised (contributory) capital or fund the property, intangible assets and property righter.

**12.** As deductible for the taxpayer that has remitted the amounts of payment or partial payment for future supplies of commodities (carrying out of works, rendering of services) or transfer of property rights shall be deemed the sums of tax presented by the seller of these commodities (works, services) or property rights.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 171 of this Code with Item 13. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**13.** In case of alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights by way of their reduction, in particular in case of reduction of prices (tariffs) and/or decrease in the number (volume) of shipped commodities (carried out works, rendered services) and transferred property rights, the difference between the tax sums estimated on the basis of the cost of shipped commodities (carried out works, rendered services) and transferred property rights before and after such reduction shall be deductible for the seller of these commodities (works, services) and property rights.

In case of alteration by way of an increase of the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular in case of an increase of the price (tariff) and/or an increase in the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights, the difference between the tax sums estimated on the basis of the cost of shipped commodities (carried out works, rendered services) and transferred property rights before and after such increase is subject to deduction for the purchaser of these commodities (works, services) and property rights.

**Article 172.** The Order of Application of Tax Deductions

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 1 of Article 172 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for**

the value added tax

1. Tax deductions stipulated by **Article 171** of this Code shall be made on the basis of invoices drawn up by vendors when taxpayers buy goods (works, services), property rights, documents confirming that tax amounts have been actually paid during the import of goods to the territory of the Russian Federation and other territories under its jurisdiction, documents confirming the payment of the tax amounts withheld by tax agents, or on the basis of other documents in cases set forth in **Items 3, 6-8 of Article 171** of this Code.

Subject to deductions shall be, unless otherwise established by the present Article, only amounts of tax presented to a taxpayer upon the acquisition of goods (works, services) and property rights on the territory of the Russian Federation or when the amounts actually paid by them when importing goods to the territory of the Russian Federation and other territories under its jurisdiction after aforesaid goods (works, services), property rights are entered into records, with due regard to features laid down by this Article and provided appropriate primary documents are submitted.

Deductions of tax amounts presented by vendors to the taxpayer when he buys or pays for fixed assets, equipment for installation and/or intangible assets specified in **Items 2 and 4 of Article 171** of the present Code and imported to the territory of the Russian Federation and other territories under its jurisdiction, shall be effected in full after said fixed assets and/or intangible assets are entered into records.

Upon the acquisition for foreign currency of goods (works, services) and property rights foreign currency shall be converted into roubles at the exchange rate of the Central Bank of the Russian Federation on the date of the registration of goods (works, services) and property rights.

When acquiring commodities (works, services) and property rights under contracts containing the obligation to pay for them in roubles in the amount which is equivalent to a definite sum in foreign currency or in conditional monetary units, the tax deductions made in the procedure provided for by this article shall not be corrected when subsequently paying for the cited commodities (works, services) and property rights. The sum differences that the purchaser has when subsequently making payments shall be accounted within the composition of off-sale incomes in compliance with **Article 250** of this Code or within the composition of off-sale incomes in compliance with **Article 265** of this Code.

2. **Abrogated** from January 1, 2009.

3. Deductions of the tax amounts stipulated by **Items 1-8 in Article 171** of this Code in respect to operations in the sale of goods (works, services) indicated in **Item 1 of Article 164** of this Code shall be made in the order established by this Article at the time of the estimation of the tax base fixed by **Article 167** of this Code.

Deductions of the tax amounts indicated in **Item 10 of Article 171** of this Code shall be made on the date that corresponds to the time of the subsequent calculation of the tax at the zero per cent tax rate in respect to the operations in the sale of goods (works, services) provided for by **Item 1 of Article 164** of this Code in the presence at this time of the documents stipulated by **Article 167** of this Code.

4. Deductions of tax amounts specified in **Item 5 of Article 171** of this Code shall be made in full after appropriate adjustment operations involved in the return of goods or rejection of goods (works, services) have been entered in the records, but no later than one year from the time of the return or rejection.

5. Deductions of the tax amounts indicated in the **first and second paragraphs of Item 6 in Article 171** of this Code shall be made in the order established by the **first and second paragraphs of Item 1** in the present Article.

The amounts of tax cited in **Paragraph Three of Item 6 of Article 171** of this Code shall

be deducted at the time of determining the tax base fixed by **Item 10 of Article 167** of this Code.

In the event of the reorganisation of the body the successor or successors shall deduct the tax amounts which were indicated in the **third paragraph of Item 6 in Article 171** of this Code and which were not accepted by the reorganised (being reorganised) organisation for deduction until the time of the completion of the reorganisation, to the extent of the payment to the budget of the tax calculated by the reorganised (being reorganised) organisation during the performance of building and assembly works for internal consumption in accordance with **Article 173** of this Code.

**6.** The deductions of tax amounts specified in **Item 8 of Article 171** of this Code shall be made from the date of unloading of appropriate goods (performance of works, rendering of services).

**7.** During the determination of the time of estimating the tax base in the order provided for by **Item 13 in Article 167** of this Code, deductions of tax amounts shall be made at the time of the estimation of the tax base.

**8.** Deductions of the tax amounts indicated in **Item 11 of Article 171** of this Code shall be made after the registration of property, including fixed and intangible assets and property rights received as the payment of a contribution to the authorised (contributory) capital (fund).

**9.** The amounts of tax cited in **Item 12 of Article 171** of this Code shall be deducted on the basis of the invoices presented by sellers when receiving payment or partial payment for future supplies of commodities (carrying out of works, rendering of services), transfer of property rights, of the documents proving actual remittance of the amounts of payment or partial payment for future supplies of commodities (carrying out of works, rendering of services) or transfer of property rights where there is a contract providing for the said amounts' remittance.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 172 of this Code with Item 10. The Item shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period for** the value added tax

**10.** The sums of the difference cited in **Item 13 of Article 171** of this Code shall be deducted on the basis of the adjustment invoices made out by sellers of commodities (works, services) and property rights in the procedure established by **Items 5.2 and 6 of Article 169** of this Code, where there is a contract, agreement or other basic document proving the purchaser's consent to (notification about) alteration of the cost of shipped commodities (carried out works, rendered services) and transferred property rights, in particular as a result of alteration of the price (tariff) and/or alteration of the quantity (volume) of shipped commodities (carried out works, rendered services) and transferred property rights but at latest in three years as from the time when an adjustment invoice is drawn up.

#### **Article 173.** The Amount of Tax Payable to the Budget

**1.** The amount of tax payable to the budget shall be calculated on the basis of results of each tax period as an amount reduced by the amount of tax deductions stipulated by **Article 171** of this Code (including tax deductions stipulated by **Item 3 of Article 172** of the present Code) being the overall amount of the tax calculated according to **Article 166** of this Code and increased by the tax amount restored in accordance with this Chapter.

**2.** If the amount of tax deductions over any tax period exceeds the total amount of tax calculated according to **Article 166** of this Code and increased by the tax amount restored in accordance with **Item 3 of Article 170** of this Code, the positive difference between the amount

of tax deductions and the sum of tax calculated with regard to the operations recognised as units of taxation under **Subitem 1 and 2 of Item 1 of Article 146** of this Code, shall be subject to reimbursement to taxpayers in the procedure and on the conditions which are stipulated by **Articles 176 and 176.1** of this Code, save for the cases when taxpayers submit tax declarations on the expiry of three years after the end of an appropriate tax period.

**Abrogated.**

**Abrogated** from January 1, 2007.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 173 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**3.** The amount of tax payable if goods are imported to the territory of the Russian Federation and other territories under its jurisdiction shall be calculated according to Item 5 of **Article 166** of this Code.

**4.** In case of sale of goods (works, services) specified in **Article 161** of this Code, the amount of tax payable to the budget shall be calculated and paid in full by tax agents defined in Article 161 of the present Code.

**5.** The amount of tax payable to the budget shall be calculated by the following persons if they invoice the buyer and state separately the tax amount:

1) by persons who are not taxpayers, or by taxpayers released from discharge of the taxpayer obligations involved in the calculation and payment of tax;

2) by taxpayers, when selling goods (works, services) and when operations in selling them are not taxable.

Here, the amount of tax payable to the budget shall be defined as the amount of tax indicated in the appropriate invoice handed in to the buyer of goods (works, services).

***Federal Law** No. 57-FZ of May 29, 2002 amended Article 174 of this Code*

*The amendments **shall enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law and shall extend to the legal relations arising from January 1, 2002*

***See the previous text of the Article***

**Article 174.** The Order and Terms of Payment of Tax to the Budget

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 174 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**1.** The payment of tax in respect of transactions recognised as forming the tax basis in compliance with **Subitems 1 - 3 Item 1 Article 146** of this Code, on the territory of the Russian Federation shall be effected according to the results of each tax period and on the basis of actual sale (transfer) of goods (performance of works, including those for own needs, rendering of services, including those for own needs) over the lapsed tax period in equal shares no later than the 20th day of the month following the lapsed **tax period**, unless otherwise is stipulated by the present Chapter.

If goods are imported to the territory of the Russian Federation and other territories under its jurisdiction, the amount of tax payable to the budget shall be paid according to the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**2.** The amount of tax payable to the budget under operations of sale (transfer, performed, rendered for own needs) goods (works, services) on the territory of the Russian Federation shall

be paid at the place of registration of the taxpayer with tax authorities.

**3.** The tax agents (organisations and individual businessmen) shall pay the amount of tax at the place of their location.

*Federal Law No. 163-FZ of December 8, 2003 amended Item 4 of Article 174 of this Federal Law*

*See the previous text of the Item*

**4.** The payment of tax by persons specified in **Item 5 of Article 173** of this Code shall be made on the basis of results of each tax period according to the appropriate sale of goods (works, services) over the lapsed tax period no later than the 20th day of the month following the completed tax period.

In the cases of the realisation of works (services), whose place of realisation is the territory of the Russian Federation, by taxpayers that are foreign persons not registered at the tax bodies as taxpayers, the payment of the tax shall be made by the tax agents simultaneously with the payment (transfer) of the monetary funds to such taxpayers.

The bank servicing the tax agent may not accept there from the order for the transfer of the monetary funds in favour of such taxpayers if the tax agent has not submitted to the bank also an order for the payment of the tax from an account opened in that bank if the monetary funds are sufficient for paying the whole tax amount.

*On terms of the submitting of the Tax Declaration Regarding Indirect Taxes (Value-Added Tax and Excises) upon Importation of Goods to the Russian Federation Territory from the Republic of Belarus Territory, see Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus*

**5.** Taxpayers (tax agents), including those listed in **Item 5 of Article 173** of this Code are obliged to submit to the tax authorities at the place of their registration an appropriate **tax declaration** no later than the 20th day of the month following the lapsed tax period, unless otherwise stipulated by this Chapter.

**6. Abrogated** from January 1, 2008.

**7.** Foreign organisations that have several set-part subdivisions on the territory of the Russian Federation shall independently select the subdivision at whose place of registration with tax authorities they will present tax declarations and pay tax on the whole on operations of all set-apart subdivisions of a foreign organisation located on the territory of the Russian Federation. Foreign organisations shall notify the tax authorities at the location of their set-part subdivisions on the territory of the Russian Federation about their choice in writing.

**Article 174.1.** The Details of Calculation and Payment to the Budget of Tax When Transactions Are Being Carried out under a Contract of Simple Partnership (Contract of Joint Activity), an Agreement of Investment Partnership, Contract of Trust Administration of Property or Concession Agreement on the Territory of the Russian Federation

**1.** For the purpose of this Chapter the general accounting of operations liable to taxation in accordance with **Article 146** of the present Code shall be kept by the participant in the partnership represented by a Russian organisation or an individual businessman (hereinafter referred to in this Article as a partnership participant).

During the completion of operations in conformity with the contract of special partnership (the contract for joint activity), an agreement of investment partnership, concession agreement

or the contract of the trust management of property, the participant in the partnership, concessionaire or the trust manager shall be vested with the duties of a taxpayer established by this Chapter.

**2.** With the sale of goods (works, services), the transfer of property rights in keeping with the contract of special partnership (the contract for joint activity), an agreement of investment partnership, concession agreement or the contract of the trust management of property the participant in the partnership, concessionaire or the trust manager shall be obliged to present the relevant invoices in the order prescribed by this Code.

**3.** The tax deduction for goods (works, services), including fixed and intangible assets and property rights acquired for the production and/or the sale of goods (works, services), recognised as objects of taxation in keeping with this Chapter, in keeping with the contract of special partnership (the contract for joint activity), an agreement of investment partnership, concession agreement or the contract of the trust management of property, shall only be granted to the participant in the partnership, concessionaire or to the trust manager in the presence of the invoices put up by sellers to these persons in the order prescribed by this Chapter.

When the participant in the partnership who keeps the general accounting of operations for taxation purposes, concessionaire or the trust manager carry out a different activity, the right to a deduction of tax amounts emerges in the presence of a separate accounting of goods (works, services), including fixed and intangible assets and property rights used by him in operations in keeping with the contract of special partnership (the contract for joint activity), an agreement of investment partnership, concession agreement or the contract of the trust management of property and used by him in the realisation of different activities.

**Federal Law** No. 336-FZ of November 28, 2011 supplemented Article 174.1 of this Code with Item 5. The Item shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

*Numeration of Items is given in accordance of the amendments proposed by **Federal Law No. 336-FZ of November 28, 2011***

**5.** A party to an agreement of ordinary partnership, the party to an agreement of investment partnership which is the managing partner responsible for keeping tax records, concessioner or trustee shall keep records of the operations made while executing the agreement of ordinary partnership, agreement of investment partnership, concession agreement and agreement of property trust management, as well as at the time provided for by Item 5 of Article 174 of this Code shall file with the tax authority at the location thereof the tax declaration separately in respect of each of the cited agreements.";

**Article 175. Removed.**

**Article 176.** Procedure for Tax Reimbursement

**1.** If, on the basis of results of a tax period, the amount of tax deductions exceeds the total amount of tax calculated in respect of the transactions recognised as forming the tax base under **Subitems 1 - 3 of Item 1 of Article 146** of this Code, the received difference shall be subject to reimbursement (offset, return) to the taxpayer according to the provisions of this Article.

After submitting the tax return by a taxpayer, the tax authority shall check the substantiation of the tax amount declared for reimbursement, when conducting a cameral tax

check in the procedure established by **Article 88** of this Code.

**2.** Upon termination of the check the tax authority shall be obliged to render a **decision** on reimbursement of the appropriate amounts, if in the course of the on-site tax check violations of the legislation on taxes and fees were not detected.

**3.** In the event of detecting violations of the legislation on taxes and fees in the course of a cameral tax check, the authorised officials of the tax authorities have to draw up a tax check report in compliance with **Article 100** of this Code.

The act and other materials concerning the cameral tax check in the course of which violations on the legislation on taxes and fees were detected, as well as the objections presented by a taxpayer (a representative thereof) have to be considered by the head (deputy head) of the tax authority that has conducted the tax check and a decision on them has to be adopted in compliance with **Article 101** of this Code.

On the basis of the results of considering the materials of a cameral tax check the head (deputy head) of the tax authority shall render a decision on calling the taxpayer to account for committing a tax offence or on the refusal to call the taxpayer to account for committing a tax offence.

Concurrently with this decision the following shall be adopted:

the decision to compensate in full the amount of tax declared for compensation;

the decision on the refusal to compensate in full the amount of tax declared for compensation;

the decision to compensate in part the amount of tax declared for compensation and the decision on the refusal to compensate in part the amount of tax declared for compensation.

**4.** If a taxpayer has arrears of tax, of other federal taxes, debts on the appropriate penalties and (or) fines payable or recoverable in the cases provided for by this Code, the tax authority shall independently set off the tax amount to be reimbursed on account of repaying the said arrears and debts on penalties (or) fines.

**5.** Where a tax authority has **decided** to reimburse tax amount (in full or in part) in the presence of arrears of tax which emerged within the period between the date of filing the tax return and the date of reimbursement of the appropriate amounts and which did not exceed the amount payable under the decision of the tax authority, penalties on the amount of the arrears shall not be charged.

**6.** Where a taxpayer has no arrears of tax, other federal taxes, debts on the appropriate penalties and (or) fines payable or recoverable in the cases provided for by this Code, the tax amount to be reimbursed by decision of the tax authority shall be returned on the taxpayer's application onto the bank account specified by him. If there is a taxpayer application in writing, the amounts to be returned may be entered on account of making forthcoming payments of tax or other federal taxes.

**7.** A decision on setting off (returning) the tax amount shall be rendered by a tax authority concurrently with rendering a **decision** on reimbursement of the tax amount (in full or in part).

**8.** The instruction to return the amount of tax drawn up on the basis of a decision on the return thereof shall be subject to sending by a tax authority to the territorial Federal Treasury agency on the next day after the date of rendering this decision by the tax authority.

The territorial Federal Treasury agency within five days as of the date of receiving the said instruction shall return to the taxpayer the amount of tax in compliance with the **budget legislation** of the Russian Federation and within the same time period shall notify the tax authority of the date of return and the amount of the monetary funds returned to the taxpayer.

**9.** The authority shall be obliged to notify the taxpayer in writing about the rendered decision on such reimbursement (in full or in part), on the rendered decision to set off (return) the amount of tax to be reimbursed or on the refusal to reimburse it within five days as of the

date of rendering the appropriate decision.

The said notification may be delivered personally to the head of the organisation, individual businessman or their representatives against their receipt or in another way proving the fact and date of receiving it.

**10.** In the event of failure to observe the time period for return of the amount of tax, interest shall be charged on the basis of the **refinancing rate** of the Central Bank of the Russian Federation, starting from the 12th day after completion of the cameral tax check on the basis of whose results a decision was rendered to reimburse (in full or in part) the amount of tax.

The interest rate shall be deemed equal to the refinancing rate of the Central Bank of the Russian Federation effective on the days of failure to observe the time for reimbursement.

**11.** If the interest provided for by **Item 10** of this Article is not paid by a taxpayer in full, the tax authority shall render a decision on returning the remaining amount of interest, estimated on the basis of the date of actual return to the taxpayer of the amount of tax subject to reimbursement, within three days as of the date of receiving the notification of a territorial Federal Treasury agency of the date and the amount of monetary funds returned to the taxpayer.

An instruction to return the remaining amount of interest drawn up on the basis of a decision of a tax authority on the return of this amount shall be subject to sending by the tax authority within the time period established by **Item 8** of this Article to the territorial Federal Treasury agency for return thereof.

**12.** In the instances and in the order which are provided for by **Article 176.1** of this Code taxpayers shall be entitled to apply the claiming procedure for reimbursement of tax.

#### **Article 176.1.** The Claiming Procedure for Tax Reimbursement

**1.** The claiming procedure for tax reimbursement shall constitute setting off (return) in the procedure established by this article of the amount of tax declared for reimbursement in a tax return before the end of a cameral tax check held under **Article 88** of this Code on the basis of this tax return.

**2.** The right to apply the claiming procedure for tax reimbursement shall be enjoyed by:

1) taxpaying organisations whose aggregate amount of value-added tax, excise duties, tax on profit of organisations and tax on minerals' extraction paid for the three calendar years preceding the year when the application for using the claiming procedure for tax reimbursement is filed, less the tax amounts paid in connection with moving commodities across the border of the Russian Federation and in the capacity of a tax agent, is at least ten billion roubles. The cited taxpayers shall be entitled to use the claiming procedure for tax reimbursement, if at least three years have passed since the date of establishment of an appropriate organisation to the date when the tax return is filed;

2) taxpayers who have filed, jointly with the tax return where the right to reimbursement of tax is claimed for, an effective bank guarantee involving the obligation of a bank to pay for the taxpayer on the basis of a claim made by tax authorities to the budget the tax amounts received by him (set off for him) in excess as a result of reimbursement of tax in the claiming procedure, if the decision on reimbursement of the amount of tax declared for reimbursement by way of claiming for it is reversed in full or in part where it is provided for by this Article.

**3.** At the latest on the date following the day when a bank guarantee is issued the bank shall notify the tax authority at the place of a taxpayer's registration of the bank guarantee's issuance in the procedure defined by the federal executive power body authorised to exercise



control and supervision in respect of taxes and fees.

4. A bank guarantee must be issued by a bank included into a list of banks satisfying the established requirements for acceptance of bank guarantees for taxation purposes (hereinafter referred to in this Article as the list). The list shall be kept by the Ministry of Finance of the Russian Federation on the basis of the data received from the Central Bank of the Russian Federation and shall be subject to insertion on the official Internet site of the Ministry of Finance of the Russian Federation. To be included into the list, a bank shall satisfy the following requirements:

1) availability of a licence for carrying out bank operations issued by the Central Bank of the Russian Federation and exercise of bank activities for at least five years;

2) **abrogated** from January 1, 2012;

3) the bank' having its own assets (capital) in the amount of at least 1 milliard roubles;

4) observance of the obligatory normative standards provided for by **Federal Law** No. 86-FZ of July 10, 2002 on the Central Bank of the Russian Federation (the Bank of Russia) (hereinafter referred to as the Federal Law on the Central Bank of the Russian Federation (the Bank of Russia), as of all accounting dates within the last six months;

5) absence of the requirement of the Central Bank of the Russian Federation for taking financial improvement measures with respect to the bank on the basis of **Federal Law** No. 40-FZ of February 25, 1999 on Insolvency (Bankruptcy) of Credit Institutions.

5. In the event of detecting circumstances proving that a bank which is not included into the list satisfies the established requirements, or that a bank included into the list does not satisfy the established requirements, these data shall be forwarded by the Central Bank of the Russian Federation to the Ministry of Finance of the Russian Federation within five days as of the date when the cited circumstances are detected for making the appropriate amendments in the list.

6. A bank guarantee must satisfy the following requirements:

1) a bank guarantee must be irrevocable and non-negotiable;

2) a bank guarantee must not contain an instruction for a tax authority to present to the bank documents which are not provided for by this Article;

3) the duration of a bank guarantee must expire at the earliest in eight months from the date of filing the tax return where the amount of tax is claimed for reimbursement;

4) the amount for which a bank guarantee is issued must secure the discharge of the obligations involving repayment in full to the budget of the amount of tax claimed for reimbursement;

5) a bank guarantee must allow for extra-judicial direct debiting of monetary assets off the guarantor's account in case of failure thereof to satisfy in due time the claim for paying the sum of money under the bank guarantee forwarded before the end of the bank guarantee's duration.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 176.1 of this Code with Item 6.1. The Item shall **enter into force** from January 1, 2012

6.1. A bank guarantee shall be presented to a tax authority at latest at the time which is fixed by Item 7 of this article for filing an application for the use of the claiming procedure for tax reimbursement.

7. Taxpayers enjoying the right to use the claiming procedure for tax reimbursement shall exercise this right by way of filing with a tax authority at the latest within five days as of the date of filing the tax return an application for using the claiming procedure for tax reimbursement where the taxpayer states the requisite elements of the bank account for remittance of monetary

assets.

In the cited application the taxpayer shall assume the obligation to repay to the budget the sums (including the interest provided for by **Item 10** of this Article (if it has been paid)) which have been received by him (set off for him) in excess, as well as to pay the interest accrued on these amounts in the procedure established by **Item 17** of this Article, if the decision on reimbursement of the amount of tax declared for reimbursement by way of claiming is reversed in full or in part where it is provided for by this Article.

**8.** Within five days as of the date of filing the petition for using the claiming procedure for tax reimbursement the tax authority shall check satisfaction by the taxpayer of the requirements provided for by **Items 2, 4, 6 and 7** of this Article, as well as if the taxpayer has arrears of the tax, other taxes, debts on appropriate penalties and/or fines to be paid or recovered where it is provided for by this **Code**, and shall render the decision on reimbursement of the amount of tax declared for reimbursement in the claiming procedure or the decision to deny reimbursement of the amount of tax declared for reimbursement in the claiming procedure.

Concurrently with the decision on reimbursement of the amount of tax declared for reimbursement in the claiming procedure the tax authority, depending on whether a taxpayer has debts on the cited payments, shall render the decision on setting off the amount of tax declared for reimbursement in the claiming procedure and/or the decision on repayment (in full or in part) of the amount of tax declared for reimbursement in the claiming procedure.

The tax authority shall be obliged to notify the taxpayer of the adopted decision in writing within five days as of the date when an appropriate decision is adopted. In so doing, the notice of adopting the decision on the refusal to reimburse the amount of tax declared for reimbursement in the claiming procedure shall cite the rules of this article violated by the taxpayer. The cited notice may be directly transferred to the head of an organisation, an individual businessman or to their representative against the receipt thereof or in a different way enabling to confirm its delivery and the time of such delivery.

The adoption of the decision to deny reimbursement of the amount of tax declared for reimbursement in the claiming procedure shall not change the procedure for and time of holding a cameral tax check of the submitted tax return. In case of rendering the decision to deny reimbursement of the amount of tax declared for reimbursement in the claiming procedure, the tax shall be reimbursed in the procedure and at the time which are provided for by **Article 176** of this Code.

**9.** If a taxpayer has arrears of the tax, other taxes, debts on appropriate penalties and/or fines to be paid or recovered where it is provided for by this **Code**, a tax authority on the basis of the decision on setting off the amount of tax declared for reimbursement in a claiming procedure shall independently set off the amount of tax declared for reimbursement in a claiming procedure on account of repayment of the cited arrears and debts on penalties and/or fines. In so doing, penalties shall be charged on the cited arrears prior to the date when the tax authority renders the decision on setting off the amount of tax declared for reimbursement in a claiming procedure.

If a taxpayer has no arrears of the tax, other taxes, debts on appropriate penalties and/or fines to be paid or recovered where it is provided for by this **Code**, as well as if the tax amount declared for reimbursement in a claiming procedure exceeds the sums of the cited arrears of the tax, other taxes, debts on appropriate penalties and/or fines, the tax amount to be reimbursed shall be repaid to the taxpayer on the basis of a decision of the tax authority on repayment (in full or in part) of the tax amount declared for reimbursement in a claiming procedure.

**10.** The instruction to repay the tax amount shall be drawn up by a tax authority on the basis of the decision to repay (in full or in part) the tax amount declared for reimbursement in a claiming procedure and shall be forwarded to a regional agency of the Federal Treasury on the

following working day after the date when the tax authority adopts this decision.

Within five days from the date when the instruction cited in **Paragraph One** of this Item is received, the regional agency of the Federal Treasury shall repay to a taxpayer the tax amount in compliance with the **budget legislation** of the Russian Federation and at the latest on the date following the day of such return shall notify the tax authority of the date of the return and of the sum of monetary assets repaid to the taxpayer.

Where the time for repayment of the tax amount is not observed, interest shall be charged on this amount for each day of delay starting from the 12th one after the date when a taxpayer files the petition provided for by **Item 7** of this Article. The interest rate shall be deemed equal to the **refinancing** rate of the Central Bank of the Russian Federation effective within the period of non-observance of the time for such repayment.

If the interest provided for by this item is not paid by a taxpayer in full, the tax authority within three days as of the date of receiving a notice of a regional agency in respect of the date of repayment and the sum of monetary assets repaid to the taxpayer shall render the decision on repayment of the remaining sum of interest and at the latest on the day following the date when the cited decision is adopted shall forward to the regional agency of the Federal Treasury the instruction to pay the remaining sum of the interest drawn up on the basis of this decision.

**11.** The substantiation of the tax amount declared for reimbursement shall be checked by a tax authority while holding in the procedure and at the time which are established by **Article 88** of this Code a cameral tax check on the basis of the tax return filed by the taxpayer where the tax amount to be reimbursed is declared.

**Federal Law** No. 245-FZ of July 19, 2011 amended Item 12 of Article 176.1 of this Code. The amendments shall **enter into force** from January 1, 2012

**12.** If in the course of a cameral tax check no violations of the legislation on taxes and fees were detected, the tax authority within seven days as of the end date of the cameral tax check shall be obliged to notify the taxpayer in writing that the cameral tax check is over and that violations of the legislation of taxes and fees have not been detected.

At the latest on the day following the date of forwarding to a taxpayer that has presented a bank guarantee a report on the absence of detected violations of the legislation on taxes and fees, the tax authority is bound to forward to the bank which has granted the cited bank guarantee an application in writing for releasing the bank from the obligations in respect of this bank guarantee.

**13.** In the event of detecting violations of the legislation on taxes and fees in the course of a cameral tax check, authorised tax officials must draw up a report on the tax check in compliance with **Article 100** of this Code.

The report and other materials related to the cameral tax check in the course of which violations of the legislation on taxes and fees were detected, as well as the objections presented by the taxpayer (a representative thereof) must be considered by the head (deputy head) of the tax authority that has conducted the tax check and a decision on it must be adopted in compliance with **Article 101** of this Code.

**14.** On the basis of the results of a cameral tax check the head (deputy head) of the tax authority shall render the decision either on making the taxpayer answerable for committing a tax offence or on the refusal to make the taxpayer answerable for committing a tax offence.

**15.** Where the tax amount reimbursed to a taxpayer in the procedure provided for by this Article exceeds the tax amount to be reimbursed on the basis of the results of a cameral tax check, the tax authority concurrently with adoption of the appropriate decision provided for by **Item 14** of this Article shall render the decision to reverse the decision on reimbursement of the tax amount declared for reimbursement in the claiming procedure, as well as the decision on repayment (in full or in part) of the tax amount declared for reimbursement in the claiming

procedure and/or the decision on setting off the tax amount declared for reimbursement in the claiming procedure, as regards the part of the tax amount which is not subject to reimbursement on the basis of the results of the cameral tax check.

**16.** The tax authority shall be obliged to notify the taxpayer in writing of the adopted decisions cited in **Items 14** and **15** of this Article within five days as of the date when an appropriate decision is adopted. The cited notice may be delivered directly to the head of an organisation, an individual businessman or their representatives against the receipt thereof or in a different way enabling to confirm the fact and date of receiving it.

**17.** Concurrently with the notice of adoption of the decision cited in **Item 15** of this Article, to the taxpayer shall be forwarded the demand to repay to the budget the sums of money (including the interest provided for by **Item 10** of this Article (if it has been paid) which have been excessively received by him (set off for him) in the claiming procedure in an amount which is proportionate to the share of the excessively reimbursed tax amount in the total tax amount reimbursed in the claiming procedure) (hereinafter referred to in this Article as the repayment demand). Interest shall be accrued on the amounts to be repaid by the taxpayer on the basis of the interest rate which is two times as much as the **refinancing rate** of the Central Bank of the Russian Federation effective within the period of using the budget assets. The cited interest shall be accrued starting from the date:

1) when the taxpayer actually receives the funds - if the tax amount is repaid in the claiming procedure;

2) when the decision on setting off the tax amount declared for reimbursement in the claiming procedure is adopted - if the tax amount is set off in a claiming procedure.

**18.** The form of the repayment demand shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees. The cited demand must contain the following data:

1) on the tax amount to be reimbursed on the basis of the results of a cameral tax check;

2) on the tax amounts received by a taxpayer (set off for a taxpayer) in the claiming procedure which are to be repaid to the budget;

3) on the amount of interest provided for by **Item 10** of this Article which is to be repaid to the budget;

4) on the amount of interest charged in compliance with **Item 17** of this Article as of the time when the repayment demand is forwarded;

5) on the time of discharging the repayment demand fixed by **Item 20** of this Article;

6) on the measures aimed at recovering the amounts to be paid which are applicable, if a taxpayer fails to discharge the repayment demand.

**19.** The repayment demand may be directly delivered to the head of an organisation, an individual businessman or to their representatives against receipt thereof or in a different way proving the fact and date of receiving it. Where it is impossible to deliver the repayment demand in the cited ways, it shall be sent as registered mail and shall be deemed received upon the expiry of six days as of the date when the registered mail is sent.

**20.** A taxpayer shall be obliged to pay independently the sums cited in the repayment demand within five days as of the date when it is received.

**21.** In the event of failure to pay or of incomplete payment in due time by a taxpayer that has presented a bank guarantee of the amount cited in **Subitem 2 of Item 18** of this Article, a tax authority at the earliest on the date following the end day of the time period fixed by **Item 20** of this Article shall forward to the bank the demand to pay the sum of money in compliance with the bank guarantee citing therein the amount to be paid by the guarantor within five days as of the date when the bank receives this demand.

A bank shall not be entitled to reject the tax authority's demand to pay the sum of money under the bank guarantee (except when such demand is advanced to the bank after the end of

the time period while the bank guarantee is valid).

If a bank fails to satisfy in due time the demand to pay the sum of money under the bank guarantee, the tax authority shall exercise the right to extra-judicial direct debiting of the amounts cited in this demand.

**22.** Within ten days after discharging by the bank of a duty to pay the sum of money under the bank guarantee, the tax authority shall forward to the taxpayer a specified repayment demand citing the sums to be repaid to the budget.

In so doing, if the tax authority fails to observe the time for forwarding the repayment demand, charging of interest on the amounts to be paid by the taxpayer on the basis of the repayment demand shall be suspended pending the date when the taxpayer actually receives this demand.

**23.** In the event of failure to pay or incomplete payment of the amounts cited in the repayment demand in due time by a taxpayer using the claiming procedure for the tax reimbursement without presenting a bank guarantee, or by a taxpayer that has received a specified repayment demand, as well as if it is impossible to forward to a bank the demand to pay the sum of money under the bank guarantee in connection with the expiry of its validity term, the duty of paying the cited amounts shall be discharged by enforcement by levying execution against the monetary funds kept on accounts or against other taxpayer's property on the basis of the tax authority's decision on recovery of the cited amounts adopted after the taxpayer's failure to discharge in due time the repayment demand in the procedure and at the time which are established by **Articles 46** and **47** of this Code.

**24.** After filing by a taxpayer of the application provided for by **Item 7** of this Article and before the end of a cameral tax inspection the specified tax return shall be filed in the procedure stipulated by **Article 81** of this Code, subject to the specifics established by this Item.

If the specified tax declaration is filed by a taxpayer before adoption of the decision provided for by **Paragraph One of Item 8** of this Article, such decision in respect of the previously filed tax return shall not be adopted.

If the specified tax declaration is filed by a taxpayer after adoption by a tax authority of the decision on reimbursement of the tax amount declared for reimbursement in the claiming procedure but before the end of a cameral tax check, the cited decision in respect of the previously filed tax return shall be reversed at the latest on the date following the day when the specified tax declaration is filed. At the latest on the date following the day when the **decision** on reversing the decision on reimbursement of the tax amount declared for reimbursement in the claiming procedure is adopted, the tax authority shall notify the taxpayer of the adoption of this decision. The amounts received by the taxpayer (set off by the taxpayer) in the claiming procedure must be repaid by him subject to the interest stipulated by **Item 17** of this Article in the procedure provided for by **Items 17-23** of this Article.

**Federal Law** No. 306-FZ of November 27, 2010 reworded Article 177 of this Code. The new wording shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**Article 177.** The Time and Order of Payment of Tax in Case of Import of Goods into the Territory of the Russian Federation and Other Territories under Its Jurisdiction

The time and order of payment of tax in case of import of goods into the territory of the Russian Federation shall be established by this chapter subject to the provisions of the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**Article 178. Abrogated.**

*Federal Law No. 166-FZ of December 29, 2000 amended Chapter 22 of the Tax Code of the Russian Federation. The amendments shall enter into force from January 1, 2001*  
**See the previous text of Chapter 22 of the Tax Code**

## **Chapter 22. Excise Taxes**

### **Article 179. Taxpayers**

1. The following shall be defined as taxpayers of the excise tax (hereinafter in this Chapter referred to as the "taxpayers"):

- 1) organisations;
- 2) individual businessmen;

3) persons recognised as taxpayers in connection with the movement of goods across the customs border of the Customs Union shall be defined according to the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

2. Organisations and other persons indicated in this Article shall be defined as taxpayers if they perform operations taxable under this Chapter.

**Article 179.1. Abrogated** from January 1, 2007.

### **Article 179.2. The Certificate of Registration of an Organisation Accomplishing Transactions in Denatured Ethyl Alcohol**

1. Certificates of registration of an organisation accomplishing transactions in denatured ethyl alcohol (hereinafter referred to in this article as a "certificate") shall be issued to organisations pursuing the following types of activity:

1) the production of denatured ethyl alcohol: a **certificate** for the production of denatured ethyl alcohol;

2) the production of alcohol-free products where denatured ethyl alcohol is used as a raw material: a **certificate** for the production of alcohol-free products;

3) making alcohol-containing products in metal aerosol packaging where denatured ethyl alcohol is used as raw material - a certificate for the production of alcohol-containing perfumery and cosmetic goods in metal aerosol packing;

4) making alcohol-containing products in metal aerosol packaging where denatured ethyl alcohol is used as raw material - a certificate for the production of alcohol-containing household chemical goods in metal aerosol packaging.

2. The following shall be indicated in the certificate:

1) the name of the tax body that issued the certificate;

2) the full and abbreviated name of the organisation, its whereabouts and the address (the actual place of business) at which the organisation pursues the type of activity specified in **Item 1** of the present Article;

3) taxpayer identification number (INN);

4) the type of activity;

5) the details of documents confirming the right of ownership (right of economic jurisdiction and/or operative management) for the production facilities, and the location of these facilities;

6) the details of documents confirming the right of ownership (right of economic jurisdiction and/or operative management) for the facilities intended for storing denatured ethyl alcohol and the location of these facilities;

7) the effective term of the certificate (up to one year);

8) the terms and conditions for the pursuance of said types of activity;

9) the registration number and date of issue of the certificate.

3. The **procedure** for issuing the certificate is set by the Ministry of Finance of the Russian Federation.

4. Certificates shall be issued to organisations, provided the following requirements are met:

1) a certificate for the production of denatured ethyl alcohol: if the organisation (an organisation where the applicant organisation has over 50 per cent of the charter (contributed) capital (fund) of a limited liability company or of voting shares of a joint-stock company) owns (has by the right of economic jurisdiction and/or operative management) facilities intended for the production, storage and sale of denatured ethyl alcohol;

2) a certificate for the production of alcohol-free products: if the organisation (an organisation where the applicant organisation has over 50 per cent of the charter (contributed) capital (fund) of a limited liability company or of voting shares of a joint-stock company) owns (has by the right of economic jurisdiction and/or operative management) facilities intended for the production, storage and sale of alcohol-free products produced with denatured ethyl alcohol as a raw material.

The tax body shall issue a certificate (notify the applicant of its refusal to issue a certificate) within 30 calendar days after the certificate application was filed by the taxpayer together with copies of the documents envisaged by this Article. The notice shall be sent to the taxpayer in writing together with an indication of reasons for the refusal. For the purpose of obtaining a certificate an organisation shall file the following with the tax body: a certificate **application**, information on the organisation's having the facilities required to pursue the declared type of activity, and copies of documents confirming the taxpayer's right of ownership to said facilities (copies of documents confirming the right of economic jurisdiction and/or operative management in respect of the property assigned thereto);

3) a certificate for the production of alcohol-containing perfumery and cosmetic goods in metal aerosol packaging, if an organisation (an organisation where the applicant organisation has over 50 per cent of the authorised (pooled) capital (fund) of a limited liability company or of voting shares of a joint-stock company) owns (holds the right of economic jurisdiction and/or operative management in respect of) facilities intended for the production, storage and sale of the aforesaid products where denatured ethyl alcohol is used as raw material;

4) a certificate for the production of alcohol-containing household chemical goods, if an organisation (an organisation where the applicant organisation has over 50 per cent of the authorised (pooled) capital (fund) of a limited liability company or of voting shares of a jointstock company) owns (holds the right of economic jurisdiction and/or operative management in respect of) the facilities intended for the production, storage and sale of the aforesaid products where denatured ethyl alcohol is used as raw material.

5. Tax bodies shall suspend a certificate if:

an organisation is in breach of the effective legislation on taxes and fees in as much as it concerns the calculation and payment of excise taxes;

an organisation fails to show the registers of invoices filed with tax bodies in accordance with **Article 201** of this Code. In this case the certificate of an organisation being a buyer (recipient) of denatured ethyl alcohol shall be suspended;

the technological equipment used to produce, store and sell denatured ethyl alcohol is not equipped with devices intended for monitoring and recording the volume thereof or is equipped with out-of-order monitoring and recording equipment, if disorders occur in the operation and operational conditions of the monitoring and recording equipment installed on said technological equipment.

If a certificate is suspended the tax body shall set a term for elimination of the

irregularities that have caused the suspension thereof. This term shall not exceed six months. If within the term set the irregularities have not been eliminated the certificate shall be annulled.

The organisation holding the certificate shall notify in writing the tax body that has issued it that it has eliminated the irregularities that caused the suspension of the certificate. The tax body that issued the certificate shall take its decision on resumption or on the refusal to resume of the certificate and notify in writing the organisation holding the certificate within three days as of the date of receiving a notice of elimination of the irregularities that caused suspension of the certificate.

The effective term of a certificate shall not be extended by the duration of its suspension term.

A certificate shall be annulled by tax bodies if:

alcohol-containing products are produced by an organisation holding a certificate for the production of alcohol-free products;

an organisation holding a certificate for the production of alcohol-free products has transferred denatured ethyl alcohol to another person;

an organisation has filed an application to this effect;

an organisation has assigned to another person the certificate issued in the procedure established in accordance with **Item 3** of the present Article;

an organisation's re-organisation has been completed, and, as a result of the re-organisation, this organisation has lost its right of ownership to the facilities declared when the certificate was received;

**abrogated** from January 1, 2007;

the name of an organisation has been changed;

the location of an organisation has been changed;

the right of ownership to the entirety of facilities specified in the licence has been terminated;

production of different alcohol-containing products (except for denatured alcohol-products) by an organisation that has a certificate for making alcohol-containing perfumery and cosmetic products in metal aerosol tare and (or) the certificate for making alcohol-containing household chemical goods in metal aerosol packaging;

transfer by an organisation that has a certificate for making alcohol-containing perfumery and cosmetic products in metal aerosol packaging and (or) a certificate for making alcohol-containing household chemical goods in metal aerosol packaging, of denatured ethyl alcohol to another person.

**6.** If a certificate is annulled in the cases listed in **Item 5** of the present Article or if an organisation has lost its certificate the organisation is entitled to file a certificate application asking for a new certificate.

**7.** The tax body that issued a certificate shall **notify** the organisation of suspension or annulment of the certificate within three days after the date of the decision to this effect.

**8.** An organisation holding a certificate shall report to the tax body that issued it on the use of denatured ethyl alcohol, in the **procedure** established by the Ministry of Finance of the Russian Federation.

### **Article 179.3.** Registration Certificate of a Person Engaged in Transactions with Directly Distilled Petroleum

**1.** Registration certificates of persons engaged in transactions with directly distilled petroleum (hereinafter referred to as the certificate) shall be issued to organisations and individual businessmen engaged in the following types of activities:

production of directly distilled petroleum, in particular from customer-furnished raw material (materials) - a certificate for production of directly distilled petroleum;



making petrochemical products with the use of directly distilled petroleum, in particular from customer-furnished raw material (materials) - a certificate for processing directly distilled petroleum.

For the purposes of this Chapter, petrochemical products shall mean the products resulting from processing (conversion) of oil components (including directly distilled petroleum) and natural gas aimed at transforming them into organic compounds and fractions that are final products and (or) are further used for making other products on the basis of them, as well as the waste resulting from processing directly distilled petroleum in the course of making the said products.

**2.** The following shall be stated in the certificate:

- 1) denomination of the tax authority that has issued the certificate;
- 2) full and abbreviated denominations of the organisation (full name of the individual businessman), location of the organisation (place of residence of the individual businessman) and address (actual place of operation) where the organisation (the individual businessman) exercises the activity types specified by **Item 1** of this Article;
- 3) taxpayer identification number (INN);
- 4) type of activity;
- 5) requisite elements of the documents proving ownership (the right of possession or use on any other legal grounds on condition that the contribution (share) of the organisation which owns production facilities constitutes 100 per cent of the authorised (pooled) capital of the applicant organisation) of production facilities, and location of said facilities;
- 6) requisite elements of the contract for the rendering by the taxpayer of the services of processing oil, gas condensate, associated petroleum gas, natural gas, shale oil, coal and other raw material, as well as products processed therefrom for the purpose of producing directly distilled petroleum (if said contract is available);
- 7) requisite elements of the contract for rendering services related to processing of directly distilled petroleum made with an organisation engaged in making petrochemical products (if said contract is available);
- 8) the certificate's registration number and date of its issuance.

**3.** The procedure for issuing the certificate shall be determined by the Ministry of Finance of the Russian Federation.

**4.** The certificate shall be issued to organisations and individual businessmen, if they comply with the following requirements:

the certificate for production of directly distilled petroleum - if an organisation or individual businessman (an organisation where the applicant organisation has over 50 per cent of the authorised (pooled) capital (fund) of a limited liability company or of voting shares of a joint-stock company) owns (possesses or uses on other legal grounds on condition that the contribution (shares) of the organisation which owns production facilities constitutes 100 per cent of the authorised (pooled) capital of the applicant organisation) the facilities intended for the production of directly distilled petroleum, and (or) if there is a contract for rendering services related to processing by the taxpayer of crude oil, gas condensate, associated petroleum gas, natural gas, shale oil, coal and other raw material, as well as products processed therefrom, which results in the production of directly distilled petroleum;

the certificate for processing directly distilled petroleum - if an organisation or individual businessman (an organisation where the applicant organisation has over 50 per cent of the authorised (pooled) capital (fund) of a limited liability company or of voting shares of a joint-stock company) owns (possesses or uses on other legal grounds on condition that the contribution (shares) of the organisation which owns production facilities constitutes 100 per cent of the authorised (pooled) capital of the applicant organisation) facilities intended for making petrochemical products, and (or) if there is a contract for rendering services related to

processing of directly distilled petroleum owned by the given taxpayer which is made with an organisation engaged in making petrochemical products.

The tax authorities shall be obliged to issue the certificate (to notify the applicant of the refusal to issue the certificate) at the latest in 30 calendar days as of the time of submission by a taxpayer of an application for issuance of the certificate and of the documents provided for by this Article. A notice shall be sent to a taxpayer in writing and shall state reasons for the refusal. To receive the certificate a taxpayer (unless otherwise established by this Article) shall file with the tax authorities an application for issuance of the certificate, data on his having available the production facilities required for the exercise of the declared type of activity, copies of the documents proving the taxpayer's ownership of said facilities (copies of the documents proving the right of economic jurisdiction and (or) day-to-day management of the property assigned to him).

To obtain the certificate for production of directly distilled petroleum, an organisation or an individual businessman engaged in processing of crude oil, gas condensate, associated petroleum gas, natural gas, shale oil, coal and other raw material, as well as products processed therefrom, instead of the documents proving ownership (rights of economic jurisdiction or day-to-day management) of the facilities for production of directly distilled petroleum may file with the tax authorities a copy of the contract for rendering services related to processing of oil, gas condensate, associated petroleum gas, natural gas, shale oil, coal and other raw material, as well as products processed therefrom with a note of the tax authority at the location of the organisation engaged in processing of oil, gas condensate, associated petroleum gas, natural gas, shale oil, coal and other raw stuff, as well as products processed therefrom. The said note shall be made upon submission to the tax authority at the location of this organisation or the place of residence of the individual businessman of a copy of a contract for rendering services related to processing of oil, gas condensate, associated petroleum gas, natural gas, shale oil, coal and other raw material, as well as products processed therefrom.

To obtain the certificate for processing of directly distilled petroleum, an organisation or individual businessman owning raw material, instead of the documents proving ownership (right of possession or use on any other legal grounds on condition that the contribution (share) of the organisation which owns production facilities constitutes 100 per cent of the authorised (pooled) capital of the applicant organisation) of the facilities intended for production, storage and sale of petrochemical products may file with the tax authorities an attested copy of a contract for rendering services related to processing of directly distilled petroleum which is made with an organisation making petrochemical products and bears a note of the tax authority at the location of the organisation making petrochemical products. The said note shall be made upon submission to the tax authority at the location of the organisation or place of residence of the individual businessman engaged in making petrochemical products of a copy of a contract for rendering services related to processing of directly distilled petroleum.

The certificates provided for by this Article shall be likewise issued to the organisation or individual businessman which has made an application for issuing the appropriate certificate, if the organisation where the applicant organisation or individual businessman has over 50 per cent of the authorised (pooled) capital (fund) of a limited liability company or of voting stocks of a joint-stock company has available production facilities required for obtaining of the certificates. In this case, the organisation or individual businessman that has filed an application for issuing the certificates shall submit to the tax authority the documents proving the right of the organisation to possess, use and, dispose of, the said property and documents proving ownership of the said share (of the appropriate number of voting stocks) in the authorised (pooled) capital (fund) of the organisation.

**5.** The tax authorities shall suspend the certificate in the event of the following:  
the organisation's or individual businessman's failure to follow the provisions of the

legislation on taxes and fees, as regards the calculation and payment of excise duties;

failure of the organisation or individual businessman which are purchasers (recipients) of directly distilled petroleum to submit within three **tax periods** pouring into the invoices to be submitted to the tax authorities in compliance with **Article 201** of this Code. If this is the case, the certificate of the organisation or individual businessman, which are purchasers (recipients) of directly distilled petroleum, shall be suspended;

use engineering facilities for production, storage and sale of directly distilled petroleum which are not equipped with monitoring devices for registration of its volume, as well as if they are equipped with broken monitoring and measurement devices, malfunctioning of the monitoring and measurement equipment installed in said engineering facilities and failure to observe the service conditions thereof.

In the event of suspending the certificate, the tax authorities shall be obliged to fix the time period for elimination of the violations which have entailed the suspension of the certificate. The said time period may not exceed six months. If within the established time period violations are not eliminated, the certificate shall be cancelled.

An organisation or individual businessman which has the certificate shall be obliged to notify in writing the tax authority that issued the certificate of elimination by them of the violations which entailed suspension of the certificate. The tax authority that has issued the certificate shall render a decision to renew the certificate or to deny the renewal thereof and shall notify of it the organisation or individual businessman, that have the certificate in writing, within three days as of the date of receiving a notice concerning the elimination of the violations which have entailed the suspension of the certificate.

The term of the certificate's validity shall not be extended by the time period of its suspension.

The tax authorities shall cancel the certificate in case of the following:

submission of the relevant application by an organisation or individual businessman;

transfer by an organisation or individual businessman of the certificate issued in the procedure established in compliance with **Item 3** of this Article to another person;

completion of a company's re-organisation which results in this company losing the ownership of the production facilities declared for obtaining the certificate or termination of the contracts provided for by Paragraphs Two and Three of **Item 4** of this Article;

modification of an organisation's denomination (changes in the first name, family name or patronymic of an individual businessman);

change of an organisation's location (change of an individual businessman's place of residence);

termination of ownership or possession (use) on other legal grounds (on condition that the contribution (share) of the organisation owning production facilities constitutes 100 per cent of the authorised (pooled) capital (fund) of the applicant organisation) of all production facilities specified in the certificate or termination of the contracts provided for by paragraphs two and three of **Item 4** of this Article.

**6.** In the cases of the certificate's cancellation provided for by **Item 5** of this Article, as well as in the event of an organisation or individual businessman losing the certificate, the organisation or individual businessman shall be entitled to file an application for issuance a new certificate.

**7.** The tax authority that has issued the certificate shall be obliged to notify in writing an organisation or individual businessman of suspending or canceling the certificate within a three-day term as of the date of rendering the appropriate decision.

**Article 180.** Features of Execution of the Duties of Taxpayer Within the Framework of a Contract of Simple Partnership (Contract on Joint Activity)

*Federal Law No. 110-FZ of July 24, 2002 (in the wording of Federal Law No. 191-FZ of December 31, 2002) amended Item 1 of Article 180 of this Code*

*See the previous text of the Item*

1. Organisations or individual entrepreneurs - parties to a contract of simple partnership (contract on joint activity) shall bear the joint and several liability on bearing the responsibility on payment of tax calculated according to this Chapter.

2. For the purposes of this Chapter, it shall be established that the person managing the business of the simple partnership (of the contract on joint activity) shall be named as the person discharging the obligation to calculate and pay the entire amount of excise tax calculated under operations defined as an item of taxation according to this Chapter and performed within the framework of a simple partnership contract (contract on joint activity). In case the simple partnership (contract on joint activity) is managed jointly by all participants of the simple partnership (contract on joint activity), the parties to the contract of simple partnership (contract on joint activity) shall independently name a participant discharging the obligation in the calculation and payment of the entire amount of excise tax under operations defined as the item of taxation according to this Chapter and performed within the framework of the simple partnership contract (contract on joint activity).

Said person shall have all rights and discharge the taxpayer obligations stipulated by this Code concerning the aforesaid amount of excise tax.

No later than on the day of performance of the first operation, defined as an item of taxation according to this Chapter, said person shall to notify a tax body of his having discharged his duty as a taxpayer within the framework of a general partnership agreement (joint activity agreement).

*On the notification of the tax body by the participant in a simple partnership agreement (in an agreement on the joint activity) about the discharge of liabilities involved in the computation and in the payment of the entire sum of the excise duty, imposed on the transactions performed in the framework of the simple partnership agreement (of the agreement on the joint activity) see Order of the Ministry of Taxation of the Russian Federation No. BG-3-09/303 of August 23, 2001*

3. In case the obligation to pay the excise tax is duly performed in full by the person discharging the obligation to pay the excise tax within the framework of the simple partnership (the contract on joint activity) according to Item 2 of this Article, the obligation to pay the excise tax by other parties to contract of a simple partnership (contract on joint activity) shall be considered fulfilled.

*Federal Law No. 117-FZ of July 7, 2003 amended Article 181 of this Code. The amendments shall enter into force from January 1, 2004*

*See the previous text of the Article*

#### **Article 181.** Excisable Goods

1. Excisable goods shall be defined as follows:

1) ethyl alcohol made of all types of raw materials;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 1 of Article 181 of

this Code with Subitem 1. The Subitem shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

1.1) brandy alcohol;

2) alcohol containing products (solutions, emulsion, suspension and other types of products in liquid form with a volumetric share of ethyl alcohol over 9 per cent, except for the alcoholic products cited in **Subitem 3** of this item.

For the purposes of this Chapter, the following goods shall not be defined as excisable goods:

medicinal agents that have been granted state registration with an authorised federal executive power body and entered into the State Register of Medicinal Agents, medicinal agents (including homeopathic medicinal preparations) produced by chemist organisations under individual recipes and requests of medical organisations and dispensed in compliance with the requirements of the normative documentation coordinated with the authorised federal executive body;

drugs of veterinary use that were granted state registration with the authorised federal body of executive power and entered into the State Register of the registered veterinary drugs developed for application in animal industries on the territory of the Russian Federation bottled in tare not more than 100 ml;

perfume and cosmetics products poured into containers of at most 100 ml with the volume fraction of ethyl alcohol up to 80% inclusive and (or) perfumery and cosmetic products with a volumetric share of ethyl alcohol up to 90 per cent inclusive, if the flask is equipped with a sprayer, which are bottled into containers with a capacity of 100 ml at most, as well as cosmetics with the volume fraction of ethyl alcohol up to 90 per cent inclusive dispensed in containers up to 3 mL inclusive;

waste materials subject to further processing and/or use for technical purposes which are byproducts of production of ethyl alcohol made of food raw material, of vodka articles, liqueur and vodka articles, the former conforming to the reference documentation approved (agreed) by a federal body of executive power;

**abrogated** from January 1, 2007;

**abrogated** from January 1, 2007;

wine materials;

3) alcoholic products (drinkable alcohol, vodka, liqueur and vodka articles, cognacs, wine, beer, beverages made on the basis of beer, and other beverages containing a volume fraction of ethyl alcohol more than 1.5 per cent;

4) **abrogated** from January 1, 2011;

5) tobacco products;

6) passenger cars;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 1 of Article 181 of this Code with Subitem 6.1. The Subitem shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

6.1) motorcycles with engine capacity exceeding 112.5 KW (150 horse powers);

7) petrol;

8) diesel fuel;

**9)** motor oil for diesel and/or carburetor (injector) engines.

10) direct-distillation petrol. For the purposes of this Chapter, by direct-distillation petrol shall be meant petrol fractions, obtained as the result of processing oil, gas condensate, casing-head gas, natural gas, combustible shales, coal and other raw materials, as well as of processed products thereof except for motor vehicle petrol and petrochemical products.

For the purposes of this Article, a petrol fraction shall be a mixture of hydrocarbons, boiling in the temperature interval from 30 to 215 degrees Centigrade under an atmospheric pressure of 760 millimetres of mercury.

**2. Abolished** from January 1, 2004.

#### **Article 182.** Tax Object

**1.** The following transactions shall be deemed tax objects:

1) sale, by persons, on the territory of the Russian Federation of the excisable goods they have produced, in particular, the sale of pledged items and the transfer of excisable goods under release-money or novation agreements.

For the purposes of this Chapter, the transfer of a right of ownership to excisable goods by one person to another on onerous and/or gratuitous basis and also the use thereof in case when payment is made in kind shall be deemed a sale of excisable goods;

2) **abrogated** from January 1, 2007;

3) **abrogated** from January 1, 2007;

4) **abrogated** from January 1, 2007;

5) **abolished** from January 1, 2006;

6) sale by persons of confiscated excisable goods and/or excisable goods in abeyance, the excisable goods renounced by the owner for the benefit of the state which have been transferred to the persons under judgements or decisions of courts, arbitration courts or other state bodies authorised to do so and which are to be converted to state and/or municipal ownership;

7) the transfer in the territory of the Russian Federation by persons of excisable goods produced by the persons from the customer-furnished raw materials (materials) to the owner of the said raw materials (materials) or to other persons, in particular, the receipt of the said excisable goods in ownership as setting off payment for the services of production of excisable goods from the customer-furnished raw materials (materials);

8) the transfer, within the structure of an organisation, of produced excisable goods for further production of non-excisable goods, except for the transfer of directly distilled petroleum for further making of petrochemical products within the structure of an organisation which has a registration certificate of a person engaged in transactions with directly distilled petroleum and (or) the transfer of produced denatured ethyl alcohol for making alcohol-free products within the structure of an organisation which has a registration certificate of an organisation engaged in transactions with denatured ethyl alcohol;

9) the transfer in the territory of the Russian Federation by persons of excisable goods produced by the persons for own needs;

10) the transfer in the territory of the Russian Federation by persons of excisable goods produced by the persons into the authorised (contributed) capital of organisations, the share funds of co-operatives and also as a contribution under a simple partnership agreement (joint activity agreement);

11) the transfer in the territory of the Russian Federation by an organisation (a company or a partnership) of excisable goods produced by it to its participant (its successor or heir) when she/he/it quits (opts out) of the organisation (company or partnership) and also the transfer of excisable goods produced within the framework of a simple partnership agreement (a joint activity agreement) to a participant (the successor or heir thereof) in the said agreement in the case of partition of his/her/its participatory share from the property in common ownership of the participants in the agreement or division of such property;

12) the transfer of produced excisable goods for processing on a supply and return basis;

13) the importation of excisable goods into the territory of the Russian Federation and other territories under its jurisdiction;

14) **abrogated** from January 1, 2007;

15) **abolished** from January 1, 2004;

16) **abolished** from January 1, 2004;

17) **abolished** from January 1, 2004;

18) **abolished** from January 1, 2004;

19) **abolished** from January 1, 2004;

20) the receipt (entry in the books) of denatured ethyl alcohol by an organisation holding a certificate for the production of alcohol-free products.

For the purposes of this Chapter, the "receipt of denatured ethyl alcohol" means the acquisition of denatured ethyl alcohol in ownership;

21) the receipt of directly distilled petroleum by an organisation which has a certificate for processing directly distilled petroleum.

For the purposes of this Article, as the receipt of directly distilled petroleum shall be deemed the acquisition of directly distilled petroleum in ownership thereof.

22) the transfer by a structural unit of an organisation which is not an independent taxpayer to another similar structural unit of this organisation of produced ethyl alcohol and/or brandy alcohol for subsequent making of alcoholic and/or excisable alcohol-containing products, in particular the transfer of produced crude ethyl alcohol for making rectified ethyl alcohol to be subsequently used by the same organisation for making alcoholic and/or excisable alcohol-containing products (except for alcohol-containing cosmetics in metal aerosol packing and/or alcohol-containing household chemical products in metal aerosol packing).

**2. Abolished** from January 1, 2004;

**Federal Law** No. 248-FZ of July 19, 2011 amended Item 3 of Article 183 of this Code. The amendments shall **enter into force** upon the expiry of 90 days after the day of the **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for excises

**3.** For the purposes of this Chapter the term "production" encompasses the bottling of alcoholic products and beer effected as a part of the general process of production of these goods under technical regulations and/or other regulatory-technical documentation which govern the process of production of said goods and which are approved in the procedure established by the legislation of the Russian Federation, and also any types of blending of goods at the place of their storage and sale (except for public catering organisations) resulting in an excisable good in relation to which **Article 193** of this Code set an excise rate in the amount exceeding the excise rates for goods used as a raw material.

**4.** In the event of a reconstruction of an organisation the rights and duties relating to payment of excise taxes shall be transferred to the organisation's successor.

### **Article 183.** Operations Which Are Not Taxable (Exempt From Taxation)

**1.** Not subject to taxation (the following operations are exempt from taxation) shall be:

1) transfer of excisable goods by a structural unit of an organisation not being an independent taxpayer for production of other excisable goods to another similar structural unit of this organisation, except for the operations recognized as excisable items in compliance with **Subitem 22 of Item 1 of Article 182** of this Code, if not otherwise established by this Item;

2) **abolished** from January 1, 2006;

**3) abolished** from January 1, 2006;

4) the sale of excisable goods placed under the customs procedure of export outside the territory of the Russian Federation taking into account losses within the natural loss rates or importation of excise goods into the by-port special economic zone from the other part of the territory of the Russian Federation.

The said transactions shall be relieved from taxation in compliance with **Article 184** of this Code;

5) **abrogated** from January 1, 2007;

6) the initial sale (transfer) of confiscated and/or ownerless excisable goods or excisable goods that were refused in favour of the state, and which are to be transferred into state and/or municipal property, for industrial processing under customs control and/or that of the tax authorities or destruction;

7) **Abolished** from January 1, 2004;

8) **Abolished** from January 1, 2004;

9) **Abolished** from January 1, 2004;

10) **Abolished** from January 1, 2004;

11) **Abolished** from January 1, 2004;

12) **Abolished** from January 1, 2004;

13) **Abolished** from January 1, 2004;

16) operations involved in the transfer within the structure of the same organisation:

ethyl alcohol produced by the taxpayer for subsequent making of alcohol-containing cosmetics in metal aerosol packing and/or alcohol-containing household chemical products in metal aerosol packing;

rectified ethyl alcohol made by the taxpayer of crude ethyl alcohol to the subdivision engaged in making alcoholic and/or excisable alcohol-containing products.

**2.** Operations listed in **Item 1** of this Article shall not be taxable (are exempt from taxation) only in case separate record-keeping of operations on production and sale (transfer) of such excisable goods is maintained.

**3.** Not taxable shall be (shall be exempt from taxation) the import to the territory of the Russian Federation and other territories under its jurisdiction of excisable goods which were refused in favour of the state and which are to be transferred into the state and/or municipal property, or which are placed within the by-port special economic zone.

#### **Article 184.** The Peculiarities of Relieving from Taxation in the Event of Sale of Excisable Goods to Territories Outside the Territory of the Russian Federation

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 1 of Article 184 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**1.** The transactions specified in **Subitem 4 of Item of Article 183** of this Code shall be relieved from taxation only when excisable goods are exported from the territory of the Russian Federation under the customs procedure of export or in case of importation of excise goods into the by-port special economic zone.

**Federal Law** No. 306-FZ of November 27, 2010 amended Item 2 of Article 184 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not



earlier than the first day of the next **tax period** for the value-added tax

**2.** The taxpayer shall be absolved from payment of excise duty in realisation of excise goods manufactured by it and/or in case of transfer of excise goods manufactured from the customer-furnished raw materials and placed under the customs procedure of export, outside the territory of the Russian Federation or in case of importation of excise goods into the by-port special economic zone upon submission to the tax body of banker's surety as is envisaged under **Article 74** of this Code or bank guarantee. That banker's surety or bank guarantee shall provide for the banker's obligation to pay the amount of excise and appropriate penalty in cases of taxpayer's failure to present in the procedure and within the time limits fixed under **Items 7 and 7.1 of Article 198** of this Code, documents confirming the fact of export or import into the by-port special economic zone of excise goods placed under the customs procedure of free customs zone and failure to pay excise duty and/or penalties.

If there is no bank's suretyship (bank guarantee) the taxpayer shall pay the excise tax in the manner envisaged for the transactions of sale of excisable goods in the territory of the Russian Federation.

**Abrogated** from January 1, 2007;

**Abrogated** from January 1, 2007;

**3.** In the event of payment of an excise tax due to the taxpayer's lacking a bank suretyship (bank guarantee) the excise amounts paid shall be refundable after the filing of documents by the taxpayer with the tax bodies to confirm the fact of exportation of excisable goods.

The refund of excise amounts shall be effected in the manner envisaged by **Article 203** of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 amended Article 185 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

#### **Article 185.** Features of Taxation in Case of Movement of Excisable Goods Across the Customs Border of the Customs Union

**1.** In case of import of excisable goods to the territory of the Russian Federation and other territories under its jurisdiction depending on a selected customs procedure, taxation shall be made in the following order:

1) when placing excisable goods under the customs procedures of release for free circulation, of processing for internal consumption and a free customs zone, except for excisable goods brought into the by-port special economic zone, excise tax shall be paid in full;

2) if excisable goods are placed under the customs procedure of re-import, the taxpayer shall pay the amount of excise tax from which he was exempt or which was returned to him in connection with the export of goods according to this Code in the procedure stipulated by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 3 of Item 1 of Article 185 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for the excise tax

3) when excisable goods are placed under the customs procedures of transit, a **bonded warehouse, re-export, duty-free trade, a free warehouse, destruction, waiver in favour of the state** and a **special customs procedure**, and also under the customs procedure of free

customs zone in the by-port special economic zone, the excise shall not be paid;

4) when excisable goods are placed under the customs procedure of processing in the customs territory the excise tax shall not be paid on the condition that the processed products will be exported within a certain term. When the processed products are cleared for free circulation the excise tax shall be paid in full with due regard to the provisions established by the customs legislation of the Customs Union and the customs legislation of the Russian Federation;

5) if excisable goods are placed under the customs procedure of temporary import, the excise tax shall be exempted in full or partially in the procedure stipulated by the customs legislation of the Customs Union and the customs legislation of the Russian Federation.

**2.** In the case of export of excisable goods from the territory of the Russian Federation, the tax shall be imposed in the following manner:

1) in case of export of goods under the customs procedure of export from the territory of the Russian Federation, the excise tax is not paid with allowance for **Article 184** of this Code or the paid amounts of the excise tax are refunded (are offset) by the tax authorities of the Russian Federation in the procedure stipulated by this Code.

The taxation procedure indicated in this Subitem shall also be applied when goods are placed under the customs procedure of a bonded warehouse for the purpose of a subsequent export of these goods in accordance with the customs procedure of export, and also when goods are placed under the customs procedure of a free customs zone;

2) in case of export of goods under the customs procedure of re-export from the territory of the Russian Federation, amounts of excise tax paid on their import into the territory of the Russian Federation shall be refunded to the taxpayer in the order stipulated by the **customs legislation** of the Customs Union and the customs **legislation** the Russian Federation;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 2 of Article 185 of this Code with Subitem 2.1. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is **officially published** and at the earliest on the first day of a regular **tax period** for the excise tax

2.1) in case of exporting commodities from the territory of the Russian Federation for the purpose of completing a special customs procedure, an excise tax shall not be paid;

**Federal Law** No. 245-FZ of July 19, 2011 amended Subitem 3 of Item 2 of Article 185 of this Code. The amendments shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for the excise tax

3) in case of export of excisable goods from the territory of the Russian Federation according to customs procedures different from those listed in **Subitems 1 - 2.1** of this Item, there is no exemption from taxation nor a refund of paid amounts of excise tax, unless otherwise stipulated by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**3.** When natural persons move excisable goods intended for personal, family, household and other needs not relating to the pursuance of entrepreneurial activity the procedure for payment of the excise tax payable in connection with the movement of the goods across the customs border of the Customs Union shall be determined in accordance with the **customs legislation** of the Customs Union.

**Federal Law** No. 306-FZ of November 27, 2010 amended Article 186 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than

the first day of the next **tax period** for the value-added tax

**Article 186.** The Specifics of Collecting Excise Tax When Importing and Exporting Excisable Goods of the Customs Union

1. Excise tax in respect of excisable goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union, except for the excisable goods of the Customs Union which are subject to marking by excise tax stamps in compliance with the legislation of the Russian Federation, shall be collected by the tax authorities.

Excise tax in respect of the excisable goods of the Customs Union which are subject to marking by excise tax stamps in compliance with the legislation of the Russian Federation and imported into the territory of the Russian Federation from the territory of a member state of the Customs Union shall be collected by customs authorities in the procedure established by **Article 186.1** of this Code.

2. In case of export of excisable goods from the territory of the Russian Federation to the territory of member states of the Customs Union defined in Item 1 of this Article, the order of confirmation of the right to exemption from payment of excise tax shall be established by the Government of the Russian Federation, including on the basis of international treaties made by member states of the Customs Union with the governments of said foreign states.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented this Code with Article 186.1. The Article shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**Article 186.1.** Procedure for Collecting Excise Tax in Respect of the Goods of the Customs Union Which Are Subject to Marking by Excise Tax Stamps and Are Imported to the Russian Federation from the Territory of a Member State of the Customs Union

1. The duty of paying excise tax in respect of marked goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union shall arise as from the date of importation of marked goods into the territory of the Russian Federation.

2. As the tax base for levying excise tax shall be deemed the volume, quantity and other indices of the marked goods to be imported in kind in respect of which fixed (specific) rates of excise tax are established, or the cost of imported excisable commodities in respect of which ad valorem rates of excise tax are established, or the volume of imported marked goods in kind for estimating excise tax when applying a fixed (specific) tax rate and the estimated value of imported excisable goods computed on the basis of the maximum retail prices for estimating excise tax when applying the ad valorem tax rate (in percentage) in respect of the goods for which combined excise tax, consisting of a fixed (specific) rate and ad valorem (in percentage) rate.

For the purposes of estimating excise tax in respect of marked goods, cost means the price of a transaction to be paid to the supplier for goods under the terms and conditions of an agreement (contract). Seen as the cost of marked goods obtained under a trading (barter) agreement (contract), as well as under a commodity credit agreement (contract) shall be the cost of marked goods provided for by an agreement (contract) or, if the cost is not cited in an agreement (contract), the cost cited in transportation documents or, if the cost is not cited in an agreement (contract) and transportation documents, the cost of marked goods shown in accounting reports/statements.

The estimated cost of marked goods in respect of which combined excise tax rates are established shall be determined in compliance with **Article 187.1** of this Code.

The tax base for estimation of excise tax in respect of marked goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union shall be determined as of the date of registration by the taxpayer of imported excisable goods but at the latest on the date of filing a statistical declaration in respect of marked goods where statistical declaring of such goods is provided for by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

**3.** The amount of excise tax to be paid in respect of marked goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union shall be independently estimated by the taxpayer at the tax rates fixed by **Article 193** of this Code which are in effect as of the date when excise tax is paid.

**4.** Excise tax in respect of marked goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union shall be remitted by the taxpayer onto the Federal Treasury account at the latest in five days as from the date when imported marked goods are registered.

**5.** For the purpose paying excise tax in respect of marked goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union, the taxpayer is obliged to file with a tax authority the following documents:

1) an application on a paper medium and in an electronic form according to the model endorsed by the federal executive power body in charge of customs affairs in the number of copies to be established by the federal executive power body in charge of customs affairs;

2) the shipping (transportation) documents which prove movement of marked goods from the territory of a member state of the Customs Union into the territory of the Russian Federation;

3) the documents which are necessary to prove the status of goods of the Customs Union in respect of marked goods;

4) the invoices drawn up in compliance with the legislation of a member state of the Customs Union when shipping goods, where their raising (making out) is provided for by the legislation of the member state of the Customs Union;

5) the agreements (contracts) serving as the basis for acquisition of marked goods imported into the territory of the Russian Federation from the territory of a member state of the Customs Union;

6) the information report presented to a taxpayer of a member state of the Customs Union by a taxpayer of another member state of the Customs Union or by a taxpayer of a state which is not a member of the Customs Union and sells goods imported from the territory of another state which is a member of the Customs Union, which is signed by the head (individual businessman), attested by the stamp of an organisation and cites the following data:

the number identifying the person as a taxpayer of a member state of the Customs Union;

the full denomination of a taxpayer of a member state of the Customs Union;

the location (place of residence) of a taxpayer of a member state of the Customs Union;

the number and date of the agreement (contract) of acquisition of imported marked goods;

the number and date of the specification.

If the taxpayer of a member state of the Customs Union whose goods are to be acquired is not the owner of the goods to be sold (but is a commission agent, attorney), data shall be also provided in respect of the owner of the marked goods to be sold.

Where an information report is presented in a foreign language, its translation into Russian must be available.

An information report shall not be presented, if the data provided for by this item is contained in the agreement (contract) cited in **Subitem 5** of this item.

7) agreements (contracts) of commission, agency or a brokerage agreement (contract) (if

they have been made);

8) the agreements (contracts) serving as the basis for acquisition of the goods imported into the territory of the Russian Federation from the territory of another member state of the Customs Union.

**6.** The documents cited in **Subitems 2 - 8 of Item 5** of this article may be presented as copies attested in the established procedure.

**7.** In the event of failure to pay, or incomplete payment of, excise tax in respect of marked goods of the Customs Union imported into the territory of the Russian Federation from the territory of a member state of the Customs Union, or of their payment at a later time as compared to the one fixed by **Item 4** of this article, or if the data declared by a customs authority does not correspond to those obtained within the framework of information exchange between tax and customs authorities of member states of the Customs Union, a customs authority shall collect excise tax and penalties in the procedure and in the amount which are established by the legislation of the Russian Federation, as well as shall apply the methods to secure making customs payments and payments of penalties which are established by the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation.

#### **Article 187.** Determination of the Tax Base in Case of the Sale (Transfer) or in the Receipt of Excisable Goods

1. The tax base is defined separately for each type of excisable good.

**2.** The tax base in case of the sale (transfer defined as an item of taxation according to this Chapter) of excisable goods produced by the taxpayer depending on tax rates fixed for such goods shall be defined as:

1) the volume of sold (transferred) excisable goods in kind - on excisable goods for which firm (specific) tax rates (in an absolute amount per unit of measurement) are established;

2) the cost of sold (transferred) excisable goods calculated on the basis of prices defined with due regard to the provisions of **Article 105.3** of this Code disregarding the excise tax, value-added tax on excisable goods for which ad valorem (in percentage points) tax rates are established;

3) the cost of transferred excisable goods calculated on the basis of average prices of sale effective over the previous tax period, and in their absence, on the basis of market prices disregarding the excise tax, value-added tax - on excisable goods for which ad valorem (in percentage) tax rates are established. In a similar order the tax base on excisable goods shall be defined for which ad valorem (in percentage) tax rates are established when they are sold on a gratuitous basis, when performing commodity swap (barter) transactions, and also by transfer of excisable goods under a cancellation compensation or novation and transfer of excisable goods as wages in kind;

4) the volume of sold (transferred) excisable goods in kind for calculation of excise duty when applying a fixed (specific) tax rate and as the estimated cost of sold (transferred) excisable goods calculated on the basis of the maximum retail prices for calculation of excise duty in the event of applying the ad valorem (percentage) tax rate - on excisable goods, in respect of which the combined tax rates, consisting of fixed (specific) and ad valorem (percentage) tax rates, are established. The estimated cost of the tobacco products, in respect of which combined tax rates are established, shall be determined in compliance with **Article 187.1** of this Code.

**3. Abrogated** from January 1, 2007.

**4.** The tax base in case of sale of confiscated and/or ownerless excisable goods, excisable goods which were refused for the benefit of the state and which are to be transferred into the state and/or municipal property shall be defined according to **Subitems 1 and 2 of Item**

2 of this Article.

5. When determining the tax base, the taxpayer's proceeds received in foreign currency shall be converted into the currency of the Russian Federation at the rate of the Central Bank of the Russian Federation effective on date of sale of excisable goods.

6. Not to be included in the tax base are the funds received by taxpayers and that are not associated with the sale of excisable goods.

7. The tax base for the taxable object specified in **Subitem 20 of Item 1 of Article 182** of this Code is assessed as the volume of received denatured ethyl alcohol in physical terms.

8. The tax base for the taxation object, specified by Subitem 21 of Item 1 of Article 182 of this Code, shall be assessed as the volume of obtained directly distilled petroleum in kind.

#### **Article 187.1.** Procedure for Assessing the Estimated Cost of Tobacco Products in Respect of Which Combined Tax Rates Are Established

1. As the estimated value shall be deemed the product of the maximum retail price stated on a consumer pack unit (package) and the number of consumer pack units (packages) of tobacco products sold (transferred) within the reporting period or imported in to the territory of the Russian Federation and other territories under its jurisdiction.

2. The maximal retail price represents the price, above which the unit of consumer packing (packet) of tobacco goods may not be sold to customers by enterprises of retail trade, public catering, the sphere of services, and also by individual businessmen. The maximal retail price shall be fixed by a taxpayer independently per unit of consumer packing (packet) of tobacco goods separately for each brand (each name) of tobacco goods.

The brand (name) for the purpose of this Chapter shall be understood to mean the assortment position of tobacco goods that differs from other brands (names) with one or several signs - the individualised designation (name) awarded by the producer or the licences, recipes, sizes, the presence or the absence of a filter or packing.

3. A taxpayer shall be obliged to file with the tax authority at the place of recording (the customs authority at the place of customs registration of excisable goods) a notice of the maximum retail prices (hereinafter referred to as a notice) in respect of each sort (each item) of tobacco products at the latest 10 calendar days before the start of a calendar month wherefrom the maximum retail prices, stated in the notice, are to be plotted-on. The form of the notice shall be established by the Ministry of Finance of the Russian Federation.

The information about maximum retail prices cited in the notices received by tax authorities (customs authorities) is subject to publication in the electronic digital form in the public information system of the federal executive power body authorized to exercise control and supervision in respect of taxes and fees (of the federal executive power body in charge of customs affairs). The cited information must be published by an appropriate federal executive power body and be open for access pending the start of the calendar month from which the maximum retail prices cited in the notice are to be applied but at earliest on the day following the last date of filing the notice which is cited in **Paragraph One** of this part. The information contained in the notice shall be inserted in a public information system in the procedure determined by an appropriate federal executive state power body.

4. The maximum retail prices declared in the notice mentioned in **Item 3** of this Article, as well as data on the month and year of tobacco products' manufacture, shall be shown on each consumer pack unit (package) of tobacco products made within the time period of the notice's validity (except for non-taxable tobacco products or those exempted from taxation in compliance with **Article 185** of this Code). Production within the time period of the notice's validity of a sort

(item) of tobacco products with the maximum retail price shown on it, other than the one stated in the notice, shall not be allowable.

**5.** The maximum retail prices declared in the notice mentioned in **Item 3** of this Article, as well as data on the month and year of tobacco products' manufacture, shall be put on each consumer pack unit (package) of tobacco products starting from the first day of the month following the date of filing the notice and shall be in effect for at least one calendar month. A taxpayer shall be entitled to change the maximum retail price of all sorts (items) or several sorts (items) of tobacco products by way of filing one more notice in compliance with **Item 3** of this Article. The maximum retail prices specified in the new notice shall be put on each consumer pack (package) of tobacco products starting from the first day of the month following the date of filing the notice but at the earliest upon the expiry of the minimum validity term of the previous notice.

**6.** If a taxpayer within the same tax period sells (transfers) tobacco products of the same sort (item) with different maximum retail prices shown on a consumer pack unit (package) thereof, the estimated cost shall be determined as the product of each maximum retail price put on a unit consumer pack (unit) thereof and the number of sold consumer pack units (packages) upon which the appropriate maximum retail price is indicated.

**7.** When a taxpayer declares tobacco goods of one mark (one name), brought into the territory of the Russian Federation and other territories under its jurisdiction, with different retail prices indicated on a unit of the usable package (packet) of tobacco goods, the calculated value shall be estimated as a product of each maximum retail price indicated on a unit of the usable package (packet) containing relevant maximum retail prices.

**Article 188. Abrogated** from January 1, 2004.

*Federal Law No. 117-FZ of July 7, 2003 amended Article 189 of this Code. The amendments shall enter into force from January 1, 2004*

*See the previous text of the Article*

**Article 189.** The Increase of the Tax Base in Case of Sale of Excisable Goods

**1.** The tax base defined according to Articles 187 and 188 of the present Code shall be increased by the amounts received for excisable goods sold in the form of financial assistance, advance and other payments received to offset future delivery of excisable goods whose date of sale is determined in compliance with **Item 2 Article 195** of the present Code, to replenish special purpose funds for the increase of incomes in the form of interest (discount) on bills of exchange and commodity credit interest, or otherwise shall be associated with the payment for sold excisable goods.

**2.** The provisions of Item 1 of this Article shall be applied to operations on sale of excisable goods for which ad valorem (in percentage points) tax rates are established.

**3.** The amounts specified in this Article received in foreign currency shall be converted into the currency of the Russian Federation at the rate of the Central Bank of the Russian Federation effective on the date of their actual receipt.

*Federal Law No. 110-FZ of July 24, 2002 (in the wording of Federal Law No. 191-FZ of December 31, 2002) reworded Article 190 of this Code. The new wording of the Article shall enter into force from January 1, 2003*

*See the previous text of the Article*

**Article 190.** The Peculiarities of Tax Base Assessment in the Case of Accomplishment of

## Transactions in Excisable Goods Through the Use of Different Tax Rates

**1.** In respect of the excisable goods for which different tax rates have been established, tax base shall be assessed for each of the tax rates.

**2.** If a taxpayer does not keep separate records of the tax base in respect of the excisable goods provided for by **Item 1** of this Article, a single tax base shall be calculated for all the transactions made in the cited goods which are recognized as excisable items in compliance with **Article 182** of this Code.

The sums cited in **Item 1 of Article 189** of this Code shall be included in the single tax base determined in respect of the operations recognized as excisable items which are made in the excisable goods cited in **Item 2 of Article 189** of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 amended Article 191 of this Code. The amendments shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

### **Article 191.** Determination of Tax Base in Case of Import of Excisable Goods to the Territory of the Russian Federation and Other Territories under Its Jurisdiction

**1.** If excisable goods (with allowance for provisions of **Article 185** of this Code) are imported to the territory of the Russian Federation and other territories under its jurisdiction, the tax base shall be defined:

1) for excisable goods concerning which firm (specific) tax rates are established (in absolute amounts per unit of measurement) - as the volume of imported excisable goods in kind;

2) for excisable goods concerning which ad valorem (in percentage points) tax rates are established as the sum of:

their customs value;

the payable customs duty;

3) for excisable goods in respect of which combined tax rates consisting of the fixed (specific) and ad valorem (percentage) tax rates are established - as the volume of imported excisable goods in kind for calculation of excise duty when applying the fixed (specific) tax rate and as the estimated cost of imported excisable goods estimated on the basis of the maximum retail prices for calculation of excise duty when applying the ad valorem (percentage) tax rate. The estimated cost of excisable goods, in respect of which combined excise rates are established, shall be determined in compliance with **Article 187.1** of this Code.

**2.** Customs values of excisable goods and also payable customs duty shall be defined according to this Code.

**3.** The tax base shall be defined separately for each consignment of excisable goods which are imported to the territory of the Russian Federation and other territories under its jurisdiction.

If a consignment of excisable goods imported to the territory of the Russian Federation and other territories under its jurisdiction contains excisable goods whose importation is taxed under different tax rates, the tax base shall be defined separately for each group of said goods. Similarly shall be determined the tax base if a consignment of excisable goods imported to the customs territory of the Russian Federation contains excisable goods which had been earlier exported from the territory of the Russian Federation in compliance with the customs procedure of processing outside the customs territory.

**4.** When importing to the territory of the Russian Federation and other territories under its jurisdiction excisable goods as products of processing outside the customs territory, the tax



base shall be defined according to the provisions of this Article.

**5.** The tax base with the importation of Russian goods placed under the customs procedure of a free customs zone to the remaining part of the territory of the Russian Federation and other territories under its jurisdiction or with the transfer of these goods on the territory of a special economic zone to the persons who are not residents of such a zone shall be determined in accordance with **Article 187** of this Code.

*Federal Law No. 110-FZ of July 24, 2002 reworded Article 192 of this Code. The new wording of the Article shall enter into force from January 1, 2003*

**See the previous text of the Article**

**Article 192. Tax Period**

Seen as the tax period shall be a calendar month.

**Article 193. Tax Rates**

**1.** Excise goods shall be taxed from January 1, 2012 up to December 31, 2014 at the following tax rates:

Types of excise goods	Tax rate (in per cent and/or in roubles and kopecks for a measurement unit)			
	from January 1 to December 31, 2014 inclusive	from January 1 to June 30 2012 inclusive	from July 1 to December 31, 2012 inclusive	from January 1 to December 31, 2013 inclusive
	1	2	3	4
Spirit-containing rouble, zero	zero	zero	zero	zero
perfume and cosmetic kopecks/rouble,	zero	zero	zero	zero
products in metallic zero	for litre	for litre	for litre	for litre

aerosol packing kopecks	of waterless	of waterless	of waterless
for	ethyl alcohol	ethyl alcohol	ethyl alcohol
litre of	contained in	contained in	contained in
waterless	excise goods	excise goods	excise goods
ethyl			
alcohol			
contained			
in excise			
goods			
Spirit-containing zero	zero rouble,	zero rouble,	zero rouble,
household chemical rouble,	zero kopecks	zero kopecks	zero kopecks
goods in metal zero	for litre	for litre	for litre
aerosol packing kopecks	of waterless	of waterless	of waterless
for	ethyl alcohol	ethyl alcohol	ethyl alcohol
litre of	contained in	contained in	contained in
waterless	excisable goods	excise goods	excise goods
ethyl			
alcohol			
contained			
in excise			
goods			
Spirit-containing 400	230 roubles	270 roubles	320 roubles
products (except for roubles	for	for	for
spirit-containing	litre	litre	litre

for litre				
perfume and cosmetic	of waterless	of waterless	of waterless	
of				
products in metal	ethyl alcohol	ethyl alcohol	ethyl alcohol	
waterless				
aerosol packing and	contained in	contained in	contained in	
ethyl				
spirit-containing	excisable	excisable	excisable	
alcohol				
household chemical	goods	goods	goods	
contained				
products in metal				
in excise				
aerosol packing)				
goods				
Pipe	tobacco,	610 roubles for	680 roubles	1000 roubles
1500				
smoking,	chewed,	kilogram	for kilogram	for kilogram
roubles				
sucking,	naswar,			
for				
snuff, hookah (except				
kilogram				
for tobacco used as				
raw material for the				
production of tobacco				
goods)				
Cigars		36 roubles for	40 roubles for	58 roubles
for 85				
		piece	piece	piece
roubles				
for				
piece				
Cigarillos, beedi,	530 roubles	590 roubles	870 roubles	
1280				
kretek	for 1000 pieces	for 1000	for 1000	
roubles				

		pieces	pieces
for			
piece			
Cigarettes and 800 cigarett with a rubles cardboard holder + for 1000 of pieces + 8.5 per cent of value, computed on the basis of the maximal value on the basis of the maximal retail price but not less than 1040 roubles for 1000 pieces	360 roubles for 1,000 pieces + 7.5 per cent of calculated value, computed on the basis of the maximal value on the retail price, but not less than 460 roubles for 1,000 pieces	390 roubles for 1,000 pieces + 7.5 per cent of calculated value, computed on the basis of the maximal value on the retail price, but not less than 510 roubles for 1,000 pieces	550 roubles for 1,000 pieces + 8 per cent of calculated value, computed on the basis of the maximal value on the retail price, but not less than 730 roubles for 1,000 pieces
Passenger cars with a motor capacity up to 0.75 kilowatt (0.75 kW for 0.75 kilowatt)	0 roubles for (1 h.p.)	0 roubles for (1 h.p.)	0 roubles for (1 h.p.)

kW(1 h.p.) (90 h.p.) inclusive			
Passenger cars with a motor capacity over 0.75 kW (1 for 0.75 kilowatt (90 h.p.) kW(1 h.p.) h.p.) and up to 112.5 kilowatt (150 h.p.) inclusive	29 roubles	29 roubles	31 roubles
Passenger cars with a motor capacity over 112.5 kilowatt (150 h.p.) inclusive	285 roubles	285 roubles	302 roubles
Motor gasoline:			
not corresponding to Class 3, or Class 4, or Class 5 for 1 ton of Class 3	7 725 roubles	8 225 roubles	10 100 roubles
Class 3, or Class 4, or Class 5 for 1 ton	7 725 roubles	8 225 roubles	10 100 roubles
of Class 3	7 382 roubles	7 882 roubles	9 750 roubles
10 725 roubles	for 1 ton	for 1 ton	for 1 ton

for 1 ton				
of Class 4	6 822 roubles	6 822 roubles	8 560 roubles	9
416 roubles	for 1 ton	for 1 ton	for 1 ton	
for 1 ton				
of Class 5	6 822 roubles	5 143 roubles	5 143 roubles	5
657 roubles	for 1 ton	for 1 ton	for 1 ton	
for 1 ton				
Diesel fuel:				
not corresponding to	4 098 roubles	4 300 roubles	5 860 roubles	6
446	for 1 ton	for 1 ton	for 1 ton	
Class 3, or Class 4,				
roubles				
or Class 5				
for 1 ton				
of Class 3	3 814 roubles	4 300 roubles	5 860 roubles	6
446 roubles	for 1 ton	for 1 ton	for 1 ton	
for 1 ton				
of Class 4	3 562 roubles	3 562 roubles	4 934 roubles	
5 427 roubles	for 1 ton	for 1 ton	for 1 ton	
for 1 ton				
of Class 5	3 562 roubles	2962 roubles	4 334 roubles	4
767	for 1 ton	for 1 ton	for 1 ton	

roubles				
for 1 ton				
Motor oil for diesel 260	6 072 roubles	6 072 roubles	7 509 roubles	8
and/or carburetor roubles (injector) motors for 1 ton	for 1 ton	for 1 ton	for 1 ton	
Straight-line 10 579	7 824 roubles	824 roubles	9 617 roubles	
gasoline roubles	for 1 ton	for 1 ton	for 1 ton	
for 1 ton				

Ethyl alcohol made of all kinds of raw stuff, brandy alcohol, as well as alcoholic products, shall be taxed starting from January 1 and up to June 31, 2012 inclusive at the following tax rates:

Kinds of excise goods roubles	Tax rate (in percentage and/or per measurement unit)
1	2
Ethyl alcohol made of all kinds of raw stuff, brandy alcohol: sold to organisations engaged in manufacture of ethyl alcohol contained in excisable alcohol-containing perfume and goods cosmetic products in metal	0 roubles for 1 litre of

aerosol packing and/or  
alcohol-containing household  
chemical products in metal  
aerosol packing and to  
organisations making an advance  
payment of excise tax (except  
for ethyl alcohol and brandy  
alcohol imported into the  
territory of the Russian  
Federation) and/or delivered  
for making operations deemed to  
be excisable objects in  
compliance with **Subitem 22** of  
**Item 1 of Article 182** of this  
Code and/or sold (or  
transferred by manufacturers  
within the structure of the  
same organizations) for making  
goods which are not deemed to  
be excisable in compliance with  
**Subitem 2 of Item 1 of Article**  
**181** of this Code;  
|  
|  
| sold to organizations that do | 37 roubles for one litre of  
| waterless |  
| not make an advance payment of | ethyl alcohol contained in  
| excisable |



excise tax (including those goods imported into the territory of the Russian Federation) and/or transferred within the structure of the same organizations when making by taxpayer operations which are deemed to be taxable objects, except for the operations provided for by **Subitem 22 of Item 1 of Article 182** of this Code, as well as except for ethyl alcohol and/or brandy alcohol sold (or transferred by manufacturers within the structure of the same organization) for making goods which are not deemed excisable ones in compliance with **Subitem 2 of Item 1 of Article 181** of this Code and ethyl alcohol sold to organizations making perfume and cosmetic products in metal aerosol packing and/or alcohol-containing household chemical products

in metal aerosol packing |

Alcoholic products with a | 254 roubles for 1 litre for  
waterless |  
| volume fraction of ethyl | ethyl alcohol contained in  
excisable |  
| alcohol over 9 | per cent, | goods  
including beverages made on |  
the basis of beer, made by |  
adding ethyl alcohol (except |  
for beer, natural wines, |  
including champagne, sparkling, |  
aerated and brisk beverages |  
with a volume fraction of ethyl |  
alcohol of at most 6 | per cent |  
of the volume of finished |  
products made of wine materials |  
manufactured without adding |  
ethyl alcohol thereto) |

Alcoholic products with a | 230 roubles for 1 litre of  
waterless |  
| volume fraction of ethyl | ethyl alcohol contained in  
excisable |  
| alcohol up to 9 | per cent | goods  
inclusive, in particular |  
beverages made on the basis of |  
beer, made by adding ethyl |

alcohol (except for beer, natural wines, including champagne, sparkling, aerated and brisk beverages with a volume fraction of ethyl alcohol of at most 6 per cent of the volume of finished products made of wine materials manufactured without adding ethyl alcohol thereto)

Natural wines (except for 6 roubles for 1 litre champagne, sparkling, aerated and brisk ones), natural beverages with a volume fraction of ethyl alcohol of at most 6 per cent of the volume of finished products made of wine materials manufactured without adding ethyl alcohol thereto)

Champagne, sparkling, aerated 22 roubles for 1 litre and brisk wines

Beer with normative 0 roubles for 1 litre  
(standardised) content of a  
volume fraction of ethyl  
alcohol up to 0.5 per cent  
inclusive

Beer with normative 12 roubles for 1 litre  
(standardized) content of a  
volume fraction of ethyl  
alcohol over 0.5 per cent and  
up to 8.6 per cent inclusive,  
as well as beverages made on  
the basis of beer which are  
manufactured without adding  
ethyl alcohol

Beer with normative 21 roubles for 1 litre.  
(standardized) content of a  
volume fraction of ethyl  
alcohol over 8.6 per cent

Ethyl alcohol, as well as alcoholic products, shall be taxed from July 1, 2012 and up to December 31, 2014 inclusive at the following tax rates:

Types of excisable goods	Tax rate (in per cent and/or in roubles and kopecks for a measurement unit)		
	from July 1 to December 31, 2012 inclusive	from January 1 to December 31, 2013 inclusive	from January 1 to December 31, 2014 inclusive
1	2	3	4
Ethyl alcohol made of of edible and non- edible raw staff, in particular denatured ethyl alcohol, crude alcohol, wine, vinaceous, fruit, brandy, Calvados and whisky distillates:  sold to organisations making alcohol-containing perfume and cosmetic products in metal aerosol packing	0 roubles for litre of waterless ethyl alcohol contained in excisable	0 roubles for litre of waterless ethyl alcohol contained in excisable	0 roubles for litre of waterless ethyl alcohol contained in excisable

	goods	goods	goods
and/or			
alcohol-containing			
household chemical			
products in metal			
aerosol packing and			
to organisations			
paying excise tax in			
advance (except for			
ethyl alcohol			
imported into the			
territory of the			
Russian Federation)			
and/or transferred			
when making			
operations recognised			
as excisable taxation			
items in compliance			
with <b>Subitem 22 of</b>			
<b>Item 1 of Article 182</b>			
of this Code and/or			
sold (or transferred			
by producers within			
the structure of the			
same organisation)			
for making goods			

which are not			
recognized as			
excisable items in			
compliance with			
<b>Subitem 2 of Item 1</b>			
<b>of Article 181</b> of			
this Code;			
sold to organisations	44 roubles for	59 roubles for	74 roubles for
that do not pay	litre of	litre of	litre of
excise duties in	waterless	waterless	waterless
advance (in	ethyl alcohol	ethyl alcohol	ethyl alcohol
particular the one	contained in	contained in	contained in
imported into the	excisable	excisable	excisable
territory of the	goods	goods	goods
Russian Federation)			
and/or transferred			
within the structure			
of the same			
organisation when the			
taxpayer carries out			
operations recognized			
as an excisable item,			
except for the			
operations provided			
for by <b>Subitem 22</b> of			

Item 1, Article 22 of  
this Code, as well as  
except for ethyl  
alcohol sold (or  
transferred by  
producers within the  
structure of the same  
organisation) for  
making goods which  
are not recognized as  
excisable items in  
compliance with

Subitem 2 of Item 1  
of Article 181 of  
this Code and ethyl  
alcohol sold by  
organisations making  
alcohol-containing  
perfume and cosmetic  
products in metal  
aerosol packing  
and/or  
alcohol-containing  
household chemical  
products in metal



aerosol packing			
Alcoholic products for	300 roubles for	400 roubles for	500 roubles for
with a volume	1 litre of	1 litre of	1 litre of
fraction of ethyl ethyl	waterless ethyl	waterless ethyl	waterless ethyl
alcohol over 9 per cent (except for beer	alcohol contained in	alcohol contained in	alcohol contained in
, wine, sparkling goods	excisable goods	excisable goods	excisable goods
wine, (champagne),			
wine beverages made			
without adding			
rectified ethyl			
alcohol produced of			
edible raw staff and/			
or alcoholised grape			
or other fruit mesh			
and/or wine			
distillate and/or			
fruit distillate			
Alcoholic products for	270 roubles for	320 roubles for	400 roubles for
with a volume	1 litre of	1 litre of	1 litre of
fraction of ethyl ethyl	waterless ethyl	waterless ethyl	waterless ethyl
alcohol up to 9 per cent (except for beer	alcohol contained in	alcohol contained in	alcohol contained in
, beverages made on	excisable goods	excisable goods	excisable goods

goods			
basis of beer, wine,			
fruit wine, sparkling			
wine (champagne),			
wine beverages made			
without adding			
rectified ethyl			
alcohol produced of			
edible raw stuff and/			
or alcoholised grape			
or other fruit mesh			
and/or wine			
distillate and/or			
fruit distillate)			
Wine, fruit wine	6 roubles for 1	7 roubles for 1	8 roubles for
1			
(except for sparkling	litre	litre	litre
wine (champagne),			
wine beverages made			
without adding			
rectified ethyl			
alcohol manufactured			
of edible raw stuff			
and/or alcoholised			
grape or other fruit			
mesh and/or wine			

distillate and/or			
fruit distillate			
Sparkling wine (champagne)	22 roubles for  1 litre	24 roubles for  1 litre	25 roubles for  1 litre
Beer with normative (standardized) volume	0 roubles for   1 litre	0 roubles for   1 litre	0 roubles for   1 litre
share of ethyl alcohol up to 0.5 per inclusive			
Beer with normative (standardized) volume	12 roubles for  1 litre	15 roubles for  1 litre	18 roubles for   1 litre
share of ethyl alcohol over 0.5 per cent and up to 8.6 per cent inclusive, beverages made on the basis of beer			
Beer with normative (standardized) volume	21 roubles for   1 litre	26 roubles for   1 litre	31 litre for   1 litre
share of ethyl alcohol over 8.6 per cent			

2. **Abrogated** from January 1, 2006.

3. **Abrogated** from January 1, 2006.

4. The rate of excise tax of 0 roubles per 1 litre of waterless ethyl alcohol contained in excisable goods in respect of ethyl alcohol and/or brandy alcohol shall apply when a taxpayer sells the cited excisable goods to the persons that have presented an notice of making by the purchaser which is the manufacturer of alcoholic and/or excisable alcohol-containing products (except for alcohol-containing perfume and cosmetic products in metal aerosol packing and alcohol-containing household chemical products in metal aerosol packing) an advance payment of excise tax provided for by **Item 8 of Article 194** of this Code (hereinafter referred to a notice of making an advance payment of excise tax) with a note made by the tax authority at the place of the purchaser's registration that proves making the advance payment of the excise tax or a notice of exemption from making an advance payment of an excise tax, if the purchaser of ethyl alcohol and/or brandy alcohol presents the bank guarantee provided for by **Item 11 of Article 204** of this Code (hereinafter referred to as a notice of exemption from making an advance payment of excise tax) with a note made by the tax authority at the place of registration of the cited purchaser that proves exemption from making an advance payment of excise tax.

The rate of excise tax of 0 roubles per 1 litre of waterless ethyl alcohol contained in excisable goods in respect of ethyl alcohol and/or brandy alcohol shall apply when transferring ethyl alcohol, including crude ethyl alcohol, for making rectified ethyl alcohol and/or when transferring brandy alcohol within the structure of the same organisation for subsequent making of alcoholic and/or excisable alcohol-containing products, if a taxpayer files with the tax authority at the place of registration thereof in compliance with **Item 7 of Article 204** of this Code a notice of making an advance payment of excise tax, as well as other documents, or in compliance with **Item 11 of Article 204** of this Code a bank guarantee and a notice of exemption from making an advance payment of excise tax.

#### **Article 194.** The Procedure for Calculation of Excise Tax and Advance Payment of Excise Tax

1. The excise tax amount on excisable goods (including in case of import to the territory of the Russian Federation) concerning which firm (specific) tax rates are established shall be calculated as the product of a corresponding tax rate and the tax base estimated according to the **Articles 187 - 191** of present Codes.

2. The excise tax amount on excisable goods (including imported to the territory of the Russian Federation) concerning which ad valorem (in percentage points) tax rates are established shall be calculated as the percentage share corresponding to the tax rate of the tax base defined according to **Articles 187 - 191** of this Code.

3. The sum of the excise duty for excisable commodities (including for those imported to the territory of the Russian Federation), with respect to which combined tax rates are established (consisting of the fixed (specific) and advalore (percentages) tax rates), shall be calculated as the sum, obtained as a result of adding up the sum of the excise duty, calculated as the product of the fixed (specific) tax rate and of the volume of the realized (transferred, imported) excisable commodities, expressed in kind, and as the percentages share of the maximum retail price of such commodities, corresponding to the advalore (percentages) tax rate.

4. The sum total of excise tax in the case of accomplishment of transactions in the

excisable goods recognised as tax basis under the present Chapter shall be calculated as the sum of the amounts of excise tax calculated under **Items 1 and 2** of this Article for each type of excisable good taxable by an excise tax at different tax rates. The sum total of excise tax in the case of accomplishment of transactions in the excisable petroleum products recognised as tax basis under this chapter shall be calculated separately from the sum of excise tax on other excisable goods.

**5.** Sum of excise tax on excisable goods shall be calculated on the results of each tax period as applied to all operations in the sale of excisable goods, the date of sale of which (of transfer) refers to the appropriate tax period and also with allowance for all changes which increase or reduce the tax base over the respective tax period.

**6.** Sum of excise tax if several types of excisable goods taxed at different tax rates are imported to the territory of the Russian Federation shall be an amount received as a result of the addition of excise tax amounts calculated for each type of these goods according to **Items 1 - 3** of this Article.

**7.** If the taxpayer does not maintain separate record-keeping of the tax base in respect of the excisable goods cited in **Item 1 of Article 190** of this Code, the excise tax amount on excisable goods shall be defined on the basis of the highest tax rate of those used by the taxpayer in relation to the single tax base defined for all taxable operations.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 194 of this Code with Item 8. The Item shall **enter into force** from July 1, 2011

**8.** The organisations making in the territory of the Russian Federation alcoholic products (except for natural wines, in particular champagne, sparkling, aerated and brisk ones, and natural beverages with a volume fraction of ethyl alcohol of at most 6 per cent of the volume of finished products made of wine materials without adding ethyl alcohol) and/or excisable alcohol-containing products are obliged to make to the budget an advance payment of excise duty in respect of alcoholic and/or alcohol-containing products (hereinafter referred to as an advance payment of excise tax), unless otherwise provided for by this item.

The organisations making alcohol-containing perfume and cosmetic products in metal aerosol packing and/or alcohol-containing household chemical products in metal aerosol packing shall be relieved of the duty to make an advance payment of excise tax.

In the event of using by manufacturers of alcoholic and/or of excisable alcohol-containing products crude ethyl alcohol made in the territory of the Russian Federation for subsequent production within the structure of the same organisation of rectified ethyl alcohol which is to be used by the same organisation for making alcoholic and/or excisable alcohol-containing products, an advance payment of excise tax shall be made prior to purchasing crude ethyl alcohol and/or making the operation with respect to crude ethyl alcohol which is provided for by **Subitem 22 of Item 1 of Article 182** of this Code.

For the purposes of this chapter, an advance payment of excise tax means a preliminary payment of excise tax in respect of alcoholic and/or alcohol-containing products before acquisition (purchase) of ethyl alcohol (including crude ethyl alcohol) and/or brandy alcohol made in the territory of the Russian Federation or prior to making the operation provided for by **Subitem 22 of Item 1 of Article 182** of this Code. With this, for the purposes of this article, the date of acquisition (purchase) of ethyl alcohol shall be defined as the date when it is shipped by the seller thereof.

The rate of an advance payment of excise duty shall be defined on the basis of the total volume of ethyl alcohol to be purchased (to be transferred within the structure of the same organisation for subsequent manufacture of alcoholic and/or excisable alcohol-containing

products), in particular of crude ethyl alcohol and/or brandy alcohol (shown in litres of waterless alcohol) and of the appropriate rate of excise tax fixed by **Item 1 of Article 193** of this Code in respect of alcoholic and/or alcohol-containing products. With this, the rate of an advance payment of excise tax shall be estimated in total for a tax period on the basis of the total volume of ethyl alcohol and/or brandy alcohol purchased from each seller and/or when making the operations provided for by **Subitem 22 of Item 1 of Article 182** of this Code.

An advance payment of excise tax shall be made in the procedure and at the time established by **Article 204** of this Code.

**Article 195.** Determining the Date of Sale (Transfer) or Receipt of Excisable Goods

**1. Abolished** from January 1, 2004.

**2.** For the purposes of this Chapter, the date of sale (transfer) of excisable goods shall be determined as the date of shipment (transfer) of the excisable goods, in particular to the structural subdivision of a company engaged in their retail sale.

**Abrogated** from January 1, 2007;

**Abrogated** from January 1, 2007;

As for the transactions specified in **Subitem 7 of Item 1 of Article 182** of this Code, the date of transfer shall be deemed the date when the acceptance certificate is signed for excisable goods.

As for the transactions specified by **Subitem 21 of Item 1 of Article 182** of this Code, the date of receiving directly distilled petroleum shall be deemed that date of its receipt by an organisation which has a licence for processing directly distilled petroleum.

**3. Abolished** from January 1, 2004.

**4.** If a shortage of excisable goods is discovered the date of their sale (transfer) shall be determined as the date of discovery of the shortage (except for cases when a shortage is within the limits of natural loss rate approved by the empowered federal executive governmental body).

**5.** For the transactions specified in **Subitem 20 of Item 1 of Article 182** of this Code the following shall be deemed the date of receipt of denatured ethyl alcohol: the day when the denatured ethyl alcohol was received (entered in the books) by the organisation holding a certificate for the production of alcohol-free products or denatured ethyl alcohol.

**Article 196. Abrogated** from January 1, 2006.

**Article 197. Abrogated** from January 1, 2006.

**Article 197.1. Abrogated** from January 1, 2007.

**Article 198.** The Amount of Excise Tax Charged by the Seller to the Buyer

**1.** The taxpayer accomplishing the transactions deemed taxable under this Chapter, except for the transactions concerning realization (transfer) of directly distilled petroleum by a taxpayer which has a certificate for production of directly distilled petroleum to a taxpayer which has a certificate for processing directly distilled petroleum (in particular on the basis of administrative documents of the owner of directly distilled petroleum made of customer-furnished raw material (materials), and also transactions for the sale of denatured ethyl alcohol to a taxpayer holding a certificate for the production of alcohol-free products shall charge the buyer of excisable goods (the owner of the customer-furnished raw materials (materials)) with the relevant amount of excise tax.

**2.** In settlement documents, in particular, sheets of receipts and sheets for receipt of amounts of money from a letter of credit, source accounting documents and invoices the relevant amount of excise tax shall be shown as a separate item, except for the cases of sale of excisable goods to territories outside the territory of the Russian Federation and except for transactions concerning the sale (transfer) of directly distilled petroleum (in particular on the

basis of administrative documents of the owner of directly distilled petroleum made of customer-furnished raw material (materials) by a taxpayer having a certificate for production of directly distilled petroleum to a taxpayer having a certificate for processing of directly distilled petroleum, as well as transactions concerning the sale of denatured ethyl alcohol by a taxpayer having a certificate for production of denatured ethyl alcohol to a taxpayer having a certificate for production of alcohol-free products.

**3.** In the event of sale of excisable goods for which the sale is effected by means of the transactions exempt from taxation under **Article 183** of this Code, the settlement documents, source accounting documents and invoices shall be made out without showing relevant excise tax amounts as separate items. In this case the annotation or rubber stamp "Without excise tax" shall be entered in the said documents.

**4.** In the event of sale (transfer) of excisable goods on a retail basis the relevant amount of excise tax shall be included in the price of said goods. In this case in the labels and price-tags of the goods posted by the seller and also in the cash receipts and other documents issued to the buyer the relevant amount of excise tax need not be shown as a separate item.

**5. Abrogated** from January 1, 2007.

**6.** In the event of importation of excisable goods into the territory of the Russian Federation and other territories under its jurisdiction the relevant filled-in customs forms and settlement documents confirming the fact of payment of the excise tax shall be used as verification documents to establish the availability of proper grounds for tax deductibles.

**7.** In the event of exportation of excisable goods under the customs procedure of export out of the territory of the Russian Federation the following documents shall be filed with the tax body at the place of recording of the taxpayer within 180 calendar days after the sale of the said goods to confirm the availability of proper grounds for excise tax exemption and tax deductibles:

1) the contract (copy of the contract) of the taxpayer with a party under contract for the delivery of excisable goods. If the export delivery of excisable goods is effected under a commission agency contract, commission contract or agency contract the taxpayer shall present to the tax bodies the commission agency contract, commission contract or agency contract (copies of these contracts) and the contract (copy of the contract) of the person who carries out the export delivery of the excisable goods on behalf of the taxpayer (under a commission agency contract, commission contract or agency contract) with a party under contract.

If excisable goods produced from the customer-furnished raw materials are exported by the owner of the customer-furnished raw materials and materials the taxpayer shall present to the tax bodies the contract between the owner of the excisable goods produced from the customer-furnished raw materials and the taxpayer for the production of excisable goods and the contract (copy of the contract) between the owner of the customer-furnished raw materials and the party under contract.

When the exportation of excisable goods produced from the customer-furnished raw materials is effected by another person under a commission agency contract or another contract with the owner of the customer-furnished raw materials the taxpayer being the producer of these goods from the customer-furnished raw material shall present the following to the tax bodies apart from the contract between the owner of the excisable goods produced from the customer-furnished raw materials and the taxpayer for the production of the excisable goods: the commission agency contract, commission contract or agency contract (copies of the said contracts) between the owner of these excisable goods and the person who effects the export delivery of the goods and also the contract (copy of the contract) of the person who effects the export delivery of the excisable goods with the party under contract.

**Abrogated** from January 1, 2007;

2) the payment documents and a bank statement (copies thereof) confirming that the proceeds from the sale of the excisable goods to a foreign person have been received in the taxpayer's account in a Russian bank.

Where the export delivery of excisable goods is effected under a commission agency contract, commission contract or agency contract the taxpayer shall present to the tax bodies payment documents and a bank statement (copies thereof) to confirm that the proceeds from the sale of the excisable goods to a foreign person have been actually received in the account of the commission agent (attorney, agent) in a Russian bank.

Where the exportation of excisable goods produced from the customer-furnished raw materials and materials is effected by the owner of the said goods the taxpayer producing these goods from the customer-furnished raw materials and materials shall present to the tax bodies the payment documents and a bank statement (copies thereof) to confirm that the whole proceeds from the sale of the excisable goods to a foreign person have been received in a Russian-bank account of the owner of the excisable goods produced from the customer-furnished raw materials and materials.

When proceeds from the sale of excisable goods to a foreign person come to an account of the taxpayer or the owner of these excisable goods from a third person the following documents shall be filed with the tax bodies apart from payment documents and a bank statement (copies thereof): the agency contracts for payment for exported excisable goods concluded between the foreign person and the organisation (person) that effected the payment.

If the non-entry of foreign currency proceeds from the sale of excisable goods in the territory of the Russian Federation is done in compliance with the procedure envisaged by the **currency legislation** of the Russian Federation, the taxpayer shall present to the tax bodies the documents (copies of the documents) confirming the right to abstain from bringing the foreign currency proceeds into the territory of the Russian Federation;

3) the **customs declaration** (a copy thereof) bearing annotations by the Russian customs body that cleared the goods under the customs procedure of export and of the Russian customs authority through which goods have been exported from the customs territory of the Customs Union (hereinafter referred to in this article as the Russian customs authority at the place of departure).

In the event of exportation of petroleum products under the customs procedure of export out of the territory of the Russian Federation by pipeline a complete **customs declaration** shall be presented bearing annotations by the Russian customs body that performed customs formalities in respect of the said petroleum product exportation.

In the event of exportation of petroleum products under the **customs procedure of export** across the border of the Russian Federation with a member state of the Customs Union, where customs clearance has been abolished, to third countries, shall be filed a **customs declaration** bearing notes of the Russian customs authority that has performed customs formalities in respect of the said exportation of excise goods.

4) copies of carriage or forwarding documents or other documents bearing notes of Russian customs authorities at the place of departure, except for the exportation of petroleum products under the customs procedure of export across the border of the Russian Federation.

In the event of exportation of petroleum products under the customs **regime of export** via sea ports, copies of the following documents shall be presented by the taxpayer to the tax bodies to confirm that the goods have been exported out of the territory of the Russian Federation:

the instructions for shipment of the exported petroleum products complete with an indication of the unloading port and the annotation "Loading permitted" by the Russian customs authority at the place of departure;



the bill of lading for the carriage of the exported petroleum products with an indication of the place located outside the territory of the Russian Federation in the **item** "Unloading Port".

Copies of carriage, forwarding and/or other documents confirming the exportation of petroleum products out of the territory of the Russian Federation may not be filed in the case of exportation of petroleum products under the customs procedure of pipeline exportation.

When petroleum products are exported under the customs procedure of export in railway tankers the taxpayer shall present the following to the customs body to confirm that the goods have been exported out of the territory of the Russian Federation: copies of the carriage, forwarding and/or other documents confirming that the petroleum products have been exported out of the customs territory of the Russian Federation bearing annotations by the border customs body.

In the event of exportation of goods under the customs procedure of export across the border of the Russian Federation with a member state of the Customs Union, with customs clearance having been abolished at this border, to third countries, copies of carriage and forwarding documents shall be presented bearing notes made by the Russian customs authority that has performed customs formalities in respect of the said goods exportation.

If thereafter the taxpayer presents documents (copies of documents) to tax bodies to validate tax exemption the amounts of tax paid shall become refundable to the taxpayer in the manner and on the terms envisaged by **Article 203** of this Code.

**7.1.** In case of importation into the by-port special economic zone of Russian goods placed under the customs procedure of free customs zone, in order to confirm the validity of excise duty exemption and tax deductions one shall present to the tax body at the place of taxpayer's recording within 180 days from importation of said goods into the by-port special economic zone the following documents:

- 1) contract (copy of contract) made with the resident of special economic zone;
- 2) copy of certificate of registration of person, as the resident of special economic zone issued by the federal executive body authorised to perform the functions of managing special economic zones or by its territorial body;
- 3) **customs declaration** (its copy) bearing the notes of the customs body on the release of goods in line with the customs procedure of free customs zone or in case of importation into the by-port special economic zone of Russian goods placed outside the by-port special economic zone under the customs procedure of export, customs declaration (its copy) bearing the notes of the customs body which released the goods in line with the customs procedure of export and of the customs body which is authorised to carry out customs procedures and customs operations in case of customs clearance of goods as is envisaged under the customs procedure of free customs zone and within whose area of activity the by-port special economic zone is situated;
- 4) documents confirming the transfer of goods to the resident of the by-port special economic zone;
- 5) documents specified under **Subitem 1 of Item 7** of this Article in case of importation into the by-port special economic zone of goods placed outside the by-port special economic zone under the customs procedure of export.

**8.** In the event of non-filing or incomplete filing of the documents specified in **Item 7** of this Article and which confirm the fact of exportation of excisable goods to a territory outside the territory of the Russian Federation and must be filed with the tax bodies at the organisation's location (at the place of residence of the individual entrepreneur) excise tax shall be paid on the said excisable goods in the manner established by this Chapter for transactions in excisable goods in the territory of the Russian Federation.

9. When a taxpayer having a sells denatured ethyl alcohol licence for production of denatured ethyl alcohol to an organisation having a licence for production of alcohol-free products, the appropriate excise amounts shall not be made out separately in settlement documents, primary accounting documents and invoices. When a taxpayer having a certificate for production of directly distilled petroleum transfers directly distilled petroleum on the basis of regulatory documents of the owner to a person having the certificate for processing of directly distilled petroleum the settlement documents, primary accounting documents and invoices (advanced by the manufacturer of directly distilled petroleum to the owner thereof, as well as by the owner of directly distilled petroleum to the purchaser thereof), shall not shown the appropriate excise amounts separately therein. For this, the stamp "Less excise duty" shall be affixed to said documents or such note in writing shall be entered thereto.

When directly distilled petroleum is sold by a taxpayer having a certificate for production of directly distilled petroleum to a person having a certificate for processing of directly distilled petroleum, the appropriate excise amounts shall not be shown separately in the settlement documents, primary accounting documents and invoices. For this, the stamp "Less excise duty" shall be affixed to said documents or such note in writing shall be entered thereto.

*Federal Law No. 117-FZ of July 7, 2003 amended Article 199 of this Code. The amendments shall enter into force from January 1, 2004  
See the previous text of the Article*

#### **Article 199.** The Procedure for Referring Excise Tax Amounts

1. Amounts of excise tax calculated by the taxpayer in case of sale of excisable goods (except for sale on a gratuitous basis) and presented to the buyer, shall be referred to the taxpayer to expenses accepted for deduction when calculating the organisation's profit tax.

Amounts of excise tax calculated by the taxpayer on operations of transfer of excisable goods recognised as an item of taxation according to this **Chapter**, and also in case of their sale on a gratuitous basis shall be referred to the taxpayer to the charge of corresponding sources to the charge of which are referred expenses under said excisable goods.

2. Amounts of excise tax presented by the taxpayer to the buyer in case of sale of excisable goods for the buyer shall be accounted in the cost of bought excisable goods, unless otherwise stipulated by Item 3 of this Article.

Amounts of excise tax actually paid when importing excisable goods to the territory of the Russian Federation and other territories under its jurisdiction shall be taken into account in the cost of said excisable goods, unless otherwise is stipulated by Item 3 of this Article.

Amounts of excise tax presented by the taxpayer to the owner of the customer-furnished raw material (materials), shall be referred by the owner of customer-furnished raw material (materials) (except for petroleum products) to the cost of excisable goods produced from said raw material (materials) (except for petroleum products).

3. There shall not be included into the cost of acquired, or imported to the territory of the Russian Federation, or transferred on commission, excisable goods and there shall be subject to deduction or return in the procedure provided for by this Chapter the amounts of the excise tax the purchaser is charged with when buying said goods, or the amounts of the excise tax subject to payment when importing to the territory of the Russian Federation, or the amounts of the excise tax the owner of goods (materials) made on commission is charged with when transferring excisable goods used as raw materials in production of other excisable goods. Said provision shall apply where the rates of the excise tax with regard to the excisable goods used as raw materials and the rates of the excise tax with regard to the excise goods made from

these raw materials are determined on the basis of an equal measurement unit of the tax base.

4. In the event of accomplishment of the transactions in denatured ethyl alcohol specified by **Subitem 20 of Item 1 of Article 182** of this Code and (or) in the event of accomplishment of the transactions in directly distilled petroleum specified in **Subitem 21 of Item 1 of Article 182** of this Code, the amount of excise tax shall be accounted for in the following manner:

1) the amount of excise tax calculated by a taxpayer on the transactions specified in **Subitem 20 of Item 1 of Article 182** of the present Code, if the taxpayer further uses the denatured ethyl alcohol produced by him as raw material for making alcohol-free products, shall not be included into the value of transferred denatured ethyl alcohol. The amount of excise tax calculated on the transactions specified in **Subitem 20 of Item 1 of Article 182** of this Code, if a taxpayer further uses the denatured ethyl alcohol produced by him as raw material for making alcohol-free products, shall be included into the value of transferred denatured ethyl alcohol;

2) the amount of excise tax calculated by a taxpayer on the transactions specified by **Subitem 21 of Item 1 of Article 182** of this Code, in the event of further use (in particular in the event of transfer for processing on a commission basis) of produced directly distilled petroleum as raw material for making petrochemical products, shall not be included into the value of transferred directly distilled petroleum. The amount of excise tax calculated on the operations specified by **Subitem 21 of Item 1 of Article 182** of this Code, if a taxpayer further uses the directly distilled petroleum produced by him as raw material for making petrochemical products, shall be included into the value of the transferred directly distilled petroleum.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 199 of this Code with Item 5. The Item shall **enter into force** from July 1, 2011

5. The sums of an advance payment estimated in compliance with **Item 8 of Article 194** of this Code shall not be accounted in the cost of alcoholic and/or excisable alcohol-containing products and shall be subject to deduction in compliance with **Item 16 of Article 200** of this Code.

#### **Article 200.** Tax Deductions

1. The taxpayer has the right to reduce the excise tax amount on excisable goods defined according to **Article 194** of this Chapter by tax deductions laid down in this Article.

2. Deductible shall be the amounts of excise tax presented by vendors and paid by the taxpayer when acquiring excisable goods or paid by the taxpayer when importing excisable goods into the customs territory of the Russian Federation and into other territories and objects under its jurisdiction that have acquired the status of the Customs Union's goods and have been subsequently used as raw stuff for making excisable goods, unless otherwise established by this item. When estimating the amount of excise tax in respect of alcohol-containing and/or alcoholic products (except for natural wines, in particular champagne, sparkling, aerated and brisk ones, and natural beverages with a volume fraction of ethyl alcohol at most 6 per cent of the volume of finished products made of wine materials without adding ethyl alcohol), the cited tax deductions shall be made within the limits of the amount of excise tax estimated in respect of the excisable goods used as raw stuff and made in the territory of the Russian Federation on the basis of the volume of used goods (shown in litres of waterless ethyl alcohol) and the rate of excise tax fixed by **Item 1 of Article 193** of this Code in respect of ethyl alcohol and/or brandy alcohol sold to organisations that have made an advance payment of excise tax. In the event of using as raw stuff in making alcoholic and/or excisable alcohol-containing products excisable goods imported into the territory of the Russian Federation, tax deductions shall be made within the limits the sum of excise tax estimated on the basis of the volume of used goods (in litres of

waterless ethyl alcohol) and the rate of excise tax fixed by Item 1 of Article 193 of this Code in respect of ethyl alcohol and/or brandy alcohol sold to organisations that have not made an advance payment of excise tax.

If the said excisable goods (except for petroleum products) get lost in the course of production, storage, relocation or subsequent technological processing thereof, the amounts of excise tax shall also be subject to deduction. In such a case the following shall be subject to deduction: the amount of excise relating to the part of goods irreparably lost within the in-process loss normative standards and (or) natural wear and tear rates endorsed by the authorised federal executive body for a relevant group of goods.

**3.** In the event of transfer of excisable goods produced from the customer-furnished raw materials (materials) if the customer-furnished raw materials (materials) are excisable goods the deductibles shall be the amounts of excise tax paid by the owner of the said customer-furnished raw materials (materials) at the acquisition thereof or paid by him at the importation of these raw materials (materials) into the territory of the Russian Federation and other territories and objects under its jurisdiction that have obtained the status of goods of the Customs Union and also the amounts of excise tax paid by the owner of these customer-furnished raw materials (materials) at the production thereof.

**4.** Deductible shall be amounts of excise tax paid on the territory of the Russian Federation on ethyl alcohol produced from food raw material used in the production of wine materials and thereafter used in the production of alcoholic products.

**5.** Deductible shall be amounts of excise tax paid by the taxpayer when a buyer returns excisable goods (including return during warranty period) or rejects such.

**6. Abrogated** from January 1, 2007.

**7.** The taxpayer shall be entitled to reduce the sum total of excise tax on excisable goods determined under **Article 194** of this Code by the sum of excise tax calculated by the taxpayer on the amounts of advance and/or other payments received to offset future delivery of excisable goods.

**8. Abrogated** from January 1, 2007.

**9. Abrogated** from January 1, 2007.

**10. Abrogated** from January 1, 2007.

**11.** Deductible are excise tax amounts accrued when denatured ethyl alcohol was received (entered in the books) by a taxpayer holding a certificate for the production of alcohol-free products if denatured ethyl alcohol is used to produce alcohol-free products (if documents are filed in accordance with **Item 11 of Article 201** of this Code).

**12.** Deductible are excise tax amounts accrued by a taxpayer holding a certificate for the production of denatured ethyl alcohol if denatured ethyl alcohol is sold to a taxpayer holding a certificate for the production of alcohol-free products (if documents are filed in accordance with **Item 12 of Article 201** of this Code).

**13.** The amounts of excise duty calculated by a taxpayer having a certificate for production of directly distilled petroleum, when selling directly distilled petroleum to a taxpayer having a certificate for processing directly distilled petroleum, shall be subject to deduction (in the event of submitting the documents in compliance with **Item 13 of Article 201** of this Code).

**14.** The amount of excise duty calculated by a taxpayer having a certificate for production of directly distilled petroleum shall be subject to deduction in the event of making the transactions in directly distilled petroleum specified by **Subitems 7 and 12 of Item 1 of Article 182** of this Code (in the event of submitting the documents, proving the use of directly distilled petroleum for making petrochemical products, to persons, having a certificate for processing directly distilled petroleum, in compliance with **Item 14 of Article 201** of this Code).

**15.** The amounts of excise duty calculated upon receiving directly distilled petroleum by a taxpayer, which has the certificate for processing of directly distilled petroleum, shall be subject to deduction, if the taxpayer himself uses directly distilled petroleum for making petrochemical products and (or) transfers directly distilled petroleum for making petrochemical products on a commission basis (on the basis of a contract of rendering services related to processing of the directly distilled petroleum possessed by this taxpayer) upon submission of the documents in compliance with **Item 15 of Article 201** of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 200 of this Code with Item 16. The Item shall **enter into force** from July 1, 2011

**16.** When estimating excise tax in respect of sold alcoholic and/or excisable alcohol-containing products, subject to deduction shall be the sum of an advance payment of excise tax paid by the taxpayer within the limits of the amount of this payment paid in respect of acquired ethyl alcohol and/or brandy alcohol (of the one transferred within the structure of the same organisation) that has been actually used in making sold alcoholic and/or excisable alcohol-containing products, in particular in respect of acquired crude ethyl alcohol and/or crude ethyl alcohol transferred within the structure of the same organisation for making rectified ethyl alcohol subsequently used for producing alcoholic and/or excisable alcohol-containing products, provided that the documents in compliance with **Items 17** and/or **18 of Article 201** are presented.

The sum of an advance payment of excise tax falling at the volume of ethyl alcohol and/or brandy alcohol not used in the expired tax period for making the sold alcoholic and/or excisable alcohol-containing products shall be subject to deduction in the next tax period and in those following it within which the acquired ethyl alcohol will be used for making the cited alcoholic and/or excisable alcohol-containing products.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 200 of this Code with Item 17. The Item shall **enter into force** from July 1, 2011

**17.** The sum of an advance payment of excise duty to be deducted shall be reduced by the amount of excise duty falling at the volume of ethyl alcohol and/or brandy alcohol irretrievably lost in the course of transportation, storage and movement within the structure of the same organisation and its subsequent processing treatment, except for the losses within the limits of natural loss norms endorsed by an authorised federal executive power body.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 200 of this Code with Item 18. The Item shall **enter into force** from July 1, 2011

**18.** When reorganising an organisation that has made an advance payment of excise tax, the right to the tax deduction provided for by **Item 16** of this article shall pass over to its legal successor on condition that the provisions of **Items 17** and/or **18 of Article 201** of this Code are observed.

#### **Article 201.** The Procedure for Tax Deductions' Application

**1.** The tax deductions stipulated by **Items 1 - 4 of Article 200** of this Code shall be made on the basis of settlement documents and invoices drawn up by vendors when the taxpayer acquires excisable goods or presented by a taxpayer to the owner of customer-furnished raw (materials) in production thereof, or on the basis of customs declarations or other documents confirming the fact of import of excisable goods to the territory of the Russian Federation and other territories under its jurisdiction and the payment of a corresponding excise tax amount, unless otherwise provided for by this Article.

Deductible shall only be amounts of excise tax actually paid by vendors in case of purchase of excisable goods or presented by a taxpayer to the owner of customer-furnished raw (materials) in production thereof, or actually paid in case of import of excisable goods to the territory of the Russian Federation and other territories under its jurisdiction which were released for free circulation.

If third persons pay for excisable goods used as raw material in the production of other goods, tax deductions shall be made if settlement documents give the name of the organisation for which the payment was made.

If excisable goods on which on the territory of the Russian Federation excise tax has already been paid were used as the customer-furnished raw material tax deductions, when the taxpayers submit copies of payment documents, a mark of the bank shall be necessary to confirm the fact of payment of the tax by the owner of the raw material (materials) or the fact of payment by the owner of the cost of the raw material at prices which include excise tax.

The tax deductions provided for using excisable goods previously made by a taxpayer from customer-furnished raw materials, as customer-furnished raw materials shall be effected on the basis of copies of the basic documents confirming the fact of charging the owner of this raw materials with the said amounts of the excise tax by a taxpayer (of an act of acceptance and conveyance of excisable goods made, or of an act of production, or of an act of return of excisable goods for production) and of payment documents marked by a bank which confirm the fact that the owner of the raw materials has paid for production of the excisable goods taking into account the excise duty.

**2.** The deductions of amounts of excise tax specified in **Item 4 of Article 200** of this Code shall be made on the basis of the volumetric share of ethyl alcohol used for making wine materials at the time of acquiring the wine materials, in the event of submission by a taxpayer engaged in making alcoholic products of the following documents (copies thereof) to the tax authorities:

- 1) contract for wines materials' purchase and sale made by the producer of the wine materials and the producer of alcoholic products;
- 2) payment documents bearing a bank note which proves payment for acquired wine materials;
- 3) commodity bills of lading concerning the supply of wine materials and invoices;
- 4) blend certificates;
- 5) certificate proving wine materials' writing-off to production.

**3.** The deductions of amounts of excise tax stated in **Items 1-4 of Article 200** of this Code shall be made concerning the cost of corresponding to excisable goods used as basic raw material, such cost being actually included into production outlays of other excisable goods accepted for deduction when calculating the organisation's profit tax.

If over a reporting tax period the cost of excisable goods (raw material) is referred to production outlays of other excisable goods without payment of the excise tax on these goods (raw material) to the vendors, the amounts of excise tax shall be deductible in the reporting period when it was paid to the vendors.

**4. Abrogated** from January 1, 2007.

**5.** The deductions of amounts of excise tax indicated in **Item 5 of Article 200** of this Code, shall be effected in full after appropriate adjustment operations in connection with the return of these goods or rejection of these goods are reflected in the record-keeping, but no later than one year from the time of return of these goods or rejection of these goods.

**6. Abrogated** from January 1, 2007.

**7.** The tax deductions indicated in **Item 7 of Article 200** of this Code shall be effected

upon showing in accounts operations in sale of excisable goods.

**8. Abrogated** from January 1, 2007.

**9. Abrogated** from January 1, 2007.

**10. Abrogated** from January 1, 2007.

**11.** The tax deductions specified in Item 11 of Article 200 of the present Code are effected when a taxpayer files the following documents with tax bodies to confirm the fact that an alcohol-free product is produced from denatured ethyl alcohol:

1) the certificate for the production of the alcohol-free product;

2) a copy of the contract concluded with the producer of denatured ethyl alcohol;

3) a register of the invoices presented by the producers of denatured ethyl alcohol. The **form** and **procedure** for filing registers with tax bodies are defined by the Ministry of Finance of the Russian Federation;

4) an in-house transportation note;

5) a certificate of acceptance acknowledging delivery and acceptance by the taxpayer's structural units;

6) a certificate of writing off for production purposes as well as other documents.

**12.** The tax deductions mentioned in Item 12 of Article 200 of the present Code are implemented when a taxpayer files the following documents with tax bodies to confirm the fact that an alcohol-free product is produced from denatured ethyl alcohol:

1) a certificate for the production of denatured ethyl alcohol;

2) a copy of a contract concluded with the taxpayer holding a certificate for the production of the alcohol-free product;

3) registers of invoices bearing an annotation by the tax body with which the buyer (recipient) of denatured ethyl alcohol has registered. The **form** and **procedure** for filing registers with tax bodies is defined by the Ministry of Finance of the Russian Federation.

The said annotation is entered if the information available in the **tax return** of the taxpayer being a buyer holding a certificate matches the information contained in the registers of invoices presented by the taxpayer being the buyer. The annotation shall be entered by the tax body within five days after the date of filing of the tax return, in the procedure defined by the Ministry of Finance of the Russian Federation;

4) the notes of release of denatured ethyl alcohol;

5) the certificates of acceptance of denatured ethyl alcohol.

**13.** The tax deductions, specified by **Item 13 of Article 200** of this Code, shall be made upon a taxpayer filing the following documents with the tax authorities:

1) copy of the contract made with a taxpayer having a certificate for processing directly distilled petroleum;

2) registers of invoices bearing a note of the tax authority with which the purchaser (recipient) of directly distilled petroleum is registered. The form of, and procedure for, submitting the registers to the tax authorities shall be defined by the Ministry of Finance of the Russian Federation. The said note shall be made in the event of correspondence of the data stated in the **tax declaration** of the taxpayer being the purchaser to the data contained in the registers of invoices submitted by the taxpayer being the purchaser. The said note shall be made by the tax authorities at the latest in five days as of the date of submitting the tax declaration in the procedure defined by the Ministry of Finance of the Russian Federation.

**14.** The tax deductions mentioned in **Item 14 of Article 200** of this Code shall be made upon the filing with the tax authorities by a taxpayer having the certificate for production of directly distilled petroleum of the following documents, when delivering it (in particular on the basis of regulatory documents of the directly distilled petroleum's owner) to the person having a certificate for processing directly distilled petroleum:

1) when delivering directly distilled petroleum for processing on a commission basis:

a copy of the contract made by the taxpayer with the person having the certificate for processing directly distilled petroleum;

a copy of the certificate for processing directly distilled petroleum of the person with which the contract of processing directly distilled petroleum has been made;

register of the invoices sent by the person having the certificate for processing of directly distilled petroleum. The form of, and procedure for, submitting registers to the tax authorities shall be defined by the Ministry of Finance of the Russian Federation;

2) when delivering directly distilled petroleum (in particular on the basis of regulatory documents of the directly distilled petroleum's owner) to the person having the certificate for processing directly distilled petroleum:

a copy of the contract made by the owner of directly distilled petroleum and the taxpayer;

a copy of the contract made by the owner of directly distilled petroleum and the person having the certificate for processing directly distilled petroleum;

a copy of regulatory documents of the directly distilled petroleum's owner (if such documents are available) for the taxpayer to deliver directly distilled petroleum to the person having the certificate for processing directly distilled petroleum;

waybill as to the delivery of directly distilled petroleum or certificate of transfer of directly distilled petroleum to the person having a certificate for processing directly distilled petroleum.

**15.** The tax deductions mentioned in **Item 15 of Article 200** of this Code shall be made upon submission by a taxpayer to the tax authorities of any of the following documents proving the fact of transferring directly distilled petroleum by the taxpayer proper and (or) by the organisation, rendering to the taxpayer the services related to processing of directly distilled petroleum, for production of petrochemical products:

1) internal carriage note;

2) material release note;

3) procurement limit card;

4) certificate of acceptance of raw materials for processing;

5) acceptance certificate for delivery/acceptance between the taxpayer's structural units;

6) write-off to production certificates.

**16.** Tax deductions of the amounts of excise duty actually paid to the sellers when purchasing denatured ethyl alcohol for making alcohol-containing perfumery and cosmetic products in metal aerosol tare and (or) for making alcohol containing household chemical products in metal aerosol tare shall be made upon submission of the following documents by a taxpayer to the tax authorities:

1) certificate for making alcohol-containing perfumery and cosmetic products in metal aerosol tare and (or) certificate for making alcohol containing household chemical products in metal aerosol tare;

2) copy of the contract made with the producer of denatured ethyl alcohol;

3) invoices sent by the producer of denatured ethyl alcohol;

4) payment documents proving the fact of paying excise duty on denatured ethyl alcohol;

5) write-off to production certificates (acceptance certificates for delivery/acceptance between the taxpayer's structural units, procurement limit cards and other documents).

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 201 of this Code with Item 17. The Item shall **enter into force** from July 1, 2011

**17.** The tax deductions provided for by **Item 16 of Article 200** of this Code shall be made by the taxpayers acquiring (purchasing) ethyl alcohol and/or brandy alcohol on the basis of the documents provided for by **Item 7 of Article 204** of this Code, as well as of the following documents (copies thereof) to be filed with a tax authority concurrently with the tax declaration in respect of excise taxes:



- 1) a contract of purchase and sale of ethyl alcohol and/or brandy alcohol made by the manufacturer of alcohol and/or excisable alcohol-containing products and the manufacturer of ethyl alcohol and/or brandy alcohol;
- 2) transportation way-bills providing for shipment of ethyl and/or brandy alcohol by the seller';
- 3) a write-off certificate in respect of ethyl alcohol and/or brandy alcohol to be used for production purposes.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 201 of this Code with Item 18. The Item shall **enter into force** from July 1, 2011

**18.** The tax deductions provided for by **Item 16 of Article 200** of this Code shall be made by taxpayers making the operations cited in **Subitem 22 of Item 1 of Article 182** of this Code on the basis of the documents provided for by **Item 7 of Article 204** of this Code, as well as of any of the following documents (copies thereof) filed with a tax authority concurrently with the tax declaration in respect of excise taxes that prove the transfer of ethyl alcohol and/or brandy alcohol for making alcoholic and/or excisable alcohol- containing products:

- 1) bill of lading in respect of internal movement of ethyl alcohol and/or brandy alcohol;
- 2) transfer certificate in respect of ethyl alcohol and/or brandy alcohol between the taxpayer's structural units;
- 3) a write-off certificate in respect of ethyl alcohol and/or brandy alcohol to be used for production purposes.

***Federal Law** No. 110-FZ of July 24, 2002 amended Article 202 of this Code. The amendments shall enter into force from January 1, 2003*

**See the previous text of the Article**

#### **Article 202.** Payable Excise Tax Amount

**1.** The excise tax amount payable by the taxpayer performing operations recognised as an item of taxation according to this Chapter shall be defined by results of each tax period as reduced by tax deductions stipulated by **Article 200** of this Code, the excise tax amount defined according to **Article 194** of this Code.

**2. Abolished** from January 1, 2004.

**3.** The excise tax amount payable in case of import of excisable goods to the territory of the Russian Federation shall be determined according to **Item 6 of Article 194** of this Code.

**4.** The excise tax amount payable by the taxpayers performing the primary sale of excisable goods originating and imported from the territory member states of the Customs Union with which customs clearance of excisable goods to be moved across the border of the Russian Federation has been abolished shall be determined according to **Article 194** of this Code.

**5.** If the amount of excise tax deductions over any tax period exceeds the tax amount calculated on sold excisable goods, the taxpayer shall pay no tax in such an excise tax period.

The amount of excise tax deductions exceeding the amount of tax calculated on transactions, recognised as the object of taxation in accordance with this Chapter, shall be subject to offset to the charge of current and/or future payments in the following tax period on this tax.

The amount of excise tax deductions exceeding the amount of tax calculated on transactions, recognised as the object of taxation in accordance with this Chapter, carried out over a reporting tax period shall be deductible from the total amount of excise tax in the following tax period as priority in comparison with other tax deductions.

**Article 203.** The Refundable Amount of Excise Tax

1. If according to the results of the tax period tax deductible amount exceeds the amount of excise tax calculated on transactions in excisable goods deemed tax basis under this Chapter then according to the results of the tax period the resulting difference shall be subject to reimbursement (setoff, refund) to the taxpayer under the provisions of this Article.

2. Said amounts shall be used over a reporting tax period and during three tax periods thereafter to meet obligations to pay tax or fees, including the taxes paid in connection with the movement of excisable goods across the border of the Russian Federation, to pay fines, and to settle arrears and amounts of tax penalties awarded to the taxpayer which are subject to transfer to the same budget.

The tax authorities shall make the offset their own while on taxes paid in connection with the movement of excisable goods across the customs border of the Russian Federation, in coordination with the customs authorities and within 10 days shall inform thereof the taxpayer.

3. Upon lapse of three tax periods following a reporting tax period, an amount which was not offset shall be refundable to the taxpayer upon his application.

Within two weeks after receiving said application, the tax authorities shall take a decision on refunding said amount to the taxpayer from a corresponding budget and by the same deadline send this decision for execution to a corresponding body of the federal treasury. Said amounts shall be refunded by bodies of the Federal Treasury within two weeks after receiving the decision of the tax authorities. If such decision is not received by the appropriate body of the Federal Treasury within seven days from the date of its sending by the tax authority, the eighth day from the date of sending such a decision by the tax authority shall be date of receipt of such a decision.

If the deadlines laid down by this Item are violated, interest shall be charged on the amount refundable to the taxpayer on the basis of one three hundred and sixtieth **rate of refinancing** of the Central Bank of the Russian Federation for each day of delay.

4. The amounts stipulated by **Article 201** of this Code, in respect of transactions in excisable goods defined by **Subitem 4 of Item 1 of Article 183** of this Code shall be subject to offset (refund) on the basis of documents defined by **Item 7 of Article 198** of this Chapter.

The reimbursement is made no later than three months from the date of submission of documents stipulated by **Item 7 of Article 198** of the present Code.

During said term, the tax authorities shall check the propriety of tax deductions and take a decision to reimburse by offset or refund of the appropriate amounts or to refuse (in full or partially) the reimbursement.

If the tax authorities decided to deny (completely or partially) the reimbursement, it is obliged to provide the taxpayer with a reasoned conclusion no later than 10 days after the corresponding decision was taken.

In case the prescribed period the tax authorities took no decision to deny and/or no corresponding conclusion was submitted to the taxpayer, the tax authorities are obliged to decide to reimburse the amounts on which the decision to refuse was not taken and to notify the taxpayer on the decision taken within 10 days.

In case the taxpayer has any arrears or fines on the excise tax, arrears and fines on other taxes, or indebtedness on awarded tax sanctions subject to transfer to the same budget from which the refund is to be made, they shall be subject to offset as the priority by decision of the tax authority.

The tax authorities shall make said offset and within 10 days inform thereof the taxpayer.

If the tax authorities decide to reimburse the amounts, and in the presence of any arrears

on the excise tax accrued over a period between the date of submission of tax declaration and the date of reimbursement of the appropriate amounts, not exceeding the amount subject to reimbursement, as per the decision of tax authorities, no fine shall be charged on the amount of arrears.

In case the taxpayer has no arrears or fines on the excise tax, arrears, fines on other taxes, or arrears on awarded tax sanctions subject to transfer to the same budget from which the refund is to be made, the amounts subject to reimbursement shall be off-set against current payments on the tax and/or other taxes payable to the same budget, and also on the taxes paid in connection with the movement of goods (of works, services) across the border of the Russian Federation as agreed with customs authorities or refundable to the taxpayer upon his request.

No later than the last day of the term specified in Paragraph 2 of this Item, the tax body shall adopt a decision to refund the excise tax amount at the expense of a relevant budget (the budget of a territorial road fund) and within the same term it shall forward this decision to a relevant Federal Treasury body for execution.

The return of amounts of excise tax is effected by bodies of the Federal Treasury within two weeks after receiving the decision of the tax authorities. If said decision is not received by the appropriate body of the Federal Treasury after seven days from the date of direction by this tax authority, the eighth day from the date of sending such decision by the tax authority shall be date of receipt of such decision.

If the deadlines laid down by this Item are violated, interest shall be charged on the amount of excise tax refundable to the taxpayer on the basis of one three hundred and sixtieth rate of refinancing of the Central Bank of the Russian Federation for each day of delay.

**5. Abrogated** from January 1, 2007.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 203 of this Code with Item 6. The Item shall **enter into force** from July 1, 2011

**6.** When liquidating an organisation engaged in making alcoholic and/or excisable alcohol-containing products that has arrears of excise taxes and other taxes, debts on appropriate penalties and/or fines which are subject to payment or recovery in compliance with this Code, the sum of an advance payment of excise tax is subject to setting off by a tax authority on condition of filing by the taxpayer with the tax authority the documents provided for by **Item 17** and/or **18 of Article 201** of this Code on the basis of the decision on setting off the sum of the advance payment of excise duty for repaying the cited arrears and debts on penalties and/or fines. With this, penalties on the cited arrears shall be charged before the date of adoption by the tax authority of the decision to set off the sum of the advance payment of excise duty.

If a taxpayer does not have arrears of excise taxes or other taxes, or debts on appropriate penalties and/or fines which are subject to payment or recovery where it is provided for by this Code, as well as when the sum of the actually paid advance payment of excise tax exceeds the amounts of the cited arrears of excise taxes and other taxes, as well as of debts on appropriate penalties and/or fines, the sum of the advance payment of excise duty shall be repaid to the taxpayer on the basis of the tax authority's decision to return (in full or in part) the sum of the actually paid advance payment of excise tax.

**Article 204.** The Term and Procedure for Payment of the Excise Tax at the Accomplishment of Transactions in Excisable Goods

**1. Abolished** as of January 1, 2004.

**2. Abrogated** from January 1, 2007.

**3.** The payment of excise tax in the case of taxpayers' selling (transferring) excisable goods manufactured by them shall be effected proceeding from the actual sale (transfer) of the said goods over the expired **tax period** at the latest on the 25th day of the month following the

expired tax period, unless otherwise provided for by this Article.

**3.1.** Excise tax on directly distilled petroleum and denatured ethyl alcohol shall be paid by taxpayers having a registration certificate of a person engaged in transactions with directly distilled petroleum and (or) a registration certificate of an organisation engaged in transactions with denatured ethyl alcohol at the latest on the 25th day of the third month following the expired tax period.

**4.** The excise tax on excisable goods is paid at the place of production of such goods, unless otherwise provided for by this Article.

Paragraph 2 is **removed**.

**Abrogated.**

When making transactions deemed to be an object of taxation in compliance with **Subitem 20 of Item 1 of Article 182** of this Code, excise tax shall be paid at the place of entry of excisable goods for ownership.

When making the transactions deemed to be an object of taxation in compliance with **Subitem 21 of Item 1 of Article 182** of this Code, excise tax shall be paid at the taxpayer's location.

**5.** Taxpayers shall file a tax return for the tax period with the tax bodies at the place where they are located and also at the place where each their isolated unit they are registered with, unless otherwise envisaged in this Item, is located in as much as it concerns the transactions accomplished by them which are deemed tax basis under the present Chapter within the term ending the 25th day of the month following the past tax period, except as otherwise envisaged by the present Item, and the taxpayers having a registration certificate of a person engaged in transactions with directly distilled petroleum and (or) a registration certificate of an organisation engaged in transactions with denatured ethyl alcohol, at the latest on the 25th day of the third month following the reporting month.

**Abrogated.**

**Abrogated** from January 1, 2007;

**Abrogated** from January 1, 2007;

The taxpayers, referred in conformity with **Article 83** of the present Code to the category of major taxpayers, shall submit tax declarations to the tax body at the place of their recording as major taxpayers.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 6. The Item shall **enter into force** from July 1, 2011

**6.** An advance payment of excise tax shall be made at the latest on the 15th day of the current tax period on the basis of the total volume of the ethyl alcohol and/or brandy alcohol whose purchase (transfer) will be effected by manufacturers of alcoholic and/or excisable alcohol-containing products within the tax period following the current tax period in the amount provided for by **Item 8 of Article 194** of this Code, unless otherwise provided for by this Article.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 7. The Item shall **enter into force** from July 1, 2011

**7.** Taxpayers that have made an advance payment of excise tax are obliged at the latest on the 18th day of the current tax period to file the following with the tax authority at the place of registration:

1) a copy (copies) of the payment document proving the remittance of monetary assets on account of making an advance payment of excise tax with the words "Advance payment of excise tax" cited in the column "Purpose of payment";

2) a copy (copies) of the bank abstract that proves writing assets off the settlement

account of the manufacturer of alcoholic and/or excisable alcohol-containing products;

3) a notice (notices) of making an advance payment of excise tax in four copies, including a copy made in an electronic form.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 8. The Item shall **enter into force** from July 1, 2011

**8.** When ethyl alcohol and/or brandy alcohol is purchased from several manufacturers, the documents cited in **Item 7** of this article must be filed with a tax authority jointly with each notice of making an advance payment of excise tax on the basis of the volume of this ethyl alcohol purchase from each seller or on the basis of the volume of transferred ethyl alcohol and/or brandy alcohol within the organisation's structure to each structural unit thereof.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 9. The Item shall **enter into force** from July 1, 2011

**9.** A notice of making an advance payment of excise tax shall contain the following data:

1) full denomination of the organisation purchasing ethyl alcohol and/or brandy alcohol which is engaged in making alcoholic and/or alcohol-containing products, as well as the taxpayer's identification number and code of the reason for registration;

2) full denomination of the organisation selling ethyl alcohol and/or brandy alcohol, as well as the taxpayer's identification number and code of the reason for registration;

3) full denomination of the organisation transferring ethyl alcohol and/or brandy alcohol within the organisation's structure for subsequent manufacture of alcoholic and/or excisable alcohol-containing products, as well as the taxpayer's identification number and code of the reason for registration (in particular the code of the reason for registration of the organisation's structural units transferring and receiving ethyl alcohol and/or brandy alcohol for making alcoholic and/or excisable alcohol-containing products);

4) volume of the ethyl alcohol and/or brandy alcohol to be purchased (to be transferred within the organisation's structure) (in litres of waterless ethyl alcohol);

5) amount of the advance payment of excise tax (in roubles);

6) date of making the advance payment of excise tax.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 10. The Item shall **enter into force** from July 1, 2011

**10.** The form of a notice of making an advance payment of excise tax shall be endorsed by the federal executive power body in charge of control and supervision in respect of taxes and fees.

The tax authority at the place of registration of the purchaser of ethyl alcohol and/or brandy alcohol which is engaged in making alcoholic and/or excisable alcohol-containing products or of the organisation making the operations provided for by **Subitem 22 of Item 1 of Article 182** of this Code at the latest in five days following the date of filing the documents cited in **Item 7** of this article shall make a note (shall deny making a note) on each copy of a notice of making an advance payment of excise tax, which proves the compliance of filed documents with the data cited in this notice, in the form of a stamp made by the tax authority which is accompanied by the signature of the official who has compared the filed documents and the notice.

If it is established that the data cited in a notice of making an advance payment of excise duty do not correspond to those contained in the documents filed concurrently with the cited notice, the tax authority shall deny making the note citing the detected discrepancies.

One copy of a notice of making an advance payment of excise tax bearing a notice of the tax authority at the place of registration of the purchaser of ethyl alcohol and/or brandy alcohol

shall be transferred by the purchaser of the cited alcohol to the seller at the latest three days before purchasing the ethyl alcohol and/or brandy alcohol, the second copy thereof shall be kept by the manufacturer of alcoholic and/or alcohol-containing products, while the third copy and also the fourth copy filed in an electronic form shall be kept by the tax authority that has made a note on the notice.

The format of filing a notice of making an advance payment of excise duty in an electronic form shall be endorsed by the federal executive power body in charge of control and supervision in respect of taxes and fees.

The documents that prove making an advance payment of excise tax and a notice (notices) of making an advance payment of excise tax shall be kept by a tax authority and by taxpayers for at least four years.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 11. The Item shall **enter into force** from July 1, 2011

**11.** Taxpayers engaged in making alcoholic and/or excisable alcohol-containing products shall be exempted from making an advance payment of excise tax on condition of presenting a bank guarantee to the tax authority at the place of registration thereof concurrently with a notice of exemption from making an advance payment of excise tax.

A bank guarantee shall be granted to the manufacturer of alcoholic and/or excisable alcohol-containing products for the purpose of exemption from making an advance payment of excise tax.

Tax authorities shall make a claim against a guarantor bank for repayment of the sum of money secured by the bank guarantee in the amount of an advance payment of excise tax, if the taxpayer engaged in making alcoholic and/or excisable alcohol-containing products (the principal) fails to pay or does not pay in full the amount of excise tax on the sold alcoholic and/or excisable alcohol-containing products which is made of ethyl alcohol and/or brandy alcohol acquired or made and transferred by it within the structure of the same organisation at the rate of excise tax of 0 roubles per one litre of waterless ethyl alcohol contained in excisable goods.

At the latest on the day following the date of issuance of a bank guarantee the bank shall notify the tax authority at the place of registration of the manufacturer of alcoholic and/or excisable alcohol-containing products of issuance of the bank guarantee in the procedure defined by the federal executive power body in charge of control and supervision in respect of taxes and fees.

A bank guarantee must be granted by a bank included in the list of banks provided for by **Article 176.1** of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 12. The Item shall **enter into force** from July 1, 2011

**12.** A bank guarantee must satisfy the following requirements:

- 1) a bank guarantee must be irrevocable and non-transferable;
- 2) the duration of a bank guarantee must expire at the earliest in six months following the tax period in which ethyl alcohol and/or brandy alcohol was purchased.

If the duration of a bank guarantee ends before the expiry of the cited time period, exemption from payment of an advance payment of excise tax shall not be granted, a note proving exemption from making an advance payment of excise tax shall not be made by a tax authority on the notice, and a notice of exemption from making an advance payment of excise tax shall not be forwarded by the manufacturer of alcoholic and/or excisable alcohol-containing products to the producer of ethyl alcohol and/or brandy alcohol;

- 3) the sum for which a bank guarantee is granted must secure the discharge of the obligation to pay to the budget in full the sum of excise tax in the amount of an advance

payment estimated in compliance with **Item 8 of Article 194** of this Code for the tax period;

4) a bank guarantee must allow for direct debiting of monetary assets off the guarantor's account in case of its failure to satisfy in due time the demand for paying the monetary sum under the bank guarantee (in full or in part) forwarded before the end of the bank guarantee's duration.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 13. The Item shall **enter into force** from July 1, 2011

**13.** In case of failure to pay or incomplete payment of excise tax on alcoholic and/or excisable alcohol-containing products by the manufacturer of the cited products that has granted a bank guarantee in the amount of an advance payment of excise tax, a tax authority shall forward to the cited tax payer at the latest in three days after the expiry of the cited term for payment of excise tax on sold alcoholic and/or excisable alcohol-containing products a demand to pay the sum of the tax penalties and fines.

In so doing, penalties shall be charged starting from the day following the date of paying excise tax on sold alcoholic and/or excisable alcohol-containing products fixed by **Item 3** of this article in compliance with **Article 75** of this Code.

A taxpayer is obliged to pay independently the sum of the tax penalties and fine cited in the demand within five days from the date when it is received. In the event of failure to pay or of incomplete payment by a taxpayer engaged in making alcoholic and/or excisable alcohol-containing products of the sum of tax, penalties and fine in compliance with the demand made, a tax authority at the latest within three days after the expiry of the cited term shall make a claim against the guarantor bank for paying the monetary sum under the bank guarantee, as regards the tax amount that has not been paid or has not been paid in full, within five days as from the date when the bank receives this claim.

The form of a claim for paying the monetary sum under a bank guarantee shall be endorsed by the federal executive power body in charge of control and supervision in respect of taxes and fees.

A bank is not entitled to deny a tax authority satisfaction of the claim for paying the monetary sum under a bank guarantee.

If a bank fails to satisfy in due time a claim for paying the monetary sum under a bank guarantee, a tax authority shall exercise the right to direct debiting of the sum cited in this claim.

At the latest within three days after the date of discharging the bank's duty of paying the monetary sum under a bank guarantee, a tax authority shall forward to the taxpayer engaged in making alcoholic and/or excisable alcohol-containing products a specified claim for paying penalties and fine.

In the event of a taxpayer's failure to pay or of incomplete payment of the sum cited in the claim (specified claim), as well as if it is impossible to forward to the bank a claim for paying the monetary sum under a bank guarantee in connection with the expiry of its duration, the duty of paying this sum shall be discharged by enforcement by way of levying execution against the monetary assets kept on the taxpayer's accounts or against other taxpayer's property on the basis of the decision of a tax authority to recover the cited sum adopted after the taxpayer's failure to satisfy in due time the claim (specified claim) in the procedure and at the time established by **Articles 46** and **47** of this Code.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 14. The Item shall **enter into force** from July 1, 2011

**14.** Taxpayers engaged in making alcoholic and/or excisable alcohol-containing products are obliged for the purpose of exemption from making an advance payment of excise duty at the latest on the 18th day of the current tax period to present to the tax authority at the place of

registration thereof a bank guarantee and a notice (notices) of exemption from making an advance payment of excise tax in four copies, one of them to be made in an electronic form.

The format of presenting a notice of exemption from making an advance payment of excise tax in an electronic form shall be endorsed by the federal executive power body in charge of control and supervision in respect of taxes and fees.

In the event of purchasing ethyl alcohol and/or brandy alcohol from several manufacturers thereof, notices of exemption from making an advance payment of excise tax must be presented in respect of the volumes of the cited ethyl alcohol purchased from each seller engaged in making ethyl alcohol and/or brandy alcohol or transferred within the organisation's structure to each structural unit thereof.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 15. The Item shall **enter into force** from July 1, 2011

**15.** The following data shall be cited in a notice of exemption from making an advance payment of excise tax:

1) full denomination of the organisation engaged in making alcoholic and/or excisable alcohol-containing products which is the purchaser of ethyl alcohol and/or brandy alcohol, as well as the taxpayer's identification number and code of the reason for registration;

2) full denomination of the organisation selling ethyl alcohol and/or brandy alcohol, as well as the taxpayer's identification number and code of the reason for registration;

3) full denomination of the organisation transferring to its structural units ethyl alcohol and/or brandy alcohol for subsequent making of alcoholic and/or excisable alcohol-containing products, as well as the taxpayer's identification number and code of the reason for registration, including the code of the reason for registration of the organisation's structural units that transfer and receive ethyl alcohol and/or brandy alcohol for making alcoholic and/or excisable alcohol-containing products (when making the operations provided for by **Subitem 22 of Item 1 of Article 182** of this Code);

4) volume of the ethyl alcohol and/or brandy alcohol (in litres of waterless ethyl alcohol) to be purchased (to be transferred within the organisation's structure);

5) amount of an advance payment of excise tax of whose payment the taxpayer is exempted in case of presenting a bank guarantee (in roubles);

6) denomination of the bank that has issued a guarantee;

7) taxpayer's identification number and code of the reason for the bank's registration;

8) amount of money backing a bank guarantee;

9) date of issuance of a bank guarantee and its duration.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 16. The Item shall **enter into force** from July 1, 2011

**16.** The form of a notice of exemption from making an advance payment of excise tax shall be endorsed by the federal executive power body in charge of control and supervision in respect of taxes and fees.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 17. The Item shall **enter into force** from July 1, 2011

**17.** The tax authority at the place of registration of the purchaser of ethyl and/or brandy alcohol or of the organisation carrying out the operations provided for by **Subitem 22 of Item 1 of Article 182** of this Code at the latest within five days following the date of presenting the documents proving exemption from making an advance payment of excise tax shall make a note on each copy of a notice of exemption from making an advance payment of excise tax (shall deny making a note) that proves the compliance of presented documents with the data



cited in this notice in the form of the stamp made by the tax authority with the signature of the official who has compared the presented documents and the notice.

If it is established that the data cited in a notice of exemption from making an advance payment do not comply with the data contained in the documents which are filed concurrently with the notice, a tax authority shall deny making the note citing the detected discrepancies.

One copy of a notice of exemption from making an advance payment bearing a note of the tax authority at the place of registration of the purchaser of ethyl alcohol and/or brandy alcohol shall be transferred by the purchaser of alcohol to the seller thereof at the latest three days before the date of purchase of the ethyl alcohol and/or brandy alcohol, the second copy thereof shall be kept by the manufacturer of alcoholic and/or excisable alcohol-containing products, while the third copy, as well as the fourth copy presented in an electronic form, shall be kept by the tax authority that has made a note in the cited notice. The documents proving exemption from making an advance payment of excise tax and a notice (notices) of exemption from making an advance payment shall be kept by the tax authority and by the organisation within at least four years.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 18. The Item shall **enter into force** from July 1, 2011

**18.** The tax declaration in respect of excise taxes to be submitted by manufacturers of ethyl alcohol and/or brandy alcohol shall cite data for the expired tax period on the volume of ethyl alcohol and/or brandy alcohol sold to each purchaser or transferred to the structural unit making alcoholic and/or excisable alcohol-containing products, in particular:

1) taxpayer's identification number, code of the reason for registration of the purchaser of ethyl alcohol or of the structural unit making alcoholic and/or excisable alcohol-containing products;

2) volume of sold or transferred ethyl alcohol (in litres of waterless ethyl alcohol);

3) amount of an advance payment of excise duty cited in the notices of making an advance payment of excise tax received by manufacturers of ethyl alcohol and/or brandy alcohol from purchasers thereof or amount of an advance payment of excise tax, from whose payment exemption is granted when presenting a bank guarantee, which is cited in notices of exemption from making an advance payment of excise tax (amount of an advance payment of excise tax made before implementing the operations involved in the transfer of ethyl alcohol and/or brandy alcohol to the structural unit engaged in making alcoholic and/or excisable alcohol-containing products, or amount of an advance payment of excise tax from whose payment exemption is granted when a bank guarantee is presented).

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Article 204 of this Code with Item 19. The Item shall **enter into force** from July 1, 2011

**19.** The tax declaration in respect of excise taxes to be presented by manufacturers of alcoholic and/or alcohol-containing products (except for alcohol-containing perfume and cosmetic products in metal aerosol packing and/or alcohol-containing household chemical products in metal aerosol packing) shall cite data for the expired tax period on the volumes of ethyl alcohol and/or brandy alcohol purchased from each seller, including the following:

1) taxpayer's identification number and code of the reason for registration of the seller of ethyl alcohol and/or brandy alcohol and volume of purchased ethyl alcohol and/or brandy alcohol (in litres of waterless ethyl alcohol);

2) amount of an advance payment of excise tax paid when purchasing ethyl alcohol from each seller of ethyl alcohol and/or brandy alcohol cited in notices of making an advance payment of excise duty, or amount of an advance payment of excise tax from whose payment exemption is granted when presenting a bank guarantee, which is cited in notices of exemption

from making an advance payment of excise tax.

**Federal Law** No. 306-FZ of November 27, 2010 reworded Article 205 of this Code. The new wording shall **enter into force** from January 1, 2011 but not earlier than upon the expiry of one month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for the value-added tax

**Article 205.** The Time of and Procedure for Payment of Excise Tax When Importing Excisable Goods into the Territory of the Russian Federation and Other Territories under Its jurisdiction

The time of and procedure for payment of excise tax in case of import of excisable goods into the territory of the Russian Federation and other territories under its jurisdiction are established by this chapter subject to the provisions of the customs legislation of the Customs Union and the customs **legislation** of the Russian Federation.

**Article 206. Abolished.**

**Federal Law** No. 166-FZ of December 29, 2000 amended Chapter 23 of the Tax Code of the Russian Federation. The amendments **shall enter into force** from January 1, 2001

**See the previous text of Chapter 23 of the Tax Code**

## Chapter 23. Tax on Income of Natural Persons

See **Methodical Recommendations** to Tax Authorities on the Application of Chapter 23 "Tax on Income of Natural Persons" of Part 2 of the Tax Code of the Russian Federation, approved by **Order** of the Ministry of Taxation of the Russian Federation No. BG-3-08/415 of November 29, 2000

See **Explanations** in Respect of Individual Questions Connected with the Calculation and Payment of Income Tax on Natural Persons given by **Letter** of the Ministry of Taxation of the Russian Federation No. VB-6-04/619 of August 14, 2001

**Article 207.** Taxpayers

1. Taxpayers of the personal income tax (hereinafter in this Chapter referred to as the tax) shall be defined as natural persons being tax residents of the Russian Federation and also natural persons receiving incomes from sources in the Russian Federation who are not tax residents of the Russian Federation.

2. As residents shall be deemed natural persons actually staying in the Russian Federation for at least 183 calendar days within 12 months pouring into. The period of a natural person's staying in the Russian Federation shall not be interrupted by the periods of his exiting the Russian Federation for a short-term (less than six months) treatment or training.

3. Regardless of the actual time period of their staying in the Russian Federation, tax residents of the Russian Federation shall be deemed the Russian military servicemen doing their military service abroad, as well as officials of state power bodies and local self-government bodies detached for work outside the Russian Federation.

**Article 208.** Incomes from Sources in the Russian Federation and Incomes from Sources Outside the Russian Federation

1. For the purposes of this Chapter, the following shall be referred to as incomes from sources in the Russian Federation:

1) the **dividends and interest** received from a Russian organisation, as well as interest received from Russian individual businessmen and (or) from a foreign organisation in

connection with the activity of its detached unit in the Russian Federation;

2) insurance disbursements, given the onset of an insured accident, including periodical insurance payments (rents, annuities) and/or payments connected with participation of the insurant in the insurer's investment receipts, as well as redemption amounts received from a Russian organisation and/or from a foreign organisation in connection with the activities of its detached unit in the Russian Federation;

3) incomes received from the use of copyright and other adjacent rights in the Russian Federation;

4) incomes received from the lease or another use of an asset located in the Russian Federation;

5) incomes from the sale of:

real estate located in the Russian Federation;

in the Russian Federation, shares or other securities and also shares in the charter capital of organisations;

in the Russian Federation stocks, other securities, participatory shares in the authorised capital of organisations derived from participation in an investment partnership;

rights of claim to a Russian or foreign organisation in connection with activity of its detached unit on the territory of the Russian Federation;

other property located in the Russian Federation and owned by the natural person;

6) compensation for the performance of labour or other duties, performed work, rendered services, performance of action in the Russian Federation. In so doing, the compensation to directors and other similar disbursements received by members of a body of management of an organisation (of board of directors or another similar body) - of the tax resident of the Russian Federation whose location (seat of management) is the Russian Federation shall be regarded as incomes received from sources in the Russian Federation irrespective of the place where the managerial duties conferred to such persons were actually performed or whence the disbursements of said compensations were effected;

6.1) remunerations and other payments for the discharge of labour duties received by the crew members of ships flying the State Flag of the Russian Federation;

7) pensions, allowances, grants and other similar disbursements received by taxpayers according to the effective Russian legislation or received from a foreign organisation in connection with activity of its detached unit in the Russian Federation;

8) incomes received from the use of any vehicles including sea, river, air vehicles and motor road vehicles in connection with carriage to the Russian Federation and/or out of the Russian Federation or within the boundaries thereof and also fines and other sanctions for demurrage (delay) of such vehicles at loading/unloading points in the Russian Federation;

9) incomes received from the use of pipelines, electrical transmission lines, optical fibre and/or wireless communication lines, other communication facilities including computer networks, on the territory of the Russian Federation;

9.1) payments to legal successors of insured persons in the instances provided for by the **laws** of the Russian Federation on obligatory pension insurance;

10) other incomes received by the taxpayer as a result of an activity he performed in the Russian Federation.

**2.** For the purposes of this Chapter, incomes of a natural person received by him as a result of conducting foreign trade operations (including commodity exchange) performed solely on behalf of and in the interests of this natural person and connected solely with the purchasing

(acquiring) of goods (performance of works, rendering of services) in the Russian Federation and also with the import of goods in the Russian Federation shall not be referred to incomes received from sources in the Russian Federation.

This provision shall apply to operations involving the import of goods to the territory of the Russian Federation under the customs procedure for release for internal consumption only if the following conditions are met:

- 1) the delivery of goods is performed by a natural person not from places of storage (including bonded warehouses) located on the territory the Russian Federation;
- 2) **abrogated** from January 1, 2012;
- 3) the goods are not sold through a detached unit of a foreign establishment in the Russian Federation.

If any one of said conditions is not met, the part of received incomes referred to as activity of the natural person in the Russian Federation shall be regarded an income received from sources in the Russian Federation in connection with the sale of the goods.

In case of subsequent sale of goods acquired by the natural person through foreign trade operations defined by this Item, to incomes of such natural person received from sources in the Russian Federation shall be referred any incomes from any sale of these goods, including their resale or pledge from warehouses or other places of location and storage of such goods which are situated on the territory of the Russian Federation, owned by this natural person, leased or used by him, except for their sale outside the Russian Federation from bonded warehouses.

**3.** For the purposes of this Chapter, to the incomes received from sources outside the Russian Federation shall be referred:

- 1) the dividends and interest received from a foreign organisation, with the exception of interest envisaged by **Subitem 1 of Item 1** of the present Article;
- 2) insurance disbursements in the case of onset of an insured accident, received from a foreign organisation, save the insurance disbursements specified in **Subitem 2 Item 1** of this Article;
- 3) incomes from the use of copyright and other adjacent rights outside of the Russian Federation;
- 4) incomes received from the lease or another use of an asset located outside of the Russian Federation;
- 5) incomes from sales of:
  - real estate located outside the Russian Federation;
  - shares and other securities and also shares in the authorised capitals of foreign organisations outside the Russian Federation;
  - rights of claim to a foreign organisation except for rights of claim specified in paragraph four of **Subitem 5 of Item 1** of this Article;
  - other property situated outside the Russian Federation;
- 6) compensation for the performance of labour or other duties, performed work, rendered services, or performance of action outside the Russian Federation. Here, compensation to directors and other similar disbursements received by members of a body of management of a foreign organisation (of a board of directors or another similar body) - of the tax resident of the Russian Federation whose location (seat of management) is the Russian Federation shall be regarded as incomes received from sources located outside the Russian Federation irrespective of the place where the managerial duties conferred to such persons were actually performed;
- 7) pensions, allowances, grants and other similar disbursements received by the taxpayer in accordance with the legislation of foreign states;
- 8) incomes received from the use of any vehicles including sea, river, air vehicles and motor road vehicles and also fines and other sanction for the demurrage (delay) of such vehicles at loading/unloading points, save those specified in **Subitem 8 Item 1** of this Article;

9) other incomes received by the taxpayer as a result of an activity he performed outside the Russian Federation.

4. If provisions of this Code do not allow to attribute unequivocally the incomes received by the taxpayer either to incomes received from sources in the Russian Federation or to incomes from sources outside the Russian Federation, the Ministry of Finance of the Russian Federation shall make the attribution. Similarly shall be defined the share of said incomes which can be referred to incomes from sources in the Russian Federation and the share which can be referred to incomes from sources outside the Russian Federation.

5. For the purposes of this Chapter the term "incomes" shall not include incomes from transactions relating to property and non-property relationships of natural persons recognised as family members and/or close relatives under the **Family Code** of the Russian Federation, except incomes received by the said natural persons as a result of their concluding between themselves agreements of civil legal nature or labour agreements.

#### **Article 209.** Object of Taxation

The object of taxation shall be defined as an income received by taxpayers:

1) from sources in the Russian Federation and/or from sources outside the Russian Federation - for natural persons who are **tax residents** of the Russian Federation;

2) from sources in the Russian Federation - for natural persons who are not tax residents of the Russian Federation.

#### **Article 210.** The Tax Base

1. When determining the tax base taken into account shall be all incomes the taxpayer has received both in cash and in kind or the right to dispose of which he has acquired, and also incomes in the form of material benefit defined according to **Article 212** of this Code.

If any deductions are made from the taxpayer's income by his order or by a court ruling or decisions of other bodies, such deductions shall not reduce the tax base.

2. Tax base shall be defined separately for each type of income concerning which various tax rates are established.

3. For incomes concerning which the tax rate established by **Item 1 of Article 224** of this Code is stipulated, the tax base shall be defined as the pecuniary form of such taxable incomes reduced by the tax deductions stipulated by **Articles 218-221** of this Code with allowance for features established by this Chapter.

If the amount of tax deductions in a tax period will exceed the amount of taxable incomes covered by the tax rate established by **Item 1 of Article 224** of this Code, over the same tax period the tax base shall be defined as having zero value. The difference between the amount of tax deductions in this tax period and the amount of taxable incomes concerning which the tax rate established by **Item 1 of Article 224** of the present Code is stipulated, shall not be rolled over into the following tax period, unless otherwise is stipulated by this Chapter.

In respect of the taxpayers receiving a pension in compliance with the legislation of the Russian Federation that do not have incomes within a tax period taxable at the tax rate established by **Item 1 of Article 224** of this Code the difference between the amount of tax deductions and the amount of incomes, in respect of which the tax rate fixed by Item 1 of Article 224 of this Code is provided for, may be carried to the previous tax periods in the procedure provided for by this chapter.

4. For incomes concerning which other tax rates are established, the tax base shall be defined as a pecuniary form of taxable incomes. Thus, the tax deductions stipulated by **Articles 218-221** of this Code, shall not apply.

**5.** Incomes (expenses accepted for deduction according to **Articles 214.1, 214.3, 214.4, 214.5, 218-221** of this Code) of a taxpayer expressed (nominated) in foreign currency shall be converted into roubles at the official exchange rate of the Central Bank of the Russian Federation established on the date of actual receipt of the cited incomes (on the date of the actually incurred expenses).

#### **Article 211.** Features of the Determination of the Tax Base When Receiving Incomes in Kind

**1.** If the taxpayer receives an income from organisations and individual entrepreneurs in kind in the form of goods (works, services) and other property, the tax base shall be defined as the cost of these goods (works, services) other property calculated on the basis of their prices defined in accordance with the procedure described in **Article 105.3** of this Code.

Thus, the cost of such goods (works, services) shall include corresponding amount of the value added tax and excise tax and exclude partial payment by the taxpayer of the cost of commodities received by him, the works carried out for him and the services rendered to him.

**2.** Incomes received by the taxpayer in kind, in particular shall include:

1) payment (full or partial) made for him by organisations or individual entrepreneurs in goods (works, services) or property rights, including municipal services, meals, rest, and training in the interests of the taxpayer;

2) goods received by taxpayers, works performed in the interests of the taxpayer, and services rendered in the interests of the taxpayer on a gratuitous or partially paid basis;

3) wages in kind.

#### **Article 212.** Features of the Determination of the Tax Base When Receiving Incomes in the Form of Material Benefit

**1.** Incomes of the taxpayer received in the form of material benefit shall be:

1) material benefit gained from economy on the interest for the use by the taxpayer of loan (credit) means received from organisations or individual businessmen, except for:

material benefit received from banks situated on the territory of the Russian Federation in connection with bank cards during the interest-free period established in the agreement on the furnishing of a bank card;

material benefit gained from economy on the interest for the use of loan (credit) means granted for a new construction or acquisition on the territory of the Russian Federation of a residential house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the residential houses being acquired or a share (or shares) therein;

material benefit gained from economy on the interest for the use of loan (credit) means granted by banks situated on the territory of the Russian Federation for the purpose of refinancing (recrediting) the loans (credits) received for a new construction or acquisition on the territory of the Russian Federation of a dwelling house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the dwelling houses being acquired or a share (or shares) therein.

The material benefit indicated in **paragraphs three and four** of this Subitem shall be exempt from taxation if the taxpayer is entitled to a property tax deduction established by **Subitem 2 of Item 1 of Article 220** of this Code and confirmed by the tax body in the procedure stipulated by **Item 3 of Article 220** of this Code;

2) material benefit received from the purchase of goods (of works, services) from natural

persons under an agreement having civil legal nature as natural persons are concerned, organisations and individual entrepreneurs being related to the taxpayer;

3) material benefit derived from acquisition of securities and financial instruments of time transactions.

**2.** When the taxpayer receives an income in the form of material benefit specified in Subitem 1 of Item 1 of this Article, the tax base shall be defined as:

1) excess of amounts of interest for the use of borrowed (credit) funds expressed in roubles calculated on the basis of two thirds of the current **refinancing rate** established by the Central Bank of the Russian Federation on the date of actual receipt of income by the taxpayer over the amount of interest calculated on the basis of terms and conditions of the contract;

2) excess of the amount of interest for the use of borrowed (credit) funds expressed in foreign currency calculated on the basis of 9 per cent per annum, over the amount of interest calculated on the basis of terms and conditions of the contract.

The tax agent shall determine the tax base when receiving an income in the form of material benefit derived from savings on interest at the receipt of borrowed (credit) funds, shall calculate, deduct and remit tax in the procedure established by this Code.

**3.** When the taxpayer receives an income in the form of material benefit specified in **Subitem 2 of Item 1** of this Article, the tax base is defined as the excess of the price of the identical (homogeneous) goods (works, services) sold by persons being related to the taxpayer, under usual conditions to persons who are not related, over the prices of sale of identical (homogeneous) goods (works, services) to the taxpayer.

**4.** When a taxpayer receives an income in the form of the material benefit specified in **Subitem 3 of Item 1** of this Article, the tax base shall be defined as the excess of the market value of securities or of financial instruments of time transactions above the amount of actual expenses of the taxpayer for their purchase.

For the purposes of this Article, into the outlays on acquisition of the securities constituting the base asset of an option contract shall be included the amounts paid to the seller for the securities under such contract, as well as paid amounts of the premium and of variation margin under option contracts.

There is no material benefit when a taxpayer acquires securities under the first and second parts of a REPO agreement, provided that the parties thereto have discharged obligations under the first and second parts of the REPO agreement, as well as in case of a properly legalised termination of obligations in respect of the first and second parts of the REPO transactions for reasons other than the discharge thereof, including a set-off of homogeneous counter claims arising from another REPO transaction.

The market value of securities circulating in the organised securities market shall be estimated on the basis of their market value subject to the fluctuation limits thereof, unless otherwise established by this Article.

The market value of securities circulating in the organised securities market shall be defined on the basis of the estimated price of the securities subject to the fluctuation limits thereof, unless otherwise established by this Article.

The market value of securities that circulate and do not circulate in the organised securities market shall be assessed as of the date when a transaction is made.

A **procedure** for estimating the market value of securities and the estimated price of securities, as well as a procedure for defining the fluctuation limits of the market price, shall be established for the purposes of this Chapter by the federal executive power body responsible for the securities market by approbation of the Ministry of Finance of the Russian Federation

subject to the provisions of this Item.

As the estimated price of an investment share of a closed investment fund (of an interval unit investment fund) which does not circulate in the organised securities market shall be deemed the last estimated price of the investment share defined by the management company engaged in trust management of the property constituting the appropriate unit investment fund in compliance with the **legislation** of the Russian Federation on investment funds without taking into account the fluctuation limits of the securities' estimated price.

As the market value of an investment share of a unit investment fund (of the one which circulates and does not circulate in the organised securities market), if it is acquired from the management company engaged in trust management of the property constituting the appropriate unit investment fund, shall be deemed the last estimated cost of the investment share fixed by the cited management company in compliance with the **legislation** of the Russian Federation on investment funds without taking into account the fluctuation limits of the market or the estimated price of securities.

Where under the **legislation** of the Russian Federation on investment funds an investment share of a unit investment fund whose circulation is restricted is not issued at the market price thereof, as the market value of such investment share shall be deemed the amount of monetary assets for which one investment share is issued and which is fixed in compliance with the rules for trust management of the unit investment fund without taking into account the fluctuation limits.

As the market value of an investment share of an open unit investment fund shall be deemed the last estimated value of the investment shares defined by the management company engaged in trust management of the property constituting the appropriate open unit investment fund in compliance with the **legislation** of the Russian Federation on investment funds without taking into account the fluctuation limits of the securities' market price.

The market value of financial instruments of time transactions circulating in the organised market shall be fixed in compliance with **Item 1 of Article 305** of this Code.

The market value of financial instruments of time transactions which do not circulate in the organised market shall be fixed in compliance with **Item 2 of Article 305** of this Code.

#### **Article 213.** Features of the Determination of the Tax Base on Insurance Contracts

**1.** When determining the tax base, incomes received by the taxpayer in the form of insurance shall be accounted, except for payments received:

1) under contracts of compulsory insurance carried out in the procedure established by the legislation of the Russian Federation;

2) under contracts of voluntary life insurance (except for the contracts provided for by **Subitem 4** of this Item) in the event of payments in connection with the attainment by the insured person of a certain age or time, or in the event of the onset of some other event, where under the terms of such contract insurance fees are paid by the taxpayer and if the amounts of insurance payments do not exceed the amounts of the insurance fees paid by him which are increased by the sum calculated by way of serial addition of products of the amounts of insurance fees paid from the date of making the insurance contract up to the end date of each year when such contract of voluntary life insurance is in effect (inclusive) and the average annual **refinancing rate** of the Central Bank of the Russian Federation effective in the relevant year. Otherwise the difference between the said amounts shall be accounted when determining the tax base and shall be taxable at the source of disbursement.

For the purposes of this Article, the average annual refinancing rate of the Central Bank of the Russian Federation shall be determined as the quotient obtained from dividing the sum resulting from addition of the amounts of the refinancing rates effective as of the first day of each calendar month of the year when the contract of life insurance is in effect by the number of



added amounts of **refinancing rates** of the Central Bank of the Russian Federation.

In case of early dissolution of contracts of voluntary life insurance which are provided for by this Subitem (except when contracts of voluntary life insurance are dissolved for reasons which beyond the control of the parties thereto) and repayment by a natural person of the amount of money (redemption amount) to be paid under the rules of insurance and the terms of the said contracts in the event of early dissolution of such contracts, the derived income, less the amounts of the insurance fees paid by the taxpayer, shall be accounted when determining the tax base and shall be taxable at the source of disbursement;

3) under contracts of voluntary personal insurance providing for payments in case of death, infliction of a health hazard and/or reimbursement of medical outlays of the insured person (except for covering the cost of permits to sanatorium-and-spa institutions);

4) under contracts of voluntary retirement insurance made by natural persons to the their benefit with insurance organisations, where such payments are made upon the occurrence of reasons for retirement under the laws of the Russian Federation.

In the event of dissolution of contracts of voluntary pension insurance (except when insurance contracts are dissolved for reasons beyond the control of the parties thereto) and the repayment to a natural person of the amount of money (the redemption amount) to be paid under the insurance rules and the terms of the contract when dissolving such contracts, the derived income, less the amounts of insurance fees paid by the taxpayer, shall be accounted when defining the tax base, and shall be taxable at the source of disbursement.

In case of dissolving a contract of voluntary pension insurance (except when insurance contracts are dissolved for reasons beyond the control of the parties thereto), when determining the tax base the amounts of insurance fees paid by a natural person under such contract in respect of which the social tax deduction specified in **Subitem 4 of Item 1 of Article 219** of this Code has been granted to him shall be accounted.

With this, an insurance organisation, when paying to a natural person the amounts of money (redemption amounts) under a contract of voluntary pension insurance, is obliged to deduct the amount of tax calculated in respect of the sum of income which is equal to the amount of insurance fees paid by the natural person under such contract for each calendar year when the taxpayer was entitled to the social tax deduction specified in **Subitem 4 of Item 1 of Article 219** of this Code.

If a taxpayer presented the report issued by the tax authority at the taxpayer's place of residence, proving the taxpayer's failure to receive the social tax deduction or proving the fact of receiving by the taxpayer of the amount of the granted social tax deduction specified in **Subitem 4 of Item 1 of Article 219** of this Code, the insurance organisation accordingly would not deduct the amount of tax or would calculate the amount of tax to be deducted.

**1.1.** The **form** of the report issued by the tax authority at the place of a taxpayer's residence proving that the taxpayer has failed to enjoy the social tax deduction, or proving the fact of enjoying by the taxpayer the amount of the granted tax deduction shall be approved by the federal executive body authorised to exercise control and supervision with respect to taxes and fees.

**2. Abolished** from January 1, 2005.

**3.** When determining the tax base, insurance premiums shall be taken into account where the said amounts are paid for natural persons by employers thereof or by establishments and individual businessmen which are not employers with respect to those natural persons for whom they made insurance fees, except when natural persons are insured under obligatory insurance contracts, contracts of voluntary personal insurance or contracts of voluntary retirement insurance.

**4.** Under a contract of voluntary insurance of property (including the insurance of civil liability for causing damage to the property of third persons and (or) the insurance of civil liability

of transport vehicles' owners) the taxable incomes of a taxpayer upon the occurrence of an insured accident shall be determined in the event of:

loss or destruction of insured property (property of third persons) as the difference between the received insurance compensation and the market value of insured property on the date of conclusion of the aforesaid contract (on the date of the insured accident - for a civil liability insurance contract) marked up by the amount of the insurance premium payments paid to insure this property;

damage of insured property (property of third persons) as the difference between the received insurance compensation and expenses required for repairing (restoring) this property (if no repair has been performed), or the cost of repair (rehabilitation) of this property (if repairs have been performed) being marked up by the amount of insurance premium payments paid to insure this property.

The feasibility of expenses required towards repairing (restoring) insured property, if no repair (restoration) has been performed, shall be confirmed by a document (cost-estimate, statement, certificate) drawn up by an insurer or independent expert (surveyor).

The feasibility of expenses towards effected repair (rehabilitation) of insured property shall be confirmed by the following documents:

- 1) contract (copy of the contract) on the performance of appropriate works (on rendering services);
- 2) documents confirming acceptance of executed works (rendered services);
- 3) payment documents which were made out in due order to confirm the fact of payment for works (services).

In so doing, not to be taken into account as income shall be the amount reimbursed to the insured or the expenses incurred by the insurers involved in the investigation of circumstances of an insured accident, assessment of the scope of damage, legal costs, and also other expenses according to the current legislation and terms and conditions of a property insurance contract.

**5. Abolished** from January 1, 2005.

**6. Abolished** from January 1, 2005.

**Article 213.1.** Specifics of Determining the Tax Base with Regard to Contracts of Non-Governmental Provision of Pensions and Contracts of Obligatory Pension Insurance Made with Non-Governmental Funds

**1.** The following shall not be taken into account, when determining the tax base under contracts of non-governmental provision of pensions and contracts of obligatory pension insurance:

*Paragraphs Four and Five of Item 3 of Article 1 of this Federal Law shall **enter into force** upon the expiry of one month from the day of the **official publication** of this Federal Law and shall cover legal relations arising from January 1, 2004*

insurance premiums for obligatory pension insurance payable by organisations and other employers in compliance with the **laws** of the Russian Federation;

the accumulative part of the labour pension;

pensions payable under contracts of non-governmental pension insurance made by natural persons for their benefit with Russian nongovernmental pension funds;

insurance premiums under contracts of non-governmental provision of pensions made by organisations and other employers with Russian nongovernmental pension funds that have the appropriate licences;

insurance premiums under contracts of non-governmental provision of pensions made by natural persons with Russian non-governmental pension funds, having the appropriate licences,

for the benefit of other persons.

**2.** The following shall be taken into account when determining the tax base:

pensions payable to natural persons under contracts of nongovernmental provision of pensions made by organisations and other employers with Russian non-governmental pension funds that have the appropriate licences;

pensions payable under contracts of non-governmental provision of pensions made by natural persons with Russian non-governmental pension funds, that have the appropriate licences, for the benefit of other persons;

sums of money (redemption amounts), less the payments (fees) made by natural persons for their own benefit, payable in compliance with pension rules and terms of contracts of non-governmental provision of pensions made with Russian non-governmental pension funds that have the appropriate licences, in the event of preschedule dissolution of the said contracts (except for the instances of their preschedule dissolution for reasons independent of the parties' will, or of the transfer of the redemption amount to another non-governmental pension fund), as well as in the event of changing the conditions of the said contracts in respect of the validity term thereof.

The sums of money specified in this Item shall be taxable at the source.

The amounts of payments (fees) made by a natural person under a contract of non-governmental provision of pension in respect of which the natural person has been granted the social tax deduction specified in **Subitem 4 of Item 1 of Article 219** of this Code shall be taxable when paying the amount of money (redemption amount) (except when the said contract is dissolved ahead of time for the reasons beyond the control of the parties thereto or the amount of money (redemption amount) is remitted to another non-governmental pension fund).

With this, a non-governmental pension fund when paying to a natural person amounts of money (redemption amounts) is obliged to deduct the amount of tax calculated in respect of the amount of income which is equal to the sum of payment (fees) paid by the natural person under this contract for each calendar year when the taxpayer was entitled to the social tax deduction specified in **Subitem 4 of Item 1 of Article 219** of this Code.

If a taxpayer presented the report issued by the tax authority at the taxpayer's place of residence proving the taxpayer's failure to receive the social tax deduction or proving the fact of receiving by the taxpayer the amount of the social tax deduction specified in **Subitem 4 of Item 1 of Article 219** of this Code, the non-governmental pension fund accordingly would not deduct the amount of tax or would calculate the amount of tax to be deducted.

*Federal Law No. 110-FZ of August 6, 2001 amended Article 214 of this Code. The amendments shall enter into force from January 1, 2002*

*See the text of the Article in the previous wording*

**Article 214.** Specifics in the Payment of Tax on the Profits of Natural Persons with Respect to Incomes from Share Participation in an Organisation

The sum of tax on the incomes of natural persons (hereinafter in the present Chapter 'the tax') with respect to the incomes from the share participation in an organisation received in the form of dividends, shall be determined taking into account the following provisions:

1) the sum of the tax with respect to dividends received from the sources outside of the Russian Federation, shall be defined by the taxpayer on his own as concerns every amount of received dividends, in accordance with the rate envisaged by **Item 4 of Article 224** of this Code.

The taxpayers receiving dividends from sources outside of the Russian Federation shall in this case have the right to reduce the sum of the tax calculated in conformity with this

Chapter, by the sum of the tax calculated and paid at the place of location of the source of the income, only in cases when the source of the income is situated in a foreign state, with which a contract (agreement) is signed on avoiding double taxation.

If the sum of the tax paid up at the place of location of the source of the income exceeds the sum of the tax calculated in conformity with this Chapter, the resulting difference shall not be subject to return from the budget;

2) if the source of the taxpayer's income received in the form of dividends is a Russian organisation, the said organisation shall be recognised as a tax agent and shall determine the sum of the tax separately for every taxpayer as concerns every payment of the said incomes in accordance with the rate envisaged by **Item 4 of Article 224** of this Code, and with the order stipulated by **Article 275** of this Code.

**Article 214.1.** The Specifics of Defining the Tax Base, of Estimation and Payment of Tax on Income Derived from Operations in Securities and Operations in Financial Instruments of Time Transactions

1. When defining the tax base in respect of the income derived from operations in securities and in operations in financial instruments of time transactions, the income resulting from the following operations shall be taken into account:

- 1) in securities circulating in the organised securities market;
- 2) in securities which do not circulate in the organised securities market;
- 3) in financial instruments of time transactions circulating in the organised market;
- 4) in financial instruments of time transactions which do not circulate in the organised market.

1.1. With this, for the purposes of this article, securities and financial instruments of time transactions shall be referred to those circulating and not circulating in the organised securities market as of the date of sale of a security or of a financial instrument of time transactions, including the obtainment of the sum of a variation margin and a premium on contracts, unless otherwise provided for by this article.

2. A procedure for classifying objects of civil rights as securities shall be established by the legislation of the Russian Federation and by the applicable legislation of foreign states.

3. For the purposes of this Article, as securities circulating in the organised securities market shall be deemed:

- 1) the securities admitted to trading arranged by a Russian trade promoter in the securities market, in particular by a stock exchange;
- 2) investment shares of open unit investment funds which are managed by Russian management companies;
- 3) securities of foreign issuers which are admitted to trading arranged by foreign stock exchanges.

4. The securities cited in **Item 3** of this Article (except for investment shares of open unit investment funds which are managed by Russian management companies) shall be classified for the purposes of this Article as pertaining to securities circulating in the organised securities market, if the market quotation of a security is estimated in respect of them. The market quotation of a security means the following:

- 1) the average weighted price of the securities according to the transactions made within one trading day through a Russian trade promoter in the securities market, including a stock exchange - for the securities admitted to trading arranged by such trade promoter in the securities market or by a stock exchange;
- 2) the closing price for a security estimated by a foreign stock exchange in respect of the transactions made within one trading day through such stock exchange - for the securities

admitted to trading at a foreign stock exchange.

**4.1.** If a Russian trade promoter in the securities market, including a stock exchange, has no information about the average weighted price of a security (about the closing price of a security estimated by a foreign stock exchange on the date of its sale, as the market quotation thereof shall be deemed the average weighted price (closing price) formed on the date of the latest sales held before the date of making an appropriate transaction, if sales of these securities have been held at least once within the last three months.

**5.** For the purposes of this Chapter, as the financial instrument of time transactions shall be deemed an agreement which is a derivative instrument under the **Federal Law** on the Securities Market, except for the agreement providing for the duty of the parties or of a party to the agreement to pay sums of money on a periodical basis or as a lump sum in cases raising claims by the other party, depending on changes in the values constituting the official statistical information, on the occurrence of a circumstance proving a failure to discharge or improper discharge by one or several legal entities, states or municipal formations of their obligations, on physical, biological and/or chemical indices of the environmental conditions, on some other circumstance which is not directly provided for by the Federal Law cited above, as well as on changes in the values determined on the basis of an aggregate of the indices cited in this paragraph.

Financial instruments of time transactions shall be classified as pertaining to those circulating in the organised market in compliance with the requirements established by **Item 3 of Article 301** of this Code.

For the purposes of this Chapter, as financial instruments of time transactions which do not circulate in the organised market shall be deemed option contracts which do not circulate in the organised market.

**6.** For the purposes of this Chapter, securities shall be likewise deemed sold (acquired) in the case of termination of a taxpayer's obligations to transfer (accept) the corresponding securities by way of setting off homogeneous counter-claims, in particular when effecting clearing in compliance with the legislation of the Russian Federation.

As homogeneous ones shall be deemed claims to transfer securities of the same issuer with the same extent of right, of the same kind, of the same category (type) or of the same unit investment fund (for investment shares of unit investment funds).

In so doing, a set-off of homogeneous counter-claims must be proved under the legislation of the Russian Federation by the documents on termination of obligations in respect of the transfer (acceptance) of securities, including by reports of a clearing organisation, of the persons engaged in broker's activity or of managers which under the legislation of the Russian Federation render clearing or broker's services in compliance with the legislation of the Russian Federation or are engaged in trust management in the taxpayer's interests.

**7.** For the purposes of this Article, as incomes resulting from operations in securities shall be deemed those which are derived from the sell-off (redemption) of securities within a tax period.

The income in the form of interest (coupon, discount) derived in a tax period from securities shall be included into incomes from operations in securities, unless otherwise provided for by this Article.

As incomes derived from operations in financial instruments of time transactions shall be deemed the incomes derived from selling financial instruments of time transactions derived within a tax period, including the received amounts of the variation margin and a premium under a contract. With this, as incomes derived from operations in the base asset of financial instruments of time transactions shall be deemed the incomes derived from the supply of the

base asset while performing such transactions.

Incomes resulting from operations in securities which circulate and do not circulate in the organised securities market, in financial instruments of time transactions which circulate and do not circulate in the organised market made by a trust manager (except for the management company engaged in trust management of property constituting a unit investment fund) in favour of the beneficiary being a natural person shall be included into the beneficiary's incomes derived from the operations enumerated in **Subitems 1-4 of Item 1** of this Article accordingly.

**8.** Incomes derived from operations in the base asset of financial instruments of time transactions shall be included into:

1) the incomes derived from operations in securities where the securities are the base asset of financial instruments of time transactions;

2) the incomes derived from operations in financial instruments of time transactions where other financial instruments of time transactions constitute the base asset of the financial instruments of time transactions;

3) other taxpayer's income depending on the kind of the base asset, if securities or financial instruments of time transactions are not the base asset of the financial instrument of time transactions.

**9.** The incomes derived from operations in the base asset shall be included into the incomes resulting from operations in securities and into the incomes resulting from operations in financial instruments of time transactions which are cited in **Subitems 1 and 2 of Item 8** of this Article taking into account whether or not the appropriate securities and financial instruments of time transactions circulate and in the organised market.

**10.** For the purposes of this Article, as outlays on operations in securities and outlays on operations in financial instruments of time transactions shall be deemed the outlays which are proved by documents actually made by the taxpayer and connected with the acquisition, sale, storage and redemption of securities, with making operations in financial instruments of time transactions, with the discharge and termination of obligations under such transactions. The cited outlays shall include the following:

1) the sums paid to the issuer of securities (to the management company of a unit investment fund) for the securities to be placed (issued), as well as the sums paid in compliance with an agreement of securities purchase and sale, including the coupon amounts;

2) the sums of the paid variation margin and/or a premium under contracts, as well as other periodical or one-time payments provided for by the terms of financial instruments of time transactions;

3) payment for the services rendered by professional participants of the securities market, as well as by exchange agents and clearing centers;

4) the increment paid by the management company of a unit investment fund when acquiring an investment share of the unit investment fund to be fixed in compliance with the **legislation** of the Russian Federation on investment funds;

5) the discount paid to the management company of a unit investment fund when redeeming an investment share of the unit investment fund to be fixed in compliance with the **legislation** of the Russian Federation on investment funds;

6) the outlays reimbursed to the professional securities market participant or to the management company engaged in trust management of the property constituting the unit investment fund;

7) the exchange (commission) fee;

8) the payment for the services rendered by the persons engaged in keeping the register;

9) the tax paid by the taxpayer in case of obtaining securities by inheritance;

10) the tax paid by the taxpayer when obtaining stocks or shares as a gift in compliance with **Item 18.1 of Article 217** of this Code;

11) the sum of interest paid by the taxpayer on credits and loans received for making transactions in securities (including interest on credits and loans for making marginal transactions) within the limits of the sums estimated on the basis of the **refinancing rate** of the Central Bank of the Russian Federation effective on the date when interest is paid which is 1,1 times as much - for credits and loans shown in roubles, and on the basis of 9 per cent - for credits and loans shown in foreign currency;

12) other outlays which are directly connected with operations in securities, in financial instruments of time transactions, as well as the outlays connected with rendering services by professional participants of the securities market, management companies engaged in trust management of the property constituting a unit investment fund within the framework of their professional activities.

**11.** Records of outlays on operations in securities and of outlays on operations in financial instruments of time transactions shall be kept for the purpose of estimation of the tax base for appropriate operations in the procedure established by this Article.

**12.** For the purposes of this Article, the financial results in respect of operations in securities and in respect of operations in financial instruments of time transactions shall be estimated as incomes derived from these operations less the appropriate outlays cited in **Item 10** of this Article.

In so doing, the outlays which cannot be directly charged to the reduction of income derived from operations in securities or in financial instruments of time transactions which circulate or do not circulate in the organised market, or to the reduction of an appropriate kind of income shall be distributed in proportion to the share of each kind of income and shall be included in expenditures when a tax agent assesses the financial result upon termination of a tax period, as well as in the event of termination before the end of a tax period of the last agreement of the taxpayer made with the person acting as a tax agent in compliance with this article. If within the tax period in which the cited expenses are made there are no incomes of the appropriate kind, the expenses shall be accepted in the same tax period, in which incomes are recognized.

The financial result shall be estimated in respect of each operation and in respect of each complex of operations cited accordingly in **Subitems 1-4 of Item 1** of this Article. The financial result shall be estimated upon the expiry of a tax period, unless otherwise established by this Article. In so doing, the financial result in respect of operations in financial instruments of time transactions which circulate in the organised market and whose base assets are securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices, and in respect of operations in other financial instruments of time transactions circulating in the organised market shall be separately estimated.

The negative financial result received in a tax period in respect of some operations in securities or financial instruments of time transactions shall reduce the financial result received in a tax period in respect of a complex of appropriate operations. With this, in respect of operations in securities circulating in the organised securities market the sum of the negative result reducing the financial result in respect of operations in securities circulating in the organised market shall be estimated subject to the fluctuation limits of the securities' market value.

When supplying securities circulating in the organised securities market which constitute the base asset of the financial instrument of time transactions, the financial result of operations in such base assets of the taxpayer making such supplies shall be estimated on the basis of the price at which the securities are supplied in compliance with the contractual terms.

The negative financial result received in a tax period in respect of some operations in securities which do not circulate in the organised securities market and which at the time of their acquisition were referred to securities circulating in the organised securities market can reduce

the financial result obtained in a tax period in respect of operations in securities circulating in the organised securities market,

The negative financial result in respect of each group of the operations cited in **Subitems 1-4 of Item 1** of this Article shall be recognised as a loss. Records of losses resulting from operations in securities and from operations in financial instruments of time transactions shall be kept in the procedure established by this Article and **Article 220.1** of this Code.

**13.** The specifics of estimating revenues and expenditures for determining the financial result in respect of operations in securities and in respect of operations in financial instruments of time transactions shall be established by this Item.

When estimating the financial result of operations in securities, the incomes derived from the purchase and sale (redemption) of state treasury obligations, bonds and other state securities of the former USSR, member states of the Union State or of the constituent entities of the Russian Federation, as well as bonds and securities issued by decision of representative local self-government bodies, shall be accounted without the interest (coupon) yield paid to the taxpayer which is taxed at the a rate, other than the one provided for by **Item 1 of Article 224** of this Code and whose payment is provided for by the terms of such security's issuance.

When selling securities, the outlays in the form of the cost of the securities' acquisition shall be recognised at the cost of primary acquisitions thereof (FIFO).

If an issuing organisation has exchanged (converted) stocks, then, when selling the stocks obtained by a taxpayer as a result of such exchange (conversion), as the taxpayer's outlays proved by documents shall be deemed those on acquisition of the stocks which the taxpayer had held before their exchange (conversion).

When selling stocks (shares, stakes) received by a taxpayer as a result of companies' re-organisation, as outlays on their acquisition shall be deemed the cost thereof estimated in compliance with **Items 4-6 of Article 277** of this Code, provided that the taxpayer has proved by documents the outlays thereof on acquisition of stocks (shares, stakes) of re-organised companies.

In case of an exchange (conversion) of investment shares of one unit investment fund for (into) investment shares of another unit investment fund made by a taxpayer with the Russian management company which is engaged at the time of such exchange (conversion) in management of the cited funds, the financial result of such operation shall not be estimated pending the time of selling (redeeming) the investment shares received as a result of this exchange (conversion). When selling (redeeming) the investment shares obtained by the taxpayer as a result of such exchange (conversion), as the taxpayer's outlays proved by documents shall be deemed the outlays thereof on acquisition of the investment shares held by the taxpayer before their exchange (conversion).

When selling (redeeming) the investment shares acquired by a taxpayer when contributing property (property rights) to a unit investment fund, as outlays on acquisition of these investment shares shall be deemed the outlays on acquisition of the property (property rights) contributed to the unit investment fund proved by documents.

If a taxpayer has acquired securities for ownership (in particular if they have been received on a gratuitous basis, or have been partially paid, or gifted or inherited), when taxing incomes from operations of sell-off (redemption) of securities, as the outlays on acquisition (obtaining) of these securities proved by documents shall be deemed amounts for which tax was estimated and paid when these securities were acquired (obtained) and the amount of tax paid by the taxpayer.

If, when a taxpayer receives securities as a gift or inherits them, tax in compliance with **Items 18 and 18.1 of Article 217** of this Code is not collected, the outlays of the donor (testator) on acquisition of these securities proved by documents shall be likewise accounted in taxation



of the incomes resulting from operations of sell-off (redemption) of the securities received by the taxpayer as a gift or by inheritance.

When making operations of issuance and redemption of investment shares of unit investment funds, the estimated cost of an investment share fixed by the management company engaged in trust management of the property constituting an investment fund in compliance with the **legislation** of the Russian Federation on investment funds without taking into account the fluctuation limits shall be recognised as the market value thereof for this management company.

If under the **legislation** of the Russian Federation on investment shares the investment shares of unit investment funds whose circulation is restricted are not redeemed at the estimated cost of an investment share, as the market value of such investment share shall be deemed the amount of the monetary compensation to be paid in connection with redemption of the investment shares in compliance with the **legislation** of the Russian Federation on investment funds without taking into account fluctuation limits thereof.

If under the **legislation** of the Russian Federation on investment funds investment shares of unit investment funds whose circulation is restricted are not issued at the estimated cost of an investment share, the market value of such investment shares shall be deemed the amount of monetary assets for which one investment share is issued and which is fixed in compliance with the rules for trust management of the unit investment fund without taking into account the fluctuation limits thereof.

When making operations of purchase and sale of shares of closed and interval unit investment funds which do not circulate in the organised market, the market value of an investment share shall be deemed the price fixed for such shares in compliance with **Item 4 of Article 212** of this Code.

The amounts paid by a taxpayer for acquisition of the base assets of financial instruments of time transactions, in particular for its supply when executing a time transaction, shall be deemed outlays on the supply (subsequent sale) of the base asset.

The amounts paid by a taxpayer for acquisition of securities in respect of which a partial redemption of the nominal value of a security is provided for within the period of its circulation shall be deemed outlays in case of such partial redemption in proportion to the share of income derived from the partial redemption in the total amount to be redeemed.

When the financial result is determined in respect of transactions in the securities received by a taxpayer being a donor in the event of dissolution of the earmarked capital of a not-for-profit organisation, cancellation of a donation or in another case, if the return of the asset that has been contributed to replenish the earmarked capital of the not-for-profit organisation is envisaged by a contract of donation and/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations the following shall be deemed expenses of the taxpayer being a donor in the established procedure: documented expenses in transactions in such securities that had been incurred by the donor prior to the transfer of these securities to the not-for-profit organisation for the purpose of replenishing its earmarked capital.

**14.** For the purposes of this Article, the tax base for operations in securities and for operations in financial instruments of time transactions shall be deemed a positive financial result of an aggregate of corresponding operations estimated for a tax period in compliance with **Items 6-13** of this Article.

The tax base for each aggregate of the operations cited in **Subitems 1-4 of Item 1** of this Article shall be separately estimated subject to the provisions of this Article.

**15.** The amount of loss from operations in securities circulating in the organised securities market which is a result of the cited operations made in a tax period which is the result of the cited operations made within the tax period shall reduce the tax base for operations

in financial instruments of time transactions circulating in the organised market whose base assets are securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices.

The amount of loss from operations in securities circulating in the organised securities market which is a result of the cited operations made within a tax period after the reduction of the tax base for operations in financial instruments of time transactions circulating in the organised market whose base assets are securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices shall be accounted in compliance with **Item 16** of this Article and with **Article 220.1** of this Code within the limits of the tax base for operations in securities circulating in the organised securities market.

The amount of loss from operations in financial instruments of time transactions circulating in the organised market whose base assets are securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices, which is a result of the cited operations made within a tax period after reduction of the tax base for operations in financial instruments circulating in the organised market shall reduce the tax base for operations in securities circulating in the organised securities market.

The amount of loss from operations in financial instruments of time transactions circulating in the organised market whose base assets are securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices which is a result of the cited operations made within a tax period after reduction of the tax base for operations in financial instruments of time transactions circulating in the organised market and of the tax base for operations in securities circulating in the organised securities market shall be accounted in compliance with **Item 16** of this Article and with **Article 220.1** of this Code within the limits of the tax base for operations in financial instruments of time transactions circulating in the organised market.

The amount of loss from operations in financial instruments of time transactions circulating in the organised market whose base assets do not include securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices which is the result of the cited operations made in a tax period shall reduce the tax base for operations in financial instruments circulating in the organised market.

The amount of loss from operations in financial instruments of time transactions circulating in the organised market whose base assets do not include securities, stock indices or other financial instruments of time transactions whose base assets are securities or stock indices which is a result of the cited operations made in a tax period after reduction of the tax base for operations in financial instruments of time transactions circulating in the organised market shall be accounted in compliance with **Item 16** of this Article and **Article 220.1** of this Code within the limits of the tax base for operations in financial instruments of time transactions circulating in the organised market.

If a taxpayer had a loss within a tax period from an aggregate of operations in securities circulating in the organised securities market and a loss from an aggregate of operations in financial instruments of time transactions circulating in the organised market, such losses shall be accounted separately in compliance with **Item 16** of this Article and with **Article 220.1** of this Code.

The provisions of this Item shall apply when estimating the tax base upon the expiry of a tax period, as well as in the event of termination before the end of a tax period of the last taxpayer's agreement made with the persons acting as a tax agent in compliance with this article.

Paragraph nine is **abrogated**.

**16.** The taxpayers having losses in the previous tax periods in respect of operations in securities circulating in the organised securities market and from operations in financial

instruments of time transactions circulating in the organised market shall be entitled to reduce the tax base for operations in securities circulating in the securities market and in respect of operations in financial instruments of time transactions circulating in the organised market accordingly in the current tax period for the whole sum of their loss or for a part of this sum ( to transfer the loss to future periods).

In so doing, the tax base of the current tax period shall be estimated subject to the specifics provided for by this Article and **Article 220.1** of this Code.

The amount of loss from operations in securities circulating in the organised securities market transferred to future periods shall reduce the tax base of corresponding tax periods for such operations.

The amounts of loss from operations in financial instruments circulating in the organised market which have been transferred to future periods shall reduce the tax base of corresponding tax periods for operations in financial instruments of time transactions circulating in the organised market.

It shall not be allowed to transfer to future periods the losses from operations in securities which do not circulate in the organised securities market and from operations in financial instruments of time transactions which do not circulate in the organised market.

A taxpayer shall be entitled to transfer a loss to future periods within the ten years following the tax period in which the loss took place.

A taxpayer shall be entitled to transfer to the current tax period the amount of losses that took place in the previous tax periods. In so doing, the loss that is not transferred to the nearest following year may be transferred in full or in part to the following year from among the subsequent nine years subject to the provisions of this Item.

If a taxpayer has losses within more than one tax period, such losses shall be transferred to future periods in the same order in which they have been suffered.

A taxpayer shall be obliged to keep the documents proving the extent of suffered losses within the whole time period while he reduces the tax base of the current tax period by the sum of previously suffered losses.

Losses shall be accounted by a taxpayer in compliance with **Article 220.1** of this Code when filing the tax return with a tax authority at the end of a tax period.

*According to **Federal Law No. 281-FZ of November 25, 2009**, payers of tax on natural persons' income, in compliance with this Article, shall transfer for the future the losses that have occurred since the tax period of 2010*

**17.** The tax base for operations in securities and for operations in financial instruments of time transactions made by a trust manager shall be estimated in the procedure established by **Items 6-15** of this Article subject to the requirements of this Item.

The amounts paid under a contract of trust management to the trust manager in the form of a remuneration and compensation for the outlays thereof on making operations in securities and financial instruments of time transactions shall be accounted as incomes derived from appropriate operations. In so doing, if the settler of trust management is not the beneficiary under a contract of trust management, such outlays shall be only accounted in estimation of the financial result of the beneficiary.

If a contract of trust management provides for several beneficiaries, the incomes derived from operations in securities and/or from operations in financial instruments of time transactions made by the trust manager in favour of the beneficiary shall be distributed thereto on the basis of the terms of a trust management agreement.

If in the course of trust management operations are made in securities which circulate and/or do not circulate in the organised securities market and/or in financial instruments of time

transactions which circulate and/or do not circulate in the organised market, as well as if in the course of trust management some other kinds of income arise (in particular in the form of dividends or interest), the tax base shall be estimated separately for operations in securities which circulate and which do not circulate in the organised securities market, and for operations in financial instruments of time transactions which circulate and do not circulate in the organised market, and also for each type of income subject to the provisions of this Article. In so doing, the outlays which cannot be directly charged to the reduction of income from operations in securities which circulate or do not circulate in the organised securities market, or to the reduction of income derived from operations in financial instruments of time transactions which circulate or do not circulate in the organised market, or to the reduction of an appropriate kind of income, shall be distributed in proportion to the share of each kind of income.

A negative financial result of individual operations in securities made by a trust manager in a tax period shall reduce the financial result of an aggregate of corresponding operations. With this, the financial result shall be estimated separately for operations in securities circulating in the organised securities market and for operations in securities which do not circulate in the organised securities market.

A negative financial result of individual operations in financial instruments of time transactions made by a trust manager within a tax period shall reduce the financial result of an aggregate of appropriate operations. With this, the financial result shall be estimated separately for operations in financial instruments of time transactions which circulate in the organised market and for operations in financial instruments of time transactions which do not circulate in the organised market.

A trust manager shall be deemed a tax agent with respect to the person in whose interests trust management is effected in compliance with a trust management agreement.

**18.** The tax base for operations in securities, for operations in financial instruments of time transactions, for repo transactions in securities and for transactions of securities' loan shall be estimated by a tax agent upon termination of a tax period, unless otherwise established by this item.

As a tax agent for the purposes of this article, as well as of **Articles 214.3** and **214.4** of this Code, shall be deemed the trustee, broker or depository engaged in payment (remittance) of income in the monetary form related to federal state serial securities with mandatory centralized custody, regardless of the date of registration of their issue, as well as related to other serial securities with obligatory centralized custody pertaining to issues whose state registration was effected or whose registration number was awarded thereto after January 1, 2012, to owners of such securities, and also any other person making transactions in a taxpayer's interests in securities and/or financial instruments of time transactions on the basis of an appropriate contract made with the taxpayer: a contract of trust management, broker's contract, contract of deposit, contract of agency, contract of commission or agency contract. A tax agent shall estimate the tax base of a taxpayer in respect of all the kinds of income derived from the transactions made by the tax agent in the taxpayer's interests in compliance with a contract, with the appropriate expenses to be deducted. A tax agent shall not take into account when estimating the tax base of a taxpayer the income derived from the transactions made on the basis of contracts, other than those cited above.

When a tax agent estimates the tax base for transactions in securities, the tax agent on the basis of a taxpayer's application may take into account the expenses actually made and proved by documents which are connected with acquisition and custody of appropriate securities and which have been made by the taxpayer without participation of the tax agent, in particular prior to making with the tax agent the contract under which the latter estimates the taxpayer's tax base.

As documentary confirmation of appropriate expenses, a natural person must present the document or properly attested copies thereof on the basis of which this tax paying natural person has made appropriate expenses, broker's reports, documents proving transfer of the taxpayer's ownership of appropriate securities, the fact and sum of covering appropriate expenses. If a natural person files the documents' originals, a tax agent must keep copies of such documents.

A tax agent shall also deduct the sums of tax that have not been deducted by the securities' issuer, in particular in the event of making for the taxpayer's benefit the transactions for which the tax base is determined in compliance with **Articles 214.3** and **214.4** of this Code. As a tax agent shall not be deemed a depository engaged in payment (remittance) of income related to serial securities with obligatory centralized custody when making payments to taxpayers to redeem the nominal value of securities. On such occasion, tax shall be paid in compliance with **Article 228** of this Code.

The sum of tax shall be calculated, deducted and paid by a tax agent upon termination of a tax period, as well as before the expiry of a tax period or before the expiry of the validity term of a contract made for the benefit of a natural person in the procedure established by this chapter.

In the event of paying by a tax agent monetary assets (income in kind) before the expiry of a tax period or before the expiry of the validity term of a contract made for the benefit of a natural person, the tax shall be estimated subject the tax base determined in compliance with this article, as well as with **Articles 214.3** and **214.4** of this Code.

A tax agent shall estimate, deduct and remit the tax deducted from the taxpayer at the latest in a month from the end date of a tax period, from the date of expiry of the validity term of the last contract made by a taxpayer with the tax agent, under which the latter estimates the amount of tax, or from the date of payment of monetary assets (transfer of securities). A tax agent is bound to deduct the estimated sum of tax out of the taxpayer's monetary assets in roubles which are at the tax agent's disposal and are kept on broker's accounts, special broker's accounts, special client's accounts and special depository accounts, as well as on bank accounts of the tax agent which is a trust manager that are used by cited manager for separate custody of monetary assets of the trust management founders on the basis of the balance of the client's monetary assets in roubles on appropriate accounts formed as of the date when the tax is deducted.

Payment of monetary assets means for the purposes of this item payment by a tax agent of monetary assets in cash to a taxpayer or third person at the taxpayer's request, as well as remittance of monetary assets onto a taxpayer's bank account or third person's bank account at the request of the taxpayer.

Payment of income in kind means for the purposes of this item the transfer by a tax agent to a taxpayer of securities from the tax agent's depo account (personal account) or from the taxpayer's depo account (personal account) in respect of which the tax agent is vested with the right of their disposal. As payment in kind shall not be deemed for the purposes of this item the transfer by a tax agent of securities at the request of a taxpayer which is connected with execution by the latter of transactions in securities, provided that the monetary assets related to appropriate transactions have been entered in full onto the taxpayer's account (including the bank account thereof) opened with the given tax agent, as well as the transfer (re-registration) of securities onto the depo account serving for certification of a given taxpayer's right of ownership which is opened with a custodian exercising its activities in compliance with the legislation of the Russian Federation.

When paying income in kind, the sum of payment shall be estimated as the amount of outlays on acquisition of the securities to be transferred to a taxpayer that have been actually made and proved by documents.

To estimate the tax base, a tax agent shall determine the financial result in compliance with Item 12 of this article, Articles 214.3 and 214.4 of this Code for the taxpayer, which monetary assets (income in kind) are to be paid to, as of the date of the income payment.

If the financial result estimated as a progressive total exceeds the amount of the current payment of monetary assets (income in kind), tax shall be estimated and paid by a tax agent on the amount of the current payment.

If the financial result estimated as a progressive total does not exceed the amount of the current payment of monetary assets (income in kind), tax shall be estimated and paid by a tax agent on the total sum of the financial result estimated by a progressive total.

When a taxpayer receives various kinds of income (in particular, income taxed at various tax rates) derived from operations made by a tax agent for the taxpayer's benefit, an order of their payment to the taxpayer in case of payment of monetary assets (income in kind) before the expiry of a tax period (before the expiry of the validity term of a trust management agreement) shall be established by agreement of the taxpayer and tax agent.

Where it is impossible to deduct in full the estimated amount of tax in compliance with this item, a tax agent shall determine if it is possible to deduct the amount of tax before the earliest of the following dates: a month from the end date of the tax period in which the tax agent could not deduct in full the estimated tax amount; the date of termination of the last contract made by the taxpayer and tax agent under which the tax agent estimated the sum of tax.

Where it is impossible to deduct from a taxpayer in full or in part the estimated amount of tax because of termination of the last contract made by the taxpayer and tax agent and under which the latter estimated the amount of tax, the tax agent within a month as from the time of occurrence of this circumstance shall notify in writing the tax authority at the place of registration thereof of the impossibility of the cited deduction and of the amount of the taxpayer's debt. On such an occasion, tax shall be paid by the taxpayer in compliance with **Article 228** of this Code.

A report on the impossibility of deducting the amount of tax on the basis of the results of a tax period shall be forwarded by a tax agent to the tax authorities before March 1 of the year following the expired tax period.

**19.** The specifics of estimating the tax base for REPO transactions in securities and for operations of securities' loaning are established by **Articles 214.3** and **214.4** of this Code respectively.

#### **Article 214.2.** Specifics of Determination of the Tax Base When Receiving Incomes in the Form of Interest on Bank Deposits

In respect of incomes in the form of interest on bank deposits the tax base shall be determined as the excess of the amount of interest accrued under the terms of a contract over the amount of interest calculated for deposits in roubles on the basis of the **refinancing rate** of the Central Bank of the Russian Federation increased by five percentage points, effective within the period for which the said interest is accrued and on the basis of 9 per cent annual receipts for deposits in foreign currency, unless otherwise provided for by this Chapter.

#### **Article 214.2.1.** Peculiarities of Determining the Tax Base in Deriving Incomes in the Form of a Fee for the Use of Monetary Means of Members of a Credit Consumer Cooperative (Shareholders), Interest for the Use by an Agricultural Credit Consumer Cooperative of Means Attracted in the Form of Loans from Members of an Agricultural Credit Consumer Cooperative or from Associated members of an Agricultural Credit Consumer Cooperative

With respect to incomes in the form of a fee for the use of monetary means of members of a credit consumer cooperative (shareholders), interest for the use by an agricultural credit

consumer cooperative of means attracted in the form of loans from members of an agricultural credit consumer cooperative or from associated members of an agricultural credit consumer cooperative, the tax base shall be determined as a surplus of the amount of the said fee and interest charged in accordance with the conditions of the agreement over the amount of the fee and interest calculated proceeding from the **refinancing rate** of the Central Bank of the Russian Federation increased by five per-cent points and effective during the period for which the said interest was charged.

**Article 214.3.** Specifics of Estimating the Tax Base for the REPO Transactions Whose Objects Are Securities

1. The tax base for the REPO transactions whose objects are securities shall be estimated in compliance with this article.

2. REPO transactions in securities shall mean for the purposes of this article the operations complying with the provisions of **Paragraph One of Item 1 of Article 282** of this Code.

For the purposes of this article, the second part of a REPO agreement, including in respect of the REPO transactions for which execution of the second part thereof is determined by the time of claiming for it, shall be executed at the latest one year after the time for execution of the first part of the REPO agreement fixed by it.

For the purposes of this article, as the dates of execution of the first and second parts of a REPO agreement shall be deemed the dates when the parties to the REPO transaction actually discharge their obligations as to the first and second part of the REPO transaction respectively.

With this, the actual selling (acquisition) price of a security both for the first part of a REPO transaction and for the second part thereof shall be applied, regardless of the market (estimated) price of such securities. The selling (acquisition) prices of securities under both parts of a REPO agreement shall be estimated subject to the accumulated interest (coupon) income as of the date when each part of the REPO agreement is executed.

For the purposes of this article, the second part of a REPO agreement shall be deemed improperly executed (non-executed), if upon the expiry of the time period for execution of the second part of the REPO agreement, as well as upon the expiry of a year after execution of the time of execution of the first part of the REPO agreement, if the time for execution of the second part of the REPO agreement is determined by the time of claiming for it, the obligation in respect of the second part of the REPO agreement is not executed in full or in part.

In the event of the improper execution (non-execution) of the second part of a REPO agreement, as well as preschedule dissolution of a REPO agreement, the parties to the REPO transaction shall account incomes derived from selling (outlays on acquisition of) securities with respect to the first part of the REPO agreement in the procedure established by **Article 214.1** of this Code, unless otherwise established by this article. In so doing, incomes derived from selling (outlays on acquisition) of securities with respect to the first part of the REPO agreement shall be accounted as of the date of execution of the second part of the REPO agreement (fixed by the agreement) or as of the date of preschedule dissolution of the REPO agreement as agreed by the parties thereto. In so doing, the incomes derived from selling (outlays on acquisition) shall be estimated on the basis of the market value of securities as of the date of transfer of the securities' ownership when executing the first part of the REPO agreement.

For the purposes of this article, the market price of a security shall be fixed in compliance with **Item 4 of Article 212** of this Code.

When making a REPO transaction, no changes shall be made in the acquisition price of securities and the rate of accumulated interest (coupon) income as of the date of execution of

the first part of the REPO agreement for the purposes of taxing incomes derived from their subsequent sale after acquisition of securities in compliance with the second part of the REPO agreement. When selling securities in compliance with the first and second parts of a REPO agreement, the tax base shall not be estimated in compliance with **Article 214.1** of this Code.

When executing (terminating) obligations under REPO transactions by way of setting off homogeneous counterclaims, the taxation procedure established by this article shall not be changed. As homogeneous shall be deemed claims for transfer of securities of the same issuer which provide for the same extent of rights, are of the same kind, category (type) or pertain to the same unit investment fund (as regards investment shares of unit investment funds), as well as claims for paying monetary assets in the same currency.

If within the time period between the dates of execution of the first and second parts of a REPO agreement the securities which constitute the object of a REPO transaction are converted, in particular in connection with splitting, consolidation or alteration of their nominal value, or the individual number (code) of an additional issue of such securities is cancelled, or the individual state registration number of an issue (the individual number (code) of an additional issue), the individual identification number (the individual identification number (individual number (code) of an additional issue) of such securities have been changed, the cited circumstances shall not change the taxation procedure for the given REPO transaction established by this article.

The rules of this article shall apply to the taxpayer's REPO transactions made on account thereof by commissioners, mandatories, agents or trust managers (in particular through a trade promoter in the securities market and through sales at a stock exchange) on the basis of appropriate civil law contracts.

**3.** If prior to the date of execution of the second part of a REPO agreement the seller under the first part of the REPO agreement has transferred to the purchaser under the first part of the REPO agreement in exchange for the securities transferred in the first part of the REPO agreement or the securities into which they are converted, some other securities, the tax base for operations in the securities transferred (received) under the first part of the REPO agreement and in the securities transferred (received) as a result of the exchange shall be estimated in the procedure established by **Article 214.1** of this Code for operations of securities' purchase and sale.

The seller under the first part of a REPO agreement shall recognize the following:

the income (loss) resulting from selling the securities transferred under first part of the REPO agreement which is estimated as of the date of execution of the first part of the REPO agreement on the basis of the market price of the securities which constitute the object of the REPO transaction or , if there is no market price of securities, on the basis of their estimated price;

the income (loss) from acquisition of the securities transferred under the first part of the REPO agreement which is estimated as of the date of exchanging securities on the basis of the market price of the securities which are the object of the REPO transaction or, if there is no market price of securities, on the basis of their estimated price;

the income (loss) from selling the securities transferred in exchange for the securities transferred under the first part of the REPO agreement or for the securities, they are converted into, which is estimated as of the date of exchanging the securities on the basis of the market value of the securities transferred by way of exchange or, if there is no market value of securities, on the basis of their estimated price.

The purchaser under the first part of a REPO agreement shall recognize the following:

the income (loss) resulting from acquisition of the securities received under first part of the REPO agreement which is estimated as of the date of execution of the first part of the REPO transaction on the basis of the market price of the securities which constitute the object



of the REPO transaction or, if there is no market price of the securities, on the basis of their estimated price;

the income (loss) from selling the securities received under the first part of the REPO agreement which is estimated as of the date of exchanging securities on the basis of the market price of the securities which are the object of the REPO transaction or, if there is no market price of the securities, on the basis of their estimated price;

the income (loss) from acquiring the securities received in exchange for the securities transferred under the first part of the REPO agreement or for the securities into which they are converted which is estimated as of the date of exchanging the securities on the basis of the market value of the securities transferred by way of exchange or, if there is no market value of the securities, on the basis of their estimated price.

For the purposes of this article, as a loss shall be deemed the negative financial result estimated in compliance with **Item 12 of Article 241. 1** of this Code.

**4.** For the purposes of this article, for the seller under the first part of a REPO agreement the difference between the acquisition price of securities under the second part of the REPO agreement and the selling price of securities under the first part of the REPO agreement shall be deemed:

income in the form of interest on a loan derived from REPO transactions - if such difference is negative;

outlays on payment of interest on a loan paid in respect of REPO transactions - if such difference is positive.

**Abrogated** from January 1, 2012.

**5.** For the purposes of this article, in respect of the purchaser under the first part of a REPO agreement the difference between the selling price of securities under the second part of the REPO agreement and the acquisition price of securities under the first part of the REPO agreement shall be deemed:

income in the form interest on a loan derived from REPO transactions- where such difference is positive;

outlays on payment of interest on a loan paid in respect REPO transactions - where such difference is negative.

**Abrogated** from January 1, 2012.

**6.** The tax base for REPO transactions shall be estimated as incomes in the form of interest on loans gained in a tax period from an aggregate of REPO transactions which are decreased by the sum of outlays in the from of interest on loans paid within the tax period in respect of the aggregate of REPO transactions.

The cited outlays shall be taken for taxation purposes within the limits of the sums estimated on the basis of the **refinancing rate** of the Central Bank of the Russian Federation which is effective as of the date of payment of interest on REPO transactions which is 1.8 times as much for outlays shown in roubles and 0.8 times as much for outlays shown in foreign currency.

Outlays in the form of exchange, broker's and depository fees connected with making REPO transactions shall reduce the tax base for REPO transactions after imposing the restrictions established by **Paragraph Two** of this item.

If the amount of the outlays taken for taxation purposes in compliance with **Paragraphs Two** and **Three** of this item exceeds the amount of the incomes cited in this item, the tax base for REPO transactions in an appropriate tax period shall be deemed equal to zero.

The sum of excessive outlays shall be deemed a taxpayer's loss in respect of REPO transactions.

A loss in respect of REPO transactions shall be taken as reducing the incomes derived

from transactions in securities circulating in the organized securities market, as well as in securities that do not circulate in the organized securities market, in the proportion estimated as the ratio of the value of the securities being the object of REPO transactions that circulate in the organized securities market and the value of the securities being the object of REPO transactions that do not circulate in the organised securities market in the total value of the securities being the object of REPO transactions.

The value of securities used for determining the cited proportion shall be estimated on the basis of the actual value of securities in the second part of REPO transactions properly made in the appropriate tax period.

**7.** As regards a REPO transaction, payments on securities in respect of which the right of receiving them was gained by the purchaser under the first part of a REPO agreement during the period between the dates of execution of the first and second parts of the REPO agreement may be charged to the reduction of the amount of the monetary funds to be paid by the seller under the first part of the REPO agreement in case of subsequent acquisition of securities under the second part of the REPO agreement or shall be remitted by the purchaser under the first part of the REPO agreement to the seller under the first part of the REPO agreement in compliance with this agreement. On the cited occasions, such payments shall not be deemed the purchaser's incomes under the first part of the REPO agreement and shall be included into the seller's incomes under the first part of the REPO agreement.

Interest (coupon) income shall be accounted while estimating the seller's tax base under the first part of a REPO agreement subject to the provisions of **Article 214.1** of this Code and shall not be accounted while estimating the tax base for interest (coupon) income from the securities constituting the object of the REPO transaction for the purchaser under the first part of the REPO agreement.

The incomes defined by this article shall be taxed at the tax rates established by **Article 224** of this Code, subject to the provisions of **Item 25 of Article 217** of this Code.

The provisions of this item shall not extend to the seller under the first part of a REPO agreement, if the sold securities have been obtained by him in another REPO transaction or in an operation of securities' loaning.

**8.** If within the period between the dates of execution of the first and second parts of a REPO agreement the issuer made a coupon payment (partial redemption of the nominal value of securities), such payments, where it is so provided for by a contract, shall change the selling price (acquisition price) under the second part of the REPO agreement which is applied in estimation of incomes (outlays) in compliance with **Items 4 and 5** of this article.

If a REPO agreement does not provide for registration of coupon payments (of partial redemption of the nominal value of securities) in estimating the selling price (acquisition price) under the second part of the REPO agreement, such payments shall not affect the amount of incomes (outlays) estimated in compliance with **Items 4 and 5** of this article.

**9.** If a REPO agreement provides for making settlements within the period between the dates of execution of the first and second parts of the REPO agreement (remittance of monetary assets and/or transfer of securities) by participants of a REPO transaction in case of changing the price of the securities constituting the object of the REPO transaction or in other instances provided for by the agreement, such settlements, if not otherwise provided for by the agreement, shall change the selling price (acquisition price) under the second part of the REPO agreement used in estimation of the incomes (outlays) defined in compliance with **Items 4 and 5** of this article.

**10.** For the purposes of this article, as the date of obtaining incomes (making outlays) in respect of a REPO transaction shall be deemed the date of actual discharge (termination) of obligations of participants thereof under the second part of the REPO agreement subject to the

specifics established by Items 4 and 5 of this article.

**11.** In case of improper execution of the second part of a REPO agreement the procedure for settling counterclaims established by the REPO agreement may be applied.

The procedure for settling counterclaims in case of improper execution (non-execution) of the second part of a REPO agreement must provide for the parties' duty to complete mutual settlements under the REPO agreement within 30 calendar days after the time of execution of the second part of the REPO agreement.

In case of following the procedure for settling counterclaims established by a REPO agreement which satisfies the requirements established by this item, the tax base for a REPO transaction shall be estimated in the following way:

the seller under the first part of the REPO agreement shall recognise for the taxation purposes execution of the second part of the REPO agreement and shall account for taxation purposes incomes (outlays) in the procedure established by **Item 4** of this article, as well as the incomes (loss) resulting from conversion (purchase and sale) of the securities that have not been redeemed under the second part of the REPO agreement which are estimated as of the date of competing the procedure for settling mutual claims on the basis of the value of the securities which are the object of REPO transactions to the extent coordinated by the parties to a REPO transaction which is estimated subject to the market value of the securities as of the date of discharging obligations under the second part of the REPO agreement;

the purchaser under the first part of the REPO agreement shall recognize for the taxation purposes execution of the second part of the REPO agreement (shall account for the taxation purposes the incomes (outlays) in the procedure established by **Item 5** of this article), as well as acquisition of the securities which were not sold under the second part of the REPO agreement on the basis of the value of the securities which are the object of a REPO transaction to the extent coordinated by the parties to the REPO transaction which is estimated subject to the market value of the securities as of the date of discharging obligations under the second part of the REPO agreement.

The incomes (outlays) resulting from operations of purchase and sale of securities shall be accounted for the taxation purposes in the procedure established by **Articles 212 and 214.1** of this Code, and the market value of securities shall be estimated in compliance with **Item 4 of Article 212** of this Code.

**12.** For the purposes of this article, as opening of a short position with respect to securities (hereinafter referred to in this article as a short position) constituting the object of a REPO transaction and held by the purchaser under the first part of a REPO agreement shall be deemed the sale by a taxpayer of a security where there are obligations to return the securities obtained under the first part of the REPO agreement.

As opening of a short position shall not be deemed the following:

sale of securities under the first and second parts of a REPO agreement;

transfer of securities to the borrower (return thereof to the lender) under a contract of securities' loaning;

transfer of securities on a returnable basis in compliance with the terms defined by **Item 9** of this article;

conversion of the securities constituting the object of a REPO transaction, in particular in connection with their splitting, or consolidation, or alteration of their nominal value, or cancellation of the individual number (code) of an additional issue of such securities, or alteration of the individual state registration number of an issue (individual number (code) of an additional issue), individual identification number (individual number (code) of an additional issue) of such securities;

redemption of the securities certifying the rights with respect to securities of a Russian and/or foreign issuer (presented securities) when receiving the presented securities;  
other kind of retirement of the securities the income on which is not included into the tax base.

A short position shall be opened on condition of the absence of the securities pertaining to the same issue (an additional issue), of investment shares of the same unit investment fund under ownership of the purchaser under the first part of a REPO agreement whose sale will not cause opening of the cited short position.

**13.** A short position shall be closed by way of acquisition (of obtainment for ownership for the reasons, other than a REPO transaction, of a contract of securities' loaning, obtainment on a returnable basis in compliance with the terms defined by **Item 8** of this article) of the securities pertaining to the same issue (additional issue), of the investment shares of the same unit investment fund for which the short position is opened.

A short position shall be closed prior to the time of acquisition of the securities of the same issue (additional issue), of the investment shares of the same unit investment fund by the purchaser under the first part of a REPO agreement whose subsequent (immediate) alienation will not cause the short position's opening. If within the same day transactions of acquisition and sale (retirement) of securities were concurrently made, the short position shall be closed on the basis of the results of this day, solely if the number of acquired securities exceeds the number of sold securities.

In the first turn, shall be closed the short position which has been opened first (the FIFO method).

**14.** The tax base for the operations connected with opening a short position shall be estimated in the following procedure.

The taxpayer's incomes (outlays) resulting from conversion (acquisition) or retirement of a security shall be accounted when opening (closing) a short position in the procedure established by **Article 214.1** of this Code, as of the date of closing the short position.

In the event of opening a short position with respect to the securities, on which charging of interest (coupon) income is provided for, the taxpayer that has opened such short position shall recognize the interest (coupon) income to be estimated as the difference between the sum of the accumulated interest (coupon) income as of the date of closing the short position (including the sums of interest (coupon) income that have been paid by the issuer within the period between the date of opening and the date of closing the short position) and the sum of accumulated interest (coupon) income as of the date of opening the short position. Such interest (coupon) outlays shall be recognized as of the date of closing the short position.

**15. Abrogated** from January 1, 2012.

**Article 214.4.** The Specifics of Estimation of the Tax Base for Operations of Securities' Loaning

**1.** The tax base for operations of securities loaning shall be estimated in compliance with this Article.

**2.** Securities shall be provided for loaning on the basis of a contract of loan made in compliance with the **legislation** of the Russian Federation or legislation of foreign states which meets the terms defined by this Item (hereinafter also referred to a contract of loan).

A procedure for estimating the tax base which is established by this article shall apply to operations of securities' loaning made on account of a taxpayer by an agent, commission agent, proxy or trust manager acting on the basis of a civil law agreement, in particular through a trade promoter in the securities market (a stock exchange).

For the purposes of this Chapter, a contract of loan issued (received) in the form of

securities shall provide for payment of interest in monetary terms.

The rate of interest or a procedure for fixing it shall be established by the terms of a contract of loan. For the purpose of estimating interest, the cost of the securities transferred under a contract of loan, in particular under a contract of loan aimed at making marginal transactions, shall be deemed to be equal to the market price of corresponding securities as of the date when contract of loan is made or, if there is no market price, at the estimated price.

For the purposes of this Article, the market value and estimated value of a security shall be estimated in compliance with **Items 5 and 6 of Article 280** of this Code respectively.

Where it is provided for by a contract of loan, the cost of the securities transferred by a broker to a client under a contract of loan may be likewise estimated (in particular on a periodical basis) according to the rules for assessment of supplying a broker's client under granted loans which are established by the federal executive authority responsible for the securities market. In so doing, the cost of securities shall be estimated on the basis of the latest price of a security fixed in compliance with the a stock exchange's documents.

The date of granting (repaying ) a loan shall be defined as the date when the borrower (creditor) actually receives the securities.

For the purposes of this Article, the validity term of a contract of loan granted (received) in the form of securities shall not exceed one year.

**3.** The operation of loaning securities shall be deemed improperly made (non-made) in the following instances:

if at the time fixed by the contract for the loan's return the obligation to return securities is not terminated in full or in part;

if the contract of loan does not fix the time for the securities' return (a contract of loan with a non-fixed term) or if the cited time is determined by the time of claiming and within a year from the date when the loan was granted the securities were not returned by the borrower to the creditor;

if the obligation to return securities was terminated by paying monetary assets to the creditor or by transfer of property, other than securities.

In the event of the improper making (not making) an operation of securities loaning, the operation's participants shall account the income derived from selling (outlays on acquisition of) the securities constituting the object of loan in the procedure established by **Article 214.1** of this Code, unless otherwise established by this Article. In so doing, the incomes derived from selling (outlays on acquisition of) the securities constituting the object of loan shall be accounted as of the date when the loan is issued on the basis of the securities' market value or, if there is no market value thereof, on the basis of their estimated prices.

**4.** When transferring securities as a loan and when returning such securities, the tax base in compliance with **Article 214.1** of this Code shall not be estimated by the creditor, except as established by this article. In so doing, the outlays on acquisition of the securities transferred under a contract of loan shall be accounted by the creditor in the course of subsequent (after the loan's return) sale of the cited securities subject to the provisions of Article 214.1 of this Code.

**5.** The interest received by the creditor under a contract of loan shall be included into the composition of the incomes derived from operations of securities' loaning.

The interest paid by the borrower under a contract of loan shall be deemed outlays within the limits of the sums estimated on the basis of the **refinancing rate** of the Central Bank of the Russian Federation effective on the date of the interest's payment increased by 1.1 for interest shown in roubles and on the basis of 9 per cent for interest shown in foreign currency.

Outlays in the form of interest paid under a contract of loan shall be charged to the reduction of the incomes gained from operations of securities' loaning, as well as of the incomes gained from operations in the securities attracted under contracts of loan (from operations of

purchase and sale in compliance with **Item 8** of this Article and from REPO transactions in the cited securities).

The tax base for operations of securities' loaning shall be defined as incomes in the form of interest gained in a tax period under an aggregate of the contracts of loan under which a taxpayer acts as the creditor reduced by the amount of outlays in the form of the interest paid in the tax period under the aggregate of the contracts of loan under in respect of which the taxpayer acts as the borrower, subject to the provisions of Paragraph Two of this Item.

If the sum of the outlays cited in this Item which is estimated subject to the provisions of **Paragraph Two** of this Item exceeds the sum of the incomes cited in this Item, the tax base for operations of securities loaning in the corresponding tax period shall be deemed to be equal to zero.

With this, the amount of excess of the outlays cited in this Item which are estimated subject to the provisions of **Paragraph Two** of this Item over the incomes mentioned in this Item shall be charged to the reduction of the incomes from operations in securities circulating in the organised securities market, as well as of the incomes from operations in securities not circulating in the organised securities market which are gained by the taxpayer in the same tax period in the proportion estimated as a ratio of the cost of the securities constituting the object of loaning operations which circulate in the organised securities market and of the cost of the securities constituting the object of loaning operations which do not circulate in the organised securities market in the total cost of the securities constituting the object of loaning operations. The cost of securities applied for defining the cited proportion shall be estimated in compliance with **Items 5 and 6 of Article 280** of this Code.

**6.** Under a contract of loan, the payments made by the issuer in respect of securities within the period of the validity term of the contract of loan may be charged to the increase of the amount of the monetary assets to be paid by the borrower to the creditor or may be remitted by the borrower to the creditor in compliance with the contract of loan. With this, such payments shall not be deemed the borrower's incomes and shall be included into the creditor's incomes.

The interest (coupon) income shall be accounted when estimating the creditor's tax base subject to the provisions of **Article 214.1** of this Code and shall not be accounted when determining the borrower's tax base for interest (coupon) income on the securities constituting the object of loan.

The incomes defined by this Item shall be taxed at the tax rates established by **Article 224** of this Code.

The provisions of this Article shall not extend to the creditor if securities are obtained by him under another contract of loan.

**7.** In the event of improper making (not making) an operation of securities' loaning, the procedure for settling counterclaims established by a contract of loan may be applied.

The procedure for settling counterclaims in case of improper execution (non-execution) of an operation of securities loaning shall provide for the parties' duty to complete mutual settlements under a contract of loan within 30 calendar days after the time of the loan's return.

When following the procedure for settling counterclaims established by a contract of claim which satisfies the requirements contained in this item, the tax base for the operation of securities' loaning shall be estimated in the following procedure:

the creditor recognises for taxation purposes the incomes cited in **Item 5** of this Article in the procedure established by Item 5 of this Article and the income (loss) from selling the securities which are not returned under a contract of loan estimated as of the end date of the procedure for settling counterclaims on the basis of the market price of the security constituting the object of the operation of loan or, if there is no market price, on the basis of the estimated price of the security constituting the object of the operation of loan;

The borrower shall recognise for taxation purposes the outlays cited in **Item 5** of this

Article in the procedure established by Item 5 of this Article and the income (loss) from acquisition of the securities which are not returned under a contract of loan which is estimated as of the end date of the procedure for settling counterclaims on the basis of the market price of the security constituting the object of the operation of loan or, if there is no market price, on the basis of the estimated price of the security.

Incomes (outlays) resulting from operations of securities purchase and sale shall be accounted for taxation purposes in the procedure established by **Article 214.1** of this Code.

**8.** The securities obtained under a contract of loan shall be sold on condition that the borrower does not have in ownership thereof the securities pertaining to the same issue (additional issue) and investment shares of the same investment fund.

Incomes from operations of selling the securities constituting the object of an operation of loan shall be accounted in the procedure established by **Article 214.1** of this Code, subject to the provisions of **Item 5** of this Article. The cited incomes shall be accounted for the taxation purposes when repurchasing securities.

Outlays on repurchasing securities and outlays connected with acquisition and sale of corresponding securities shall be charged for the taxation purposes in the procedure provided for by **Article 214.1** of this Code. The cited outlays shall be accounted for taxation purposes when repurchasing securities.

When repurchasing securities, the outlays on the securities which have been sold first shall be accounted first (the FIFO method).

**9.** If prior to a loan's return the securities which constitute the object of the REPO transaction are converted, in particular in connection with the splitting, consolidation or alteration of their nominal value, or the individual number (code) of an additional issue of such securities is cancelled, or the individual state registration number of an issue (the individual number (code) of an additional issue), the individual identification number (the individual identification number (individual number (code) of an additional issue) of such securities have been changed, the cited circumstances shall not change the taxation procedure established by this Article.

**10.** The incomes connected with REPO transactions in the securities constituting the object of operations of loan shall be accounted in the procedure established by **Article 214.3** of this Code.

**Federal Law** No. 336-FZ of November 28, 2011 supplemented this Code with Article 214.5. The Article shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law

**Article 214.5.** The Specifics of Estimating the Tax Base for the Incomes Received by Parties to an Investment Partnership

**1.** The natural persons who are parties to an agreement of investment partnership shall estimate the tax base for the incomes derived from participation in the investment partnership and shall pay tax in compliance with this chapter.

**2.** The tax base for incomes derived from participation in an investment partnership shall be estimated by taxpayers on the basis of data on the investment partnership's receipts and expenditures which are provided thereto by the party to the agreement of investment partnership which is the managing partner responsible for keeping tax records.

**3.** The tax base for incomes derived from participation in an investment partnership shall be estimated separately in respect of the following operations made within the framework of the investment partnership:

- 1) in the securities circulating in the organised securities market;
- 2) in the securities that do not circulate in the organised securities market;
- 3) with financial instruments of forward transactions that do not circulate in the organised market;

- 4) in participatory shares in the authorised capital of organisations;
- 5) other operations of an investment partnership.

4. The tax base for the incomes derived from participation in an investment partnership shall be estimated separately from the tax base for the incomes derived from the operations cited in **Article 214.1** of this Code, unless otherwise established by this article.

5. Dividends on the securities and participatory shares in the authorized capital of organisations acquired within the framework of the activities exercised by an investment partnership shall be accounted by taxpayers in compliance with **Article 214** of this Code.

6. The amounts corresponding to the share of a taxpayer in the outlays made by a managing partner in the interests of all the partners for running the partners' common business shall reduce incomes derived from the operations cited in **Item 3** of this article in proportion to the sums of income from appropriate operations.

The taxpayer's shares in such outlays shall be estimated in compliance with the shares of participation thereof in the incomes of an investment partnership established by the agreement of investment partnership.

Where such outlays are made out of the assets kept on the account of an investment partnership, the sum of appropriate taxpayer's outlays shall be estimated by him on the basis of the data presented by the party to the agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records).

7. The taxpayer's outlays on paying remuneration to the parties to an agreement of investment partnership which are managing partners for running the partners' common business shall reduce the incomes derived from the operations cited in **Item 3** of this article in proportion to the amounts of incomes derived from appropriate operations.

If remuneration to the parties to an agreement of investment partnership which are managing partners is paid out of the assets kept on the account of the investment partnership, the sum of the taxpayer's appropriate outlays shall be estimated on the basis of the data presented by the managing partner responsible for keeping tax records.

8. The tax base for incomes derived from participation in an investment partnership shall be estimated as the sums of income derived from the operations cited in **Item 3** of this article reduced by the amounts of outlays cited in **Items 6** and **7** of this article and of losses (including the sums of tax deductions estimated in compliance with **Article 220.2** of this Code when carrying forward the losses derived from participation in an investment partnership) in respect of appropriate operations, unless otherwise provided for by this article.

If the value obtained in such a way is negative, it shall be deemed the taxpayer's loss from participation in the investment partnership in respect of respective operations, while the tax base for appropriate operations shall be deemed equal to zero.

9. Where a taxpayer participates in several investment partnerships, the tax base for the incomes derived from participation in the investment partnership shall be estimated by him in total for all the investment partnerships in which he participates, subject to the provisions of **Item 3** of this article.

The provisions of this item shall also extend to the sums of tax deductions estimated in compliance with **Article 220.2** of this Code when carrying forward the losses received from participation in an investment partnership.

10. The taxpayers that have suffered losses in the previous tax periods from participation in an investment partnership resulting from the operations cited in **Item 3** of this article are entitled to reduce the tax base for incomes from participation in the investment partnership in respect of appropriate operations in the current tax period by the total amount of the loss received by them or by a part of this amount (to carry the loss forward), unless otherwise provided for by this article.



In so doing, the tax base for the current tax period shall be estimated subject to the specifics provided for by this article and **Article 220.2** of this Code.

The sums of loss resulting from operations of an investment partnership in securities circulating in the organised securities market that have been carried forward shall reduce the tax base of appropriate tax periods for such operations.

The sums of losses resulting from operations of an investment partnership in securities that do not circulate in the organised securities market carried forward shall reduce the tax base of respective tax periods for such operations.

The sums of losses resulting from operations of an investment partnership in financial instruments of forward transactions not circulating in the organised market that have been carried forward shall reduce the tax base of appropriate tax periods for such operations.

The sums of losses resulting from operations of an investment partnership with participatory shares in the authorized capital of organisations carried forward shall reduce the tax base of appropriate of appropriate tax base for such operations.

The sums of losses resulting from other operations of an investment partnership carried forward shall reduce the tax base of appropriate tax periods for such operations.

A taxpayer is entitled to carry forward a loss within the ten years following the tax period when this loss takes place.

A taxpayer is entitled to carry to the current tax period the sum of losses received in the previous tax periods. In so doing, a loss which is not carried forward to the nearest following year may be carried forward in full or in part to the next year from the subsequent nine years subject to the provisions of this item.

If a taxpayer has suffered losses in more than one tax period, such losses shall be carried forward to future periods in the same order as they have been suffered.

A taxpayer is bound to keep the documents proving the extent of the suffered loss within the whole period while he is reducing the tax base of the current tax period by the sums of losses suffered before.

Losses shall be accounted by a taxpayer in compliance with **Article 220.2** of this Code when filing the tax declaration with a tax authority upon termination of a tax period.

**11.** Taxpayers are not entitled to account for taxation purposes the losses resulting from participation in an investment partnership which were suffered in the tax period when they joined an agreement of investment partnership earlier made by other parties thereto, in particular as a result of the cession of rights and duties under the agreement to other persons.

**12.** Should a taxpayer withdraw from an investment partnership as a result of the cession of rights and duties under the agreement of investment partnership, as well as the apportionment of a share from the parties' common property, the tax base shall be estimated as the income received by the taxpayer when withdrawing from the investment partnership reduced by the amount of the taxpayer's contribution to the investment partnership and/or the sums paid by the taxpayer for acquisition of the rights and duties under the agreement of investment partnership.

If when withdrawing from an investment partnership a taxpayer receives incomes in the form of property and/or property rights which are under the partners' common ownership, the amount of appropriate incomes shall be estimated on the basis of the data of tax records of the investment partnership. In so doing, when returning property and/or property rights to the parties to an agreement of investment partnership, the negative difference between the estimate of the property and/or property rights and the estimate at which this property and/or property rights have been previously transferred under the agreement of investment partnership shall not be deemed a loss for the taxation purposes.

If the value estimated in compliance with this item is negative, it shall be deemed the taxpayer's loss received when withdrawing from the investment partnership, while the tax base

shall be deemed equal to zero.

The taxpayer's loss received when withdrawing from an investment partnership shall be accounted when estimating the tax base for the operations cited in **Subitem 2 of Item 1 of Article 214.1** of this Code.

**13.** When dissolving or terminating an agreement of investment partnership, in the tax base shall be included the incomes from the operations cited in **Item 3** of this article which have been derived from the investment partnership's operations within the tax period when the agreement of investment partnership became invalid and shall not be included in the incomes received by the taxpayer when dissolving or terminating this agreement.

When estimating the tax base in case of dissolution or termination of an agreement of investment partnership, the incomes resulting from the operations cited in **Item 3** of this article shall be reduced by the sum of the incomes cited in **Items 6 and 7** of this article and shall not be reduced by the amount of the taxpayer's contribution to the partners' common business.

If the value estimated in compliance with this item in respect of one or several kinds of income cited in **Item 3** of this article is negative, the appropriate sums shall be deemed the taxpayer's loss received when dissolving or terminating the agreement of investment partnership, and the tax base shall be deemed equal to zero.

The taxpayer's losses received when dissolving or terminating an agreement of investment partnership shall be accounted by him in estimation of the tax base in compliance with **Item 9** of this article and/or shall be carried forward in compliance with **Item 10** of this article and **Article 220.2** of this Code.

As the taxpayer's loss shall not be deemed the negative difference between the estimate of the property and the property rights transferred thereto when dissolving or terminating an agreement of investment partnership and the estimate at which this property and/or these property rights have been previously transferred under the agreement of investment partnership.

**14.** Where taxes are not fully subtracted by the issuer of securities from the incomes of natural persons who are tax residents of the Russian Federation in the form of interest (coupon, discount) on the securities acquired within the framework of participation in an agreement of investment partnership, the managing partner responsible for keeping tax records shall be deemed a tax agent.

#### **Article 215.** Features of the Determination of Income of Specific Categories of Foreign Citizens

**1.** The following income shall not be taxable:

1) of heads and also staff of missions of a foreign state having a diplomatic or consular rank, members of their families staying with them if they are not citizens of the Russian Federation, except for the incomes from sources in the Russian Federation which are not connected to the diplomatic or consular service of these natural persons;

2) of the administrative-clerical staff of missions of a foreign state and members of their families staying with them, if they are not citizens of the Russian Federation or do not live in Russian Federation permanently, except for the incomes from sources in the Russian Federation which are not connected to the said individuals' employment with these missions;

3) of supporting personnel of the missions of a foreign state who are not citizens of the Russian Federation or do not live in the Russian Federation permanently which they receive when in their line of duty in the mission of a foreign state;

4) employees of international organisations - according to the charters of these organisations.

**2.** Provisions of this Article shall apply in cases when legislation of a corresponding

foreign state had established a similar order concerning persons listed in **Subitems 1-3 of Item 1** of this Article, or if such norm is stipulated by an international treaty (agreement) of the Russian Federation. The **list** of foreign states and international organisations concerning whose citizens (employees) the standards of this Article shall be applied is defined by a federal body of the executive power in the area of international relations together with the Ministry of Finance of the Russian Federation.

**Article 216.** The Tax Period

The tax period shall be defined as a calendar year.

**Article 217.** Non-Taxable Income (Exempt from Taxation)

The following types of personal income shall be exempt from taxation (not object to taxation):

1) state allowances, excluding temporary disability allowance, (including the allowance for care of a sick child) as well as other disbursements and compensations paid according to the effective legislation. Here, tax exempt allowances include unemployment benefit, and maternity and birth of a child allowance;

2) the state and labour pensions awarded in the order, established by the current legislation, social pension supplements paid under the legislation of the Russian Federation and the legislation of constituent entities of the Russian Federation;

3) all types of compensatory disbursements established by the legislation of the Russian Federation, legislative acts of constituent entities of the Russian Federation, decisions of representative bodies of local self-government (within the limits of standards established according to the legislation of the Russian Federation) and involving:

reimbursement of harm caused by mutilation or other damage to health;

free granting of housing and utilities, fuels or a relevant pecuniary reimbursement;

payment of cost and/or issue of authorised allowance in kind and also the disbursement of cash instead of such an allowance;

payment of the cost of meals, sports gear, equipment, sports and dress uniform received by the sportsmen and staff of physical culture and sports organisations for training process and participation in sport competitions, as well as referees for participation in tournaments;

dismissal of workers, except for the following:

compensation for a non-used leave;

sums paid in the form of dismissal wage, average monthly wage for the period of arrangement of labour, compensation to the head, deputy heads and chief accountant of an organization in the part thereof exceeding in total the three fold average monthly wage or six fold average monthly wage of employees dismissed from organisations located in the Arctic regions and in the localities which are equated to them;

loss of life of military servicemen or government officials in the line of their official duties;

reimbursement of other expenses, including the expenses involved in the improvement of professional skills of workers;

performance by the taxpayer of his job duties (including relocation to work to another locality and reimbursement of travel and living expenses).

In case the employer pays the expenses of business trips of workers both in the country and abroad, the daily allowance exempt from taxation shall be in compliance with the **legislation** of the Russian Federation but at most 700 roubles for each day of a business trip in the territory of the Russian Federation and at most 2 500 roubles for each day of a business

mission abroad, and also the actually effected and documented target expenses in the travel up to destination and back, charges for airport services, commission charges, expenses in travel to the airport or terminal in the places of departure, destination or changes, on conveyance, expenses in hiring housing, communication services expenses, charges for the receipt and registration of a service foreign passport, charges for granting visas, and also expenses in exchange of currency cash or cheques in a bank into foreign currency in cash. If no documents are presented to confirm the payment of expenses for hiring of housing, the amounts of such payment can be exempted from taxation within the limits of standards established by the **legislation** of the Russian Federation. A similar order of taxation shall apply to disbursements effected to persons found in command or administrative subordination to an organisation, and also members of a board of directors or any similar body of the company coming to participate in meetings of the board of directors, the management board or another similar body of such a company;

3.1) the disbursements effected for the benefit of volunteers within the framework of civil-law contracts whose subject matter is the gratuitous performance of work or provision of services for the purpose of compensating the volunteers' expenses relating to performance under such contracts as accommodation rentals, return travel to the place where charitable activities take place, meals (except for meals expenses in an amount exceeding the rate of per diem envisaged by **Item 3** of this article), payment for individual protection facilities, payment of insurance contributions for voluntary medical insurance relating to the health risks of the volunteers in the course of they volunteer activities;

- 4) compensation to donors for donated blood, mother's milk or other donor's assistance;
- 5) alimonies received by taxpayers;

6) amounts received by taxpayers in the form of grants (gratuitous aid) furnished for the support of science and education, culture and art in the Russian Federation by international, foreign and/or Russian organisations by **lists** of such organisations approved by the Government of the Russian Federation;

7) amounts received by taxpayers in the form of international, foreign or Russian prizes for achievements in the field of science and engineering, education, culture, literature and arts and mass media under the **list** of prizes approved by the Government of the Russian Federation, as well as in the form of prizes awarded by supreme officials of constituent entities of the Russian Federation (by heads of supreme executive authorities of constituent entities of the Russian Federation) for outstanding achievements in the said areas under the lists of prizes endorsed by supreme officials of constituent entities of the Russian Federation (by heads of supreme executive authorities of constituent entities of the Russian Federation);

8) the amounts of lump sum payments (in particular in the form of material assistance) paid:

to taxpayers in connection with natural disaster or other emergencies, as well as to taxpayers who are family members of persons who perished as a result of natural disasters or other emergencies, regardless of the source of disbursement;

by employers to members of the family of a deceased worker, of a former retired worker, or to a worker retired in connection with the death of a member (or members) of his family;

paragraph 4 is **abrogated**;

to low income and taxpayers and socially vulnerable categories of citizens in the form of amounts of the target oriented social assistance rendered to the charge of funds of the federal budget, budgets of the constituent entities of the Russian Federation, local budgets and extra-

budgetary funds according to programs approved annually by the corresponding public authorities;

to taxpayers who suffered from terrorist acts on the territory of the Russian Federation, as well as to taxpayers who are family members of persons who perished as a result of terrorist acts in the territory of the Russian Federation, irrespective of source of disbursement;

by employers to employees (parents, adopters, trustees) upon the birth (or adoption) of a child to be paid within the first year after the child's birth (adoption) but not more than 50 thousand roubles for each child.

The provisions of this Item shall likewise apply to the incomes received by a taxpayer in kind;

8.1) the remunerations payable with funds of the federal budget or the budget of a subject of the Russian Federation to persons for their assistance to federal executive governmental bodies in the detection, prevention, stopping and clearing acts of terrorism, the detection and detention of persons who are preparing, committing or have committed such acts, and also for their assistance to the federal security service and the federal executive governmental bodies which carry out operative investigation activities;

8.2) the amounts of disbursements effected as charitable aid in monetary form and in kind provided in accordance with the **legislation** of the Russian Federation on charitable activities by Russian and foreign charitable organisations registered in the established procedure;

9) the amounts of full or partial compensation (payment) effected by an employer for the benefit of his employees and/or the family members thereof, his former employees who have quit their employment due to disability or old-age retirement, disabled persons not working for the given organisation for the cost of purchased vouchers, except for tourist ones, under which said persons get services from sanatorium and health-resort and health-rehabilitation organisations located on the territory of the Russian Federation, and also the amounts of full or partial compensation (payment) for the cost of vouchers for children under 16 years of age under which said persons get services from sanatorium and health-resort and health-rehabilitation organisations located on the territory of the Russian Federation -- provided:

with the funds of organisations (individual entrepreneurs), unless the expenses relating to such compensation (payment) according to the present Code are classified as expenses taken into account in tax base assessment for the purposes of the organisation's profit tax;

with funds of the budgets of the budget system of the Russian Federation;

with funds of the religious organisations and also of the other not-for-profit organisations having as one of the objectives of its activities according to constitutive documents the provision of social support and protection to the citizens who by virtue of their physical or intellectual features and other circumstances are incapable of exercising on their own their rights and lawful interests;

with funds received from an activity in respect of which organisations (individual entrepreneurs) apply special tax regimes.

For the purposes of this chapter the "sanatorium and health-resort and health-rehabilitation organisations" means sanatoria, disease-prevention sanatoria, disease prevention centres, recreation houses and recreation bases, boarding houses, medical-treatment and health-rehabilitation complexes, and sanatorium, health-rehabilitation and sporting children's camps;

10) the amounts of money paid by employers for the medical treatment of, and the

provision of medical services to, their employees, their spouses, their parents and their children, remaining at the disposal of the employers after the payment of the organisations' profit tax;

the amounts of money paid by public organisations of disabled persons for the medical treatment of, and the provision of medical services to, disabled persons;

the amounts of money paid by the religious organisations and also the charitable organisations and other not-for-profit organisations having as one of the objectives of their activities according to constitutive documents the rendering of assistance in the protection of citizens' health for the services of providing medical treatment to persons who do not have labour relations with them and also for the medicines purchased by them for said persons.

Said incomes are exempt from taxation if the employers and/or public organisations of disabled persons, religious organisations and also the charitable organisations and the not-for-profit organisations having as one of the objectives of their activities according to constitutive documents the rendering of assistance in the protection of citizens' health make non-cash payments to medical organisations for the expenses relating to medical treatment of, and the provision of medical services to, taxpayers, and also if the amounts of money intended for such purposes are paid out in cash directly to the taxpayer (his family members, parents or legal representatives) or if the amounts of money intended for such purposes are credited to taxpayers' bank accounts;

11) grants to pupils, students, post-graduate students, hospital physicians, associates or persons working for a doctor's degree of higher higher vocational training or post-college vocational training, of research establishments, of students of learning establishments of basic professional and medium vocational training, students of theological educational establishments which are paid to said persons by these establishments, grants established by the President of the Russian Federation, bodies of legislative (representative) or executive power of the Russian Federation, bodies of constituent entities of the Russian Federation, charitable funds, grants paid at the expense of budget funds to taxpayers who undergo training under a voucher issued by bodies of the employment service;

12) amounts of wages and other amounts in foreign currency received by taxpayers from federally funded state institutions or organisations that sent them to work abroad - within the limits of standards established by the current legislation on wages of employees;

13) incomes of taxpayers received from the sale of products, grown at personal subsidiary economies located on the territory of the Russian Federation, of livestock (both live and as products of slaughter - raw or processed), products of plant growing (both natural and processed).

The incomes mentioned in paragraph one of this Item, shall be exempt from taxation if the following conditions are simultaneously observed:

if the total area of a land plot (or plots) which is (or simultaneously are) on the right of ownership and/or on some other right, of natural persons, does not exceed the maximum size established in accordance with Item 5 of Article 4 of Federal Law No. 112-FZ of July 7, 2003 on a Personal Subsidiary Economy";

if the taxpayer of the personal subsidiary economy manages it on the said plots without attraction, in accordance with the labour legislation, of hired workers.

For being exempted from the taxation of the incomes mentioned in **paragraph one** of this Item, the taxpayer shall submit a document issued by the relevant body of local self-government, by the board of the horticultural, gardening or summer-cottage non-commercial association of citizens confirming that the products being sold has been manufactured by the taxpayer on a land plot (land plots) belonging to him or to members of his family and being used for managing a personal subsidiary economy, summer-house construction, horticulture and gardening, with indication of information about the size of the total area of the land plot (plots);

13.1) means received by a taxpayer from the budgets of the budgetary system of the Russian Federation in their targeted use for the development on the personal subsidiary economy: acquisition of seeds and planting material, forage, fuel, mineral fertilisers, means of protection of plants, young cattle and pedigree animals, poultry, bees and fish, laying of perennial plantations and vineyards and care of them, keeping of agricultural animals (including artificial insemination and veterinary medicine, treatment of animals and poultry and premises for their keeping), purchase of equipment for the construction of hot-houses, storage and processing of products, agricultural equipment, spare parts and repair materials, insurance of the risks of loss or partial loss of agricultural products.

The incomes mentioned in paragraph one of this Item, shall be exempt from taxation if the following conditions are simultaneously observed:

if the total area of a land plot (or plots) which is (or simultaneously are) on the right of ownership and/or on some other right, of natural persons, does not exceed the maximum size established in accordance with item 5 of Article 4 of Federal Law No. 112-FZ of July 7, 2003 on a Personal Subsidiary Economy;

if the taxpayer of the personal subsidiary economy manages it on the said plots without attraction, in accordance with the labour legislation, of hired workers

For being exempted from the taxation of the incomes mentioned in **paragraph one** of this Item, the taxpayer shall submit a document issued by the relevant body of local self-government, with indication of information about the size of the total area of the land plot (plots).

In the event of nontargeted use of any means received from the budgets of the budgetary system of the Russian Federation, the amounts of the monetary means used for purposes other than the targeted ones, shall be taken into account in determining the tax base in that tax period in which they were received.

For the purpose of this Item, the limitation established by Item 5 of Article 4 of Federal Law No. 112-FZ of July 7, 2003 on a Personal Subsidiary Economy, of the maximum size of the total area of a land plot (land plots), shall be applicable in the year 2011, unless a different size of such area is established by a law of the subject of the Russian Federation;

**14)** incomes of members of a country (farmer) household received in such a household from the production and sale of agricultural products and also from the production of agricultural products, and their processing and sale - within five years after the registration year of the household.

This norm shall be applicable to the incomes of such members of a peasant (farmer's) farm to whom it has not been applied.

15) incomes received from the sale of the wild fruits, berries, nuts, mushrooms and other edible forest resources (food forest resources), non-arboreal forest resources procured by natural persons for their own needs;

16) incomes (except for wages of hired workers) received by members registered in accordance with the established procedure patrimonial, family communities of small ethnic groups of the North from the sale of products received as a result of pursuing their traditional types of craft;

17) incomes from the sale of the furs, wild animal meat and the other products obtained by natural persons in the course of amateur and sport hunting;

17.1) incomes received by natural persons who are tax residents of the Russian Federation for the corresponding tax period from selling dwelling houses, flats, rooms, including privatized residential premises, country cottages, houses on garden plots or land plots and shares in the cited property owned by a taxpayer within three years and more, as well as when selling other property owned by a taxpayer within three years and more.

The provisions of this item shall not extend to the incomes derived by natural persons from selling securities, as well as to the incomes from selling the property directly used by individual businessmen in their business activities;

17.2) incomes derived from the sale (redemption) of shareholdings in the authorised capital of Russian organisations, as well as of the stocks cited in **Item 2 of Article 284.2** of this Code, provided that as of the date of sale (redemption) of such stocks (shareholdings) they had been in a taxpayer's permanent possession within over five years on the basis of the right of ownership or other real right;

18) incomes in cash and in kind received from natural persons by way of succession, except for compensation paid to heirs (assignees) of authors of works of science, literature, art, and also discoveries, inventions and industrial models;

**18.1)** incomes - in monetary form or in kind - received from natural persons by donation, except for the cases of donation of immovable property, vehicles, shares, stakes, participatory shares, except as otherwise envisaged by this Item.

Incomes received by donation are relieved from taxation if the donor and the donee are members of the family and/or close relatives under the **Family Code** of the Russian Federation (spouses, parents and children, including adoptive parents and adopted children, grandfather, grandmother and grandchildren, fully natural or partially natural (having a common father or mother) brothers and sisters);

19) **income** received from joint-stock companies or other organisations:

by stock holders of those joint-stock companies or by participants of other organisations as a result of the revaluation of the fixed (capital) assets in the form of stock (stakes, shares) additionally received by them and distributed among the stock-holders or the participants of an organisation in proportion to their share and the types of stock, or in the form of the difference between the new and the initial nominal value of the stock or their property share in the authorised capital;

by stockholders of those joint-stock companies or by participants of other organisations in a reorganisation stipulating the distribution of stock (stakes, shares) of organisations being created among the stockholders (participants, partners) of organisations being reorganised and/or the conversion (exchange) of stock (stakes, shares) of the organisation being reorganised into stock (stakes, shares) of the organisation being created or an organisation in which a merger is being carried out in the form of stock (stakes, shares) received in addition or in exchange;

20) prizes in cash and (or) kind received by sportsmen, in particular, sportsmen with disabilities for prize-winning places for the following sport competitions:

Olympic, Paralympic and Deaflympic games, World Chess Olympic Games, championships and the world- and European cups of the official organisers or on the basis of decisions of public authorities and bodies of local self-government to the charge of funds of corresponding budgets;

championships, competitions and cups of the Russian Federation from the official organisers;

21) amounts paid for the taxpayer's training under basic and additional general education and additional education programmes, for vocational training and re-training thereof at Russian educational establishment holding the corresponding licence or at foreign educational establishments having the corresponding status;

22) amounts of payment for invalids by organisations or individual entrepreneurs of means of prevention of physical disability and rehabilitation of invalids, and also payment of



acquiring and keeping of guide dogs of disabled persons;

23) compensation paid for handing treasures over to state ownership;

24) incomes received by individual entrepreneurs for the performance of those types of activity under which they are the payers of the single tax on imputed income for individual kinds of activity, and also for those in whose taxation **simplified taxation system** or the **taxation system for agricultural commodity producers** (uniform agricultural tax) is applied;

25) amounts of interest under state treasury obligations, bonds and other state securities of the former USSR, member states of the Union State and constituent entities of the Russian Federation, and also under bonds and securities issued by decision of representative bodies of local government;

26) the incomes, except for the incomes received as charitable aid and envisaged by **Item 8.2** of this article, received from not-for-profit organisations by orphan children left without parental care and the children being members of the families whose per capita income does not exceed the living wage defined in the procedure established by laws of subjects of the Russian Federation;

27) incomes in the form of interest received by taxpayers on deposits in banks located in the territory of the Russian Federation if:

interest on rouble deposits is paid within the amounts calculated on the basis of the effective **refinancing rate** of the Central Bank of the Russian Federation increased by five percentage points during the period for which said interest is accrued;

the set rate does not exceed nine percentage per annum on foreign currency deposits;

interest on deposits in roubles which on the date of making a contract or extending a contract were fixed at a rate not exceeding the effective **refinancing rate** of the Central Bank of the Russian Federation increased by five per cent points, provided that within the period of interest calculation the rate of interest on the deposit was not increased and that at most three years have passed since the interest rate on a deposit in roubles exceeded the refinancing rate of the Central Bank of the Russian Federation;

27.1) incomes in the form of a fee for the use of monetary means of members of a credit consumer cooperative (shareholders), interest for the use by an agricultural credit consumer cooperative of means attracted in the form of loans from members of an agricultural credit consumer cooperative or from associated members of an agricultural credit consumer cooperative if:

the said fee and interest are paid within the amounts calculated proceeding from the effective **refinancing rate** of the Central Bank of the Russian Federation increased by five per cent points and effective during the period for which the said fee and interest;

interest proceeding from which the amount was calculated of the fee for the use of monetary means of members of a credit consumer cooperative (shareholders), interest for the use by an agricultural credit consumer cooperative of means attracted in the form of loans from members of an agricultural credit consumer cooperative or from associated members of an agricultural credit consumer cooperative which on the date of the conclusion of the agreement or prolongation of the agreement were established in a size not exceeding the effective **refinancing rate** of the Central Bank of the Russian Federation increased by five per cent points, on condition that during the period of charging the interest the size of the interest under the agreement was not increased and from the moment when the interest rate under the agreement exceeded the refinancing rate of the Central Bank of the Russian Federation increased by five per cent points not more than three years had passed;

28) incomes not exceeding 4,000 roubles received on any of the following grounds over a tax period:

cost of gifts received by taxpayers from organisations or individual businessmen;

cost of prizes in cash and in kind received by taxpayers in competitions and contests held by decisions of the Government of the Russian Federation, legislative (representative) public authorities or representative bodies of a local self-government;

amounts of material assistance rendered by employers to their workers and also former workers who have retired due to disability or age-related pension;

reimbursement (payment) by employers to their workers, their spouses, parents and children, former workers (age retirees) and also invalids of the cost of drugs bought by them (for them) prescribed to them by a treating doctor.

Exemption from taxation shall be granted upon the submission of documents confirming the actual expenses incurred towards the acquisition of these medicines;

cost of any prizes or winnings received through competitions, games and other activities for the purposes of advertising goods (works, services);

the amounts of the material aid rendered to invalids by public associations of invalids;

29) the incomes of soldiers, sailors, sergeants and sergeant- majors drafted undergo military service and also persons drafted to undergo periodical training in the form of an allowance of money, per diem and other amounts of money received at the place of service or periodical training;

30) amounts of money paid out to natural persons by electoral commissions, referendum commissions, and also from electoral funds of candidates for the office of President of the Russian Federation, candidates for deputies of the legislative (representative) governmental body of a subject of the Russian Federation, candidates for a position in another state body of a subject of the Russian Federation envisaged by the constitution, the charter of the subject of the Russian Federation and elected directly by citizens, candidates for deputies of the representative body of a municipal formation, candidates for the office of head of a municipal formation, for another office envisaged by the charter of a municipal formation and filled by direct election, the electoral funds of electoral associations, the electoral funds of regional branches of political parties not deemed electoral associations, from a referendum fund of an initiative group for a referendum of the Russian Federation, a referendum of a subject of the Russian Federation, a local referendum, an initiative canvassing group for a referendum of the Russian Federation, other groups of participants in a referendum of the Russian Federation, a local referendum - for the performance by these persons of works directly relating to the conduct of electoral campaigns or referendum campaigns;

31) Disbursements made by trade-union committees (including financial assistance) to members of trade unions except rewards and other disbursements for the performance of labour duties, at the expense of the tax, and also disbursements effected by youth and children's organisations to their members to the charge of membership fees to cover expenses involved in holding cultural, mass entertainment- , physical culture and sport activities;

32) prizes on Russia state loan bonds and amounts received at the redemption of these bonds;

33) aid (in monetary form and in kind) and also gifts received by veterans of the Great Patriotic War, the invalids of the Great Patriotic War, the widows of military servicemen killed during the war with Finland, the Great Patriotic War, the war with Japan, the widows of deceased invalids of the Great Patriotic War and the former prisoners of Nazi concentration camps, prisons and ghettos and also the former minor prisoners of concentration camps, ghettos and other forced detention facilities created by the fascists and their allies during the Second World War in an amount not exceeding 10,000 roubles for the tax period;

34) means of the maternal (family) capital assigned to ensuring the realisation of the additional measures of state support of families having children;

35) amounts received by taxpayers to the charge of funds from budgets of the budget system of the Russian Federation as compensation of outlays (a part of outlays) on payment of interest on loans (credits);

*The provisions of Item 36 of Article 217 of this Code shall cover the legal relations arising from January 1, 2005 but shall not be applied in respect of taxpayers which before January 1, 2008 had paid tax on the amounts of funds for acquisition and/or construction of residential premises granted on account of the federal budget funds, budgets of subjects of the Russian Federation or local budgets and had obtained the property tax deduction established by **Subitem 2 of Item 2 of Article 220** of this Code*

36) the sums of payments for the acquisition and/or the building of living accommodation, granted from the resources of the federal budget, the budgets of the constituents of the Russian Federation and the local budgets;

37) in the form of the sum of income from investing, used for the acquisition (construction) of living premises by participants in the accumulation-mortgage system for providing housing for servicemen in conformity with Federal Law No. 117-FZ of August 20, 2004 on the Accumulation-Mortgage System of the Housing Provision for Servicemen;

37.1) the sums of partial payment on account of the federal budget of the cost of a new transport vehicle within the framework of the experiment involving the promotion of acquiring new transport vehicles instead of those which are taken out of operation and are to be utilized;

37.2) one-time compensatory payments made to medical workers under 35 years old that arrived in 2011 and 2012 after graduating from and educational establishment of higher professional education to work at a rural inhabited locality or moved to a rural inhabited locality from another inhabited locality for work and made with an authorized executive power body of a constituent entity of the Russian Federation the contract provided for by **Article 51** of the Federal Law on Obligatory Medical Insurance in the Russian Federation;

38) premiums for co-financing the forming of pension savings allocated for providing the state support for pension savings in compliance with the Federal Law on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and State Support for Pension Savings;

39) employer's premiums paid in compliance with the Federal Law on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and the State Support for Pension Savings in the amounts of paid premiums but at most 12,000 roubles a year per each employee for whose benefit an employer pays premiums;

40) amounts paid by organisations (by individual businessmen) to employees thereof as reimbursement of outlays on payment of interest on loans (credits) for acquisition and/or construction of residential premises which are included in the composition of the outlays accounted when determining the tax base for tax on organisations' profits;

41) income in the form of the residential premises provided for ownership free-of-charge on the basis of a decision of a federal executive body were it is provided for by Federal Law No. 76-FZ of May 27, 1998 on the Status of Military Servicemen;

42) means received by parents or by legal representatives of children attending educational organisations in the form of compensation for part of the parental fee for the maintenance of a child at educational organisations realising the basic educational curriculum of preschool education;

43) incomes received by workers in kind as remuneration of labour from organisations - agricultural commodity producers determined in accordance with **Item 2 of Article 346.2** of this Code, from peasant farms in the form of agricultural products of their own manufacture and/or from works (services) rendered by such organisations and peasant farms in the interests of a worker, property rights transferred by such organisations or peasant farms to a worker.

The exemption, stipulated by this Item, from taxation shall be granted for each actually worked full month during the period of effect of a labour agreement (contract) in a calendar year with simultaneous observance of the following conditions:

the total amount of the income indicated in **paragraph one** of this Item and received by a worker in the respective month does not exceed 4,300 roubles;

the total amount of the income indicated in **paragraph one** of this Item and received by a worker in the respective month does not exceed the value of the wages for that month which may be paid in non-monetary form in accordance with the labour legislation;

the income from the realisation of the goods (works, services) indicated in **paragraph one** of this Item of the organisations and peasant farms for the previous calendar year does not exceed 100 million roubles.

If, in the observance of the restrictions established by this Item the total amount of the income indicated in **paragraph one** of this Item and received by a worker in the respective month is less than 4,300 roubles, then the difference between this amount and the actually received amount of the income indicated in paragraph one of this Item shall be taken into account in the calculation of the maximum amount of the income established by **paragraph three** of this Item in the following months of the calendar year;

44) incomes in kind in the form of providing meals to workers attracted for the conduct of seasonal field works.

45) incomes in monetary form or in kind in the form of paying the fare to the place of study and back to persons under eighteen studying in Russian preschool and general educational institutions having the relevant licence;

46) incomes in kind received by taxpayers who have suffered from terrorist acts on the territory of the Russian Federation, or from natural calamities or other emergency situations in the form of services rendered in their interests, of teaching the taxpayers under the main and additional general-educational curriculums, of maintaining taxpayers at Russian educational institutions having the relevant licence, or at foreign educational institutions having the relevant status in the period of such studies, or of professional training and retraining, and also in the form of services rendered in their interests, of treatment and medical servicing and of services of sanatorium-and-health-resort organisations;

47) incomes received by taxpayers in the form of the cost of airtime and/or print space provided to them gratuitously in accordance with legislation of the Russian Federation on

elections and referendums.

48) sums of pension savings recorded in the special part of an individual personal account and/or on the pension account of the accumulative part of the labour pension at a nongovernmental pension fund paid to the legal successor of a deceased insured person.

48.1) incomes of the borrower (of the borrower's legal successor) in the form of the amount of debt under a credit contract, charged interest and punitive sanctions recognised by court to be paid off by the beneficiary creditor on account of the insurance indemnity under the borrower's whole life or disability insurance agreements, as well as under insurance agreements in respect of the property serving as security of the borrower's liabilities (as a pledge) made by the borrower, within the limits of the amount of the borrower's debt on borrowed (credit) assets, charged interest, punitive sanctions recognized by court and penalties;

49) income in monetary terms and in kind received by sportsmen and members of sporting teams, which are participants of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, in connection with holding the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi. As the document proving exemption of the cited incomes from taxation shall be deemed the Olympic identification card proving accreditation or the Paralympic identification card proving accreditation;

50) income in monetary terms and in kind received within the period of organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, as specified by **Article 2** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, by natural persons who have made labour contracts with market partners of the International Olympic Committee, which provide for carrying out works connected with organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, and who belong to the temporary personnel of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 10.1** of the cited Federal Law, from organisations which are organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi or market partners of the International Olympic Committee in compliance with **Articles 3** and **3.1** of the cited Federal Law. As grounds for exemption of such income from taxation shall be deemed the following:

as regards the income received within the period of organisation of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi fixed by **Part 1 of Article 2** of the cited federal Law - the exercise of activities on the basis of a labour contract which provides for carrying out works connected with organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi made with a market partner of the International Olympic Committee and of a contract which is made by the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi and a market partner of the International Olympic Committee, is connected with organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi and has as its integral part an endorsed list of appropriate citizens or is made on the basis of the lists of temporary personnel of official broadcasting companies filed by a foreign organiser of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in

compliance with **Article 3** of the cited Federal Law by the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi;

as regards the income received within the period of holding the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi fixed by **Part 2 of Article 2** of the cited federal Law - the Olympic identification card proving accreditation or the Paralympic identification card proving accreditation;

51) income in kind in the form of payment of outlays on procurement and issuance of visas, invitations and other similar documents, cost of travel, accommodation, meals, training, communication services, uniforms and clothes, transportation, linguistic support, souvenir articles with symbols of the XXII Winter Olympic Games and/or the XI Winter Paralympic Games of 2014 in the town of Sochi received from the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, or from the administration of the town of Sochi within the period of organisation and within the period of holding of the XXII Winter Olympic Games and the XI Winter Paralympic Games of 2014 in the town of Sochi fixed by **Article 2** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation:

by representatives of the International Olympic Committee;

by representatives of the International Paralympic Committee;

by representatives of national Olympic committees;

by representatives of national Paralympic committees;

by representatives of international sports federations;

by natural persons who have received an Olympic identification card proving accreditation or Paralympic identification card proving accreditation;

by natural persons attracted by the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, or by the administration of the town of Sochi as volunteers for participation in the organisation and/or holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi;

by natural persons who have made labour contracts with the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi.

The insurance premiums (insurance contributions) of the cited persons for all kinds of insurance shall be also deemed non-taxable income if they have been paid by the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, under insurance contracts for the benefit of the cited persons, in particular insurance premiums (insurance contributions) for the kinds of insurance established by the agreement made by the International Olympic Committee with the Olympic Committee of Russia and the town of Sochi in respect of holding the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi and the insurance payments received by the cited persons under the given terms and conditions.

52) incomes in the form of assets (including funds) that have been contributed to form or replenish the earmarked capital of a not-for-profit organisation and received by a taxpayer being a donor in the case of dissolution of the earmarked capital of a not-for-profit organisation, the cancellation of a donation or in another case, if the return of the asset contributed for the

formation or replenishment of the earmarked capital of the not-for-profit organisation is envisaged by a contract of donation and/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations.

In the event of return of the monetary equivalent of immovable property and/or securities that have been contributed to replenish the earmarked capital of a not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations the following is exempt from taxation: the donor's income in the amount of documented expenses incurred by the donor to purchase, store or maintain such property as of the date of transfer of such property to the not-for-profit organisation being the owner of the earmarked capital for the purpose of replenishing the earmarked capital of the not-for-profit organisation.

If as of the date of transfer of the immovable property to the not-for-profit organisation for the purpose of replenishing its earmarked capital in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations such property had been under the ownership of the taxpayer being the donor for three or more years the income received by the donor shall be exempt from taxation in full when the monetary equivalent of such property is returned.

***Federal Law** No. 105-FZ of July 7, 2003 amended Article 218 of this Code. The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations that have arisen since January 1, 2003*  
**See the previous text of the Article**

#### **Article 218.** Standard Tax Deductions

**1.** When determining the size of the tax base in compliance with **Item 3 of Article 210** of this Code, the taxpayer shall have the right to receive the following standard tax deductions:

**1)** In the amount of 3,000 roubles for each month over a tax period shall be applicable to the following categories of taxpayers:

persons who have contracted radiation sickness or any other diseases associated with the radiation effects due to the Chernobyl catastrophe or associated with projects to mitigate the consequences of the catastrophe at the Chernobyl Atomic Power Plant;

persons who developed disability due to the Chernobyl accident from among the persons who took part in the elimination of consequences of the accident within the limits of the alienation zone, or who are engaged in the operation or in any other works of the Chernobyl Atomic Power Plant (including those who have been sent temporarily or dispatched therefrom), the military servicemen and men liable for call-up who have been called up for special assemblies and attracted to the performance of works associated with the elimination of consequences of the Chernobyl accident, regardless of their stationing or works performed, and also the officers and men of bodies of internal affairs, of the State Fire Service, who were (are) serving in the alienation zone, persons who have been evacuated from the alienation zone and resettled from the settling-out zone, or who have left the said zones voluntarily, persons who have donated their bone marrow to save the lives of victims of the Chernobyl accident, regardless of the time that has passed since the moment of the bone marrow transplantation and the time when they became disabled in this connection;

persons who in 1986-1987 consequences of the Chernobyl accident within the limits of the alienation zone or who were engaged in that period in works associated with the evacuation of the population, material assets or agricultural animals, and in the operation or in any other works at the Chernobyl Atomic Power Plant (including those who were sent temporarily or

dispatched therefrom);

military servicemen, citizens discharged from military service and also men liable for call-up who were called up for special assemblies and were attracted in that period to perform works associated with the elimination of consequences of the Chernobyl accident, including flight-operating and technical personnel of civil aviation, regardless of their stationing or works performed;

officers and rank and file members of internal affairs personnel, of the State Fire Service, in particular the persons discharged from military service who were undergoing service in the alienation area of Chernobyl Atomic Power Plant in 1986-1987;

military servicemen, citizens discharged from military service and also men liable for call-up who were called up for military assemblies and participated in 1988-1990 in works on the object "Cover";

persons who became disabled, or who contracted radiation sickness, or any other diseases due to the accident in 1957 at the production association "Mayak" and the radioactive waste disposal into the river Techa from among persons who (including those who were temporarily sent or dispatched) in 1957-1958 participated directly in the works on the elimination of the consequences of the accident in 1957 at the production association "Mayak", and also who were engaged in works on conducting protection activities and rehabilitation of radioactively contaminated territories along the Techa river in 1949-1956, who (including those who were temporarily sent or dispatched) in 1959-1961 participated directly in eliminating the consequences of the accident at the production association "Mayak" in 1957, who were evacuated (resettled) from, and also who voluntarily left the populated localities which became exposed to radioactive contamination due to the accident in the 1957 at the production association "Mayak" and the radioactive waste disposal into the Techa river, including children - among them those who at the time of the evacuation (resettlement) were in the state of intra-uterine development, - and also the military servicemen and the civilian personnel of the military units and the special contingent evacuated in 1957 from the zone of radioactive contamination (in this case the voluntary leavers shall be defined as citizens who from September 29, 1957 until December 31, 1958 inclusive left the populated localities which were exposed to radioactive contamination due to the accident in 1957 at the production association "Mayak", and also those who from 1949 until 1956 inclusive left the populated localities which were exposed to radioactive contamination due to the radioactive waste disposal into the Techa river), persons who reside in the populated localities that were exposed to the radioactive contamination due to the accident in 1957 at the production association "Mayak" and the radioactive waste disposal into the Techa river where the mean annual effective equivalent irradiation dose on May 20, 1993 was still over 1 Mev (additionally, above the level of the natural radiation background for the given locality), persons who moved voluntarily to new places of residence from the populated localities exposed to radioactive contamination due to the accident in 1957 at the production association "Mayak" and the radioactive waste disposal into the Techa river, where the mean annual effective equivalent irradiation dose on May 20, 1993 was still over 1 Mev (additionally, above the level of the natural radiation background for the given locality);

persons who participated directly in the tests of nuclear weapons in the atmosphere and of combat radioactive substances, and in exercises employing such weapons before January 31, 1963;

persons who participated directly in underground nuclear weapons tests under conditions of non-standard radiation situations and the effect of other injurious effects of nuclear weapons;

persons who participated directly in the clean-up of radiation accidents that occurred at nuclear plants of surface and submarine ships and at any other military facilities whose accidents have been registered in the established procedure by the federal executive body



authorised in the sphere of defence;

persons (including military servicemen) who participated directly in the works on the assembly of nuclear charges before December 31, 1961;

persons who participated directly in underground nuclear weapons tests, and in conducting and supporting the works on the collection and burial of radioactive substances.

invalids of the Great Patriotic war;

invalids of groups I, II, and III from among the military servicemen who became disabled due to a wound, a concussion or an injury received in the defence of the USSR or in the performance of any other duties of military service, or due to a disease associated with a stay at the front, from among former partisans, and also any other categories of invalids equated in the provision of pensions to said categories of military servicemen;

2) the tax deduction of 500 roubles for each month of a tax period shall be applicable to the following categories of taxpayers:

Heroes of the Soviet Union and Heroes of the Russian Federation, and also persons decorated with the Order of Glory of the three degrees;

civilian personnel of the Soviet Army, the Soviet Navy, bodies of internal affairs of the USSR and State security of the USSR, who held established posts in military units, staffs and institutions which comprised the Army in the Field in the period of the Great Patriotic war, or persons who were in that period in the cities, the participation in whose defence is included for such persons in the period of service for assigning a pension under the preferential terms established for servicemen of the units of the active Army;

participants in the Great Patriotic War, combat operations for the defence of the USSR out of the military servicemen who served in military units, headquarters and institutions incorporated in the army and former guerrillas;

persons who were in Leningrad in the period of its siege in the years of the Great Patriotic war from September 8, 1941 until January 27, 1944, regardless of the duration of staying there;

the former, (including minors) prisoners of concentration camps, ghettos and any other places of confinement created by Nazi Germany and its allies in the period of World War II;

invalids from childhood, and also invalids of the first and second groups;

persons who contracted radiation sickness or any other diseases connected with nuclear fuel, or caused by the consequences of radiation accidents at places of civil or military atomic operations, or as a result of tests, exercises or any other works associated with any types of nuclear installations, including nuclear weapons and space technology;

junior and medium-level medical personnel, physicians and other workers of the medical institutions (with the exception of persons whose professional activity is associated with the work with any type of source of ionizing radiation under the conditions of a radiation situation at their working place corresponding to the character of the work performed) who got an overdose of radiation when rendering medical aid and attending, in the period from April 26 to June 30, 1986, persons who suffered as a result of the Chernobyl accident and who are sources of ionizing radiation;

persons who have donated their bone marrow to save the lives of another persons;

industrial and office workers, and also former military servicemen, and officers and men of the bodies of internal affairs, of the State Fire Service, staff members of institutions and bodies of the criminal and penal system who have since been discharged from service, that have contracted occupational diseases associated with radiation effects at works in the alienation zone of the Chernobyl Atomic Power Plant;

persons (including those who were temporarily sent or dispatched) who in 1957-1958 participated directly in the works on the clean-up of the consequences of the accident in 1957 at the production association "Mayak", and also persons who were engaged in the works on

conducting the protective arrangements and the rehabilitation of the radioactively contaminated territories along the Techa river in 1949 - 1956;

persons who were evacuated (resettled) from, and also who left voluntarily the populated localities which became exposed to radioactive contamination due to the accident in 1957 at the production association "Mayak" and the radioactive waste-disposal into the Techa river, including children - among them those who at the moment of evacuation (resettlement) were in the state of intra-uterine development - and also former military servicemen and civilians of the military units and the special contingent evacuated in 1957 from the zone of radioactive contamination. In this case, the voluntary leavers shall be deemed to be citizens who from September 29, 1957 until December 31, 1958, inclusive, left the populated localities which were exposed to radioactive contamination due to the accident in 1957 at the production association "Mayak", and also those who from 1949 until 1956 inclusive left the populated localities which were exposed to radioactive waste disposal into the Techa river;

persons who were evacuated (including those who left voluntarily) in 1986 from the alienation zone which became exposed to radioactive contamination due to the Chernobyl accident, or who have been (are being) resettled from, including those who have left voluntarily, the fall-out zone in 1986 and in subsequent years, including children who at the moment of the evacuation were (are) in the state of intra-uterine development;

parents and spouses of military servicemen who died due to a wound, concussion or injury they suffered in the defence of the USSR or the Russian Federation or in the discharge of any other duties, or due to a disease associated with being at the front line, and also the parents and spouses of government officials who died in the discharge of their official duties. Said deduction shall be granted to spouses of diseased military servicemen and government officials, provided they have not remarried;

citizens who were dismissed from military service or were called up to military assemblies and who fulfilled overseas duty in the Republic of Afghanistan and any other countries where combat operations were conducted, and also citizens who took part in combat operations on the territory of the Russian Federation in accordance with the decisions of organs of state power of the Russian Federation;

3) **abrogated** from January 1, 2012;

4) tax deduction per each month of a tax period shall extend to parent, parent's spouse, adoptive father, custodian, guardian, adoptive parent, adoptive parent's spouse by whom a child is supported in the following amounts:

from January 1 up to December 31, 2011 inclusive:

1 000 roubles - per the first child;

1 000 roubles - per the second child;

3 000 roubles - per the third and every subsequent child;

3 000 roubles - per each child, if the child under 18 years old is disabled person, or a full-time trainee, post-graduate student, attending physician, house physician, student under 24 year old, if he/she is a disabled person of Group I or II;

from January 1, 2012:

1 400 roubles - per the first child;

1 400 roubles - per the second child;

3 000 roubles - per the third and every subsequent child;

3 000 roubles - per each child, if the child under 18 years old is a disabled person, or a full-time trainee, post-graduate student, attending physician, house physician, student under 24 year old, if he/she is a disabled person of Group I or II;

A tax deduction shall be granted per each child under 18 years old, as well as or each full-time trainee, post-graduate student, attending physician, house physician, student or cadet under 24 year old.

A tax deduction shall be granted at the double rate to the sole parent (adoptive parent), adoptive person, guardian and custodian. Granting of the cited tax deduction to the sole parent shall be terminated as from the month following the month when he/she gets married.

A tax deduction shall be granted to parents, parent's spouse, adoptive persons, custodians, guardians, adoptive parents, spouse of an adoptive parent on the basis of their application in writing and the documents proving the rights to the given tax deduction.

With this, to the natural persons whose child (children) is (are) located outside the Russian Federation a tax deduction shall be granted on the basis of the documents attested by competent authorities of the state where the child (children) resides (reside).

A tax deduction may be granted at the double rate to one of the parents (adoptive parents) at their choice on the basis of an application in respect of the refusal of one of the parents (adoptive parents) to receive the tax deduction.

A tax deduction shall be in effect up to the month in which a taxpayer's income estimated as a progressive total from the start of the tax period ( in respect of which the tax rate fixed by **Item 1 of Article 224** of this Code is provided) by the tax agent granting the given standard tax deduction exceeds 280 000 rubles.

Starting from the month in which the cited income exceeded 280 000 roubles the tax deduction provided for by this subitem shall not apply.

The tax base shall be reduced starting from the month when a child (children) is (are) born or from the month when adoption took place or custody (guardianship) was established, or from the month of entry into force of an agreement on transfer of a child (children) for upbringing in a family and up to the end of the year in which a child (children) attained the age, cited in Paragraph Twelve of this subitem, or an agreement on transfer of a child (children) for upbringing to a family expired or was dissolved ahead of time, or of a child's (children's) death. A tax deduction shall be granted for the period of a child's (children's) training at an educational institution and/or training facility, including an academic leave legalized in the established procedure in the period of training.

**2.** The taxpayers who according to **Subitems 1 and 2 of Item 1** of the present Article are entitled to more than one standard tax deduction shall be granted the largest of the corresponding deductions.

The standard tax deduction established by **Subitem 4 of Item 1** of the present Article shall be granted irrespective of granting a standard tax deduction established by Subitems 1-3 of Item 1 of this Article.

**3.** The standard tax deductions established by this Article shall be granted to the taxpayer by one of tax agents being a source of income disbursement at the choice of the taxpayer on the basis of his written application and documents confirming his right to such tax deductions.

If a taxpayer begins to work from a month different from the first month of a tax period the deductions specified in **Subitem 4 of Item 1** of this Article shall be granted by a given employer with the account taken of the income received since the beginning of the tax period from another employer whereby the taxpayer was provided with tax deductions. The amount of income received shall be documented by a **statement** of incomes received by the taxpayer issued by the tax agent in keeping with **Item 3 Article 230** of this Code.

**4.** If during a tax period the standard tax deductions were not granted to the taxpayer or were granted in a smaller amount than is stipulated by this Article, upon termination of the tax period on the basis of a tax declaration and documents confirming the right to such deductions, the tax authorities shall recalculate the tax base with regard to granting standard tax deductions

in the amounts stipulated by this Article.

#### **Article 219.** Social Tax Deductions

**1.** When determining the size of the tax base according to **Item 3 of Article 210** of this Code, the taxpayer shall be entitled to the following social tax deductions:

1) in the sum of the incomes remitted by the taxpayer as donations:  
to charitable organisations;

socially-oriented not-for-profit organisations for the purpose of their pursuing the activities envisaged by the **legislation** of the Russian Federation on not-for-profit organisations;

the not-for-profit organisations pursuing their activities in the area of science, culture, physical education and sports (except for professional sport), education, enlightenment, public health, protection of human and citizens' rights and freedoms, social and legal support and protection for citizens, assistance in the protection of citizens in emergencies, environmental protection and protection of animals;

religious organisations for their pursuance the activities stated in their charters;

not-for-profit organisations for the purpose of forming or replenishing an earmarked capital, which take place in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for Forming and Using the Earmarked Capital of Not-for-Profit Organisations.

The deduction specified in this subitem shall be granted in the amount of expenses actually incurred but not exceeding 25 per cent of the sum of income which is received in the tax period and is taxable.

When a donation is returned/refunded to a taxpayer who has used a social tax deduction in connection with the remittance of such donation in accordance with this subitem, for instance in the event of dissolution of an earmarked capital of a not-for-profit organisation, cancellation of the donation or in another case if the return/refund of the asset transferred for the purposes of forming or replenishing an earmarked capital of a not-for-profit organisation is envisaged by a contract of donation and/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for Forming and Using the Earmarked Capital of Not-for-Profit Organisations the taxpayer shall include in the tax base of the tax period in which the assets or the monetary equivalent thereof were actually returned/refunded the sum of the social tax deduction granted in connection with the remittance of the relevant donation to the not-for-profit organisation;

2) in the amount paid by the taxpayer within the tax period for his/her training at an educational establishment - at the rate of the outlays actually made on the training subject to the restrictions established by **Item 2 of this Article**, as well as in the amount paid by the taxpaying parent for training of his/her children of up to 24 years of age, by the trustee taxpayer (the guardian taxpayer) for training with full time attendance of his/her wards of up to 18 years of age at educational establishments - at the rate of the outlays actually made on this training but at the most 50 000 roubles per child in total for both parents (custodian or trustee).

The right to receive the said social tax deduction shall cover the taxpayers who performed the duties of a trustee or guardian over citizens who were their wards after the termination of the trusteeship or guardianship in the cases of payment by the taxpayer for the training of the said citizens at the age of up to 24 years with full-time attendance at educational institutions.

Said social tax deduction shall be granted, provided the educational establishment has a corresponding licence or another document confirming the status of the educational institution, and also upon submission by the taxpayer of documents confirming his actual expenses for training.

The social tax deduction is granted for the period of education of said persons in an educational institution, including a leave of absence which was duly taken during education.

The social tax deduction shall not be applied in the event that the payment of the expenses on education is made from the means of the maternal (family) capital assigned to ensuring the realisation of the additional measures of state support of families having children;

The right to receive such social tax deduction shall also extend to a taxpayer - brother (sister) of a student in the cases of payment by the taxpayer of the training of the brother (sister) at an age of up to 24 years on the full-time form of tuition at educational institutions;

3) in the amount paid by the taxpayer during a tax period for services in treatment granted to him by medical establishments of the Russian Federation, and also paid by the taxpayer for services in treatment of his/her spouse, his/her parents and (or) his/her children of up to 18 years of age in medical establishments of the Russian Federation (according to the **list** of medical services approved by the Government of the Russian Federation), and also in the amount of the cost of drugs (according to the **list** of drugs approved by the Government of the Russian Federation) prescribed to him by a treating doctor and purchased by taxpayers at their own expense.

*See **form** of Statement of Payment for Medical Services to Be Filed with Tax Bodies of the Russian Federation endorsed by **Order** of the Ministry of Public Health of the Russian Federation and the Ministry of the Russian Federation for Taxes and Fees No. 289/BG-3-04/256 of July 25, 2001*

When applying the social tax deduction provided for by this Subitem, account shall be taken of the amounts of insurance payments made by a taxpayer within the tax period as well as under contracts of voluntary insurance of the spouse, parents and/or their children of up to 18 years of age made by him with insurance organisations, that have licences for the exercise of the corresponding type of activities, and providing exclusively for medical treatment service payments by such insurance organisations.

The total amount of the social tax deduction provided for by Paragraphs One and Two of this Subitem shall be counted in the sum of actually made outlays but subject to the restrictions established by **Item 2** of this Article.

For expensive types of treatment in medical establishments of the Russian Federation, the amount of tax deduction shall be accepted in the amount of actually borne expenses. The **list** of expensive types of treatment shall be approved by a decision of the Government of the Russian Federation.

The deduction of amounts of payment of treatment cost and (or) of payment of insurance fees shall be granted to the taxpayer if the treatment took place in the medical establishments that have the required licences to engage in medical activities, and also if the taxpayer submits documents confirming his actual expenses for the treatment, purchase of drugs or payment of insurance fees.

Aforesaid social tax deduction shall be granted to the taxpayer if the treatment and purchased drugs, and (or) insurance fees were not paid for by an organisation to the charge of funds of employers;

4) in the amount of pension fees paid by the taxpayer within the tax period under a contract (contracts) of non-governmental pension provision made by the taxpayer with a non-governmental pension fund to his/her benefit and/or to the benefit of the spouse thereof (including to the benefit of the widow or widower), parents (including adoptive parents), disabled children (including adopted ones and those who are under guardianship or trusteeship) and/or in the amount of the insurance fees paid by the taxpayer within the tax period under a contract (contracts) of voluntary pension insurance made with an insurance organisation to his/her

benefit and/or to the benefit of the spouse thereof (including to the benefit of the widow or widower), parents (including adoptive parents), disabled children (including adopted ones and those who are under guardianship or trusteeship) - at the rate of actually made outlays subject to the restrictions established by Item 2 of this Article.

The social tax deduction specified in this Subitem shall be granted upon presentation by the taxpayer of the documents proving his actual outlays related to non-governmental pension provision and/or voluntary pension insurance.

5) in the amount of additional insurance premiums for the accumulative part of the labour pension paid by the taxpayer within a tax period in compliance with the Federal Law on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and State Support for Pension Savings - at the rate of the outlays which are actually made subject to the restrictions established by **Item 2** of this Article.

The social tax deduction cited in this Subitem shall be granted if the taxpayer presents the documents proving actual outlays on paying additional insurance premiums for the accumulative part of the labour pension in compliance with the Federal Law on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and State Support for Pension Savings or if the taxpayer presents a tax agent's certificates proving his payment of the amounts of additional insurance premiums for the accumulative part of the labour pension deducted and remitted by the tax agent on the taxpayer's instructions according to the form approved by the federal executive body authorised to exercise control and supervision in respect of taxes and fees.

**2.** Social tax deductions cited in **Item 1** of this Article shall be granted when the taxpayer submits his **tax declaration** to the tax authorities upon the lapse of the tax period.

The social tax deduction stipulated by **Subitem 4 of Item 1** of this Article may also be granted to the taxpayer before the end of the tax period if he applies to the employer (hereinafter in this Item, the tax agent) on condition of documentary confirmation of the expenses of the taxpayer in accordance with Subitem 4 of Item 1 of this Article and on condition that the contributions under the agreement of nonstate pension plan and/or by voluntary pension insurance were withheld from the payments in favour of the taxpayer and were transferred to the relevant funds by the employer.

The social tax deductions cited in **Subitems 2 - 5 of Item 1** of this Article (except for the outlays on training the taxpayer's children cited in **Subitem 2 of Item 1** of this Article and outlays on expensive treatment cited in **Subitem 3 of Item 1** of this Article) shall be granted at the rate of actually made outlays but at most 120 000 roubles in total within the tax period. If a taxpayer within the same tax period has made outlays on training, medical treatment and outlays under a contract (contracts) of non-governmental pension provisions, under a contract (contracts) of voluntary pension insurance and by paying additional insurance premiums for the accumulative part of the labour pension in compliance with the Federal Law on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and State Support for Pension Savings, the taxpayer shall independently, including if he applies to the tax agent, choose the kinds of outlays and the amounts thereof to be accounted within the limits of the maximum rate of the social tax deduction specified in this Item.

## **Article 220.** Property Tax Deductions

**1.** When determining the size of the tax base according to **Item 3 of Article 210** of this Code, the taxpayer shall be entitled to the following property tax deductions:

1) in the amounts received by the taxpayer over a tax period from the sale of apartment houses, flats, rooms including privatized residential premises, summer cottages, garden houses or land plots, including shares in the said property which have been owned by the taxpayer for less than three years, but in general not more than 1,000,000 roubles, and also in the amount received in a tax period from the sale of other property owned by the taxpayer for less than three years, but not more than as a whole 250 000 roubles.

Instead of exercising his right to the property tax deduction stipulated by this Subitem, the taxpayer shall have the right to reduce the sum of his taxable incomes by the amount of his actual expenses, proved by documents that are involved in the receipt of these incomes, except for sale by the taxpayer of securities owned by him. When selling a share (a part thereof) in the authorised capital of an organisation, assigning the right of claim under a contract of shared construction participation (a contract of shared construction investing or under another contract connected with share construction), the taxpayer shall be likewise entitled to reduce the sum of taxable income by the amount of his actual expenses, proved by documents, that are involved in the receipt of these incomes.

**Abrogated** from January 1, 2007.

When selling property that is in common share or common joint ownership, the corresponding size of property tax deduction calculated according to this Subitem shall be distributed between the co-owners of this property in proportion to their share or under an arrangement between them (in case of sale of property that is in common joint ownership).

The provisions of this Subitem shall not apply to incomes received by individual businessmen from sale of property in connection with performance of their business activities;

In the event of sale of shares (stakes, participatory shares) received by a taxpayer when organisations were reorganised the term of their being under the ownership of the taxpayer shall be counted from the date of acquisition into ownership of the shares (stakes, participatory shares) of the organisations reorganised;

In the event of sale of property received by a taxpayer being a donor in the case of dissolution of the earmarked capital of a not-for-profit organisation, the cancellation of a donation or in another case, if the return of the asset contributed to replenish the earmarked capital of the not-for-profit organisation is envisaged by a contract of donation ad/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations the following shall be deemed expenses of the taxpayer being the donor: documented expenses incurred by the donor to purchase, store or maintain such asset as of the date of transfer of such asset to the not-for-profit organisation being the owner of the earmarked capital for the purpose of replenishing the earmarked capital of the not-for-profit organisation.

The period of being under ownership for the asset received by the taxpayer being the donor in the event of dissolution of the earmarked capital of the not-for-profit organisation, the cancellation of a donation or in another case, if the return of such asset contributed to replenish the earmarked capital of the not-for-profit organisation is envisaged by a contract of donation and/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations shall be defined with account taken of the period during which the asset had been under the ownership of the taxpayer being the donor prior to the date of transfer of such asset for the purpose of replenishing the earmarked capital of the not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations;

1.1) in the amount of the repurchase value of a land plot and/or of other immovable property item located on it which is received by the taxpayer in monetary terms or in kind, in the

event of confiscation of the cited property for meeting state or municipal needs;

2) in the amount of the expenses actually incurred by the taxpayer:

for a new construction or acquisition on the territory of the Russian Federation of a dwelling house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the dwelling houses being acquired or a share (or shares) therein;

for payment of the interest on the targeted loans (credits) received from Russian organisations or individual businessmen and actually spent for a new construction or acquisition on the territory of the Russian Federation of a dwelling house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the dwelling houses being acquired or a share (or shares) therein;

for payment of the interest on the credits received from banks situated on the territory of the Russian Federation for the purpose of refinancing (recrediting) the credits for a new construction or acquisition on the territory of the Russian Federation of a dwelling house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the dwelling houses being acquired or a share (or shares) therein.

In the acquisition of land plots granted for individual housing construction or of a share (or shares) therein, the property tax deduction shall be granted after the taxpayer has received a certificate on the right of ownership to the house.

The following shall be included into the taxpayers' actual expenses on a new construction or on the purchase of a living house, as well as of a share (shares) in them:

outlays on drawing up of the design blueprints and specifications, and an estimate;

outlays on the acquisition of construction and finishing materials;

outlays on the acquisition of a living house, including one whose construction is not ended;

outlays connected with works and services related to construction (completion of a house whose construction is not finished) and finishing;

outlays on the connection to the networks of electricity supply, water and gas supply, as well as to sewage system or the establishment of self-contained sources of electricity supply, water and gas supply, as well as of sewage.

The following may be included into the actual expenses on the acquisition of a flat, room or a share (shares) in them:

outlays on the acquisition of a flat, room, share (shares) in them or of the rights to a flat in a house under construction;

outlays on the acquisition of finishing materials;

expenses on the works connected with the finishing of a flat, room, share (or shares) therein, and also expenses on the elaboration of the design blueprints and specifications, and an estimate for the conduct of the finishing works.

It shall be possible to accept for deduction the outlays on the completion and finishing of an acquired house or finishing of an acquired flat or room, if the acquisition of an incomplete house, flat or room (of the rights to a flat or room) without finishing or a share in them is indicated in the contract serving as a basis for such acquisition.

The total size of the property tax deduction stipulated by this Subitem cannot exceed 2 000 000 million roubles without taking into account the amounts assigned to paying the interest:

for the targeted loans (credits) received from Russian organisations or individual businessmen and actually spent for a new construction or acquisition on the territory of the Russian Federation of a dwelling house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the dwelling



houses being acquired or a share (or shares) therein;

for the credits granted by banks situated on the territory of the Russian Federation for the purpose of refinancing (recrediting) the loans (credits) received for a new construction or acquisition on the territory of the Russian Federation of a dwelling house, flat, room or a share (or shares) therein, land plots granted for individual housing construction and land plots on which are situated the dwelling houses being acquired or a share (or shares) therein.

The taxpayer, for proving the right to property tax deduction, shall be provided with the following:

when constructing or acquiring a living house (including an incomplete one) or a share (shares) in them - the documents proving his ownership of the living house or of a share (shares) in them;

when acquiring a flat, room, a share (shares) in them or the rights to a flat or room in a house under construction - the contract of acquiring the flat, room, share (shares) in them or the rights to the flat or room in the house under construction, the certificate of the transfer of the flat, room, a share (shares) in them to the taxpayer or the documents proving the ownership of the flat, room or a share (shares) in them;

in the acquisition of land plots granted for individual housing construction and land plots on which are situated the dwelling houses being acquired, or of a share (or shares) therein - documents confirming the right of ownership to the land plot or the share (or shares) therein.

The aforesaid property tax deduction shall be granted to the taxpayer on the basis of the taxpayer's written application and payment documents drawn up in the established procedure and confirming the fact of the taxpayer's paying monetary funds to cover the expenditures made (receipts to credit slips, bank abstracts on transfer of monetary funds from the buyer's accounts onto the vendor's account, documentary and cash vouchers, certificates on purchase of materials from natural persons, including details on the address and passport data of the vendor and other documents).

When acquiring property in common share or common joint ownership, the extent of property tax deduction computed according to this Subitem shall be distributed between the co-owners according to their share (shares) in the ownership or to their written application (in case of acquiring an apartment house, flat, room into common joint ownership).

The property tax deduction, provided for by this Subitem, shall not apply if the payment for the expenses on the construction or acquisition of a dwelling house, apartment, room or a share (shares) in them for the tax payment shall be made from the funds of employers or other persons, the resources of the mother (family) capital used to realise additional measures of state support of the families with children at the expense of payments made from the federal budget resources, the budgets of the constituents of the Russian Federation and the local budgets, and also if the transaction of the purchase and sale of a dwelling house, apartment, room or a share (shares) in them is concluded between natural persons who are mutually dependent in keeping with **Article 105.1** of this Code.

A taxpayer may not be granted repeated property tax deduction stipulated by this Subitem.

If over a tax period the property tax deduction can not be used entirely, then its balance can be rolled over to the subsequent tax periods until it is exhausted, unless otherwise provided for by this Subitem.

In respect of the taxpayers receiving a pension in compliance with the legislation of the Russian Federation that do not have taxable incomes at the tax rate established by **Item 1 of Article 224** of this Code the balance of a property deduction may be carried to the previous tax periods but at most to three ones.

## 2. Property tax deductions (except tax property deductions relating to transactions in

securities) shall be granted **tax declaration** to tax authorities upon the lapse of the tax period, unless otherwise provided for by this Article.

When tax base is being calculated in relation to transactions in securities a tax property deduction shall be granted in accordance with the procedure established by **Article 214.1** of this Code.

**3.** The property tax deduction provided for by **Subitem 2 of Item 1** of this Article may be granted to the taxpayer prior to the end of the a tax period in case of his application to the employer (hereinafter referred to in this Item as the tax agent) on condition of proving the taxpayers' right to the property tax deduction by the tax body in the form endorsed by the federal executive body authorised to exercise control and supervision in respect of taxes and fees.

The taxpayer shall be entitled to the property tax deduction effected by one tax agent at his discretion. The tax agent shall be obliged to grant the property tax deduction upon receiving from the taxpayer the proof of his right to the property tax deduction issued by the tax body.

The taxpayer's right to the property tax deduction effected by the tax agent in compliance with this Item must be proved by the tax body within the time period of 30 calendar days at the most as of the date of the taxpayer's filing an application and the documents proving the right to the property tax deduction that are indicated in **Subitem 2 of Item 1** of this Article.

Where the results of the tax period show that the amount of the taxpayers' incomes received from the tax agent is less than the sum of the property tax deduction estimated in compliance with **Subitem 2 of Item 1** of this Article, the taxpayer shall be entitled to the property tax deduction in the procedure provided for by **Item 2** of this Article.

**4.** If after a taxpayer presents an application in the established procedure to a tax agent for the property tax deduction provided for by **Subitem 2 of Item 1** of this article the tax agent has wrongfully deducted tax without taking into account this property tax deduction, the amount of tax deducted in excess after receiving the application shall be subject to repayment to the tax payer in the procedure established by **Article 231** of this Code.

#### **Article 220.1.** Tax Deductions When Transferring to Future Periods the Losses Resulting from Operations in Securities and Operations in Financial Instruments of Time Transactions

*According to **Federal Law No. 281-FZ** of November 25, 2009, payers of tax on natural persons' income, in compliance with this Article, shall transfer for the future the losses that have occurred since the tax period of 2010*

**1.** When estimating the rate of the tax base in compliance with **Item 3 of Article 210** of this Code, a taxpayer shall be entitled to tax deductions in case of transferring to future periods the losses resulting from operations in securities circulating in the organised securities market and in financial instruments of time transactions circulating in the organised market.

The losses resulting from operations in securities and from operations in financial instruments of time transactions shall be transferred to future periods in compliance with **Item 16 of Article 214.1** of this Code.

**2.** Tax deductions when transferring to future periods the losses resulting from operations in securities and from operations in financial instruments of time transactions shall be granted:

1) in the amount of the losses from operations in securities circulating in the organised securities market. The cited tax deduction shall be granted in the amount of the losses which have been actually incurred by a taxpayer from operations in securities circulating in the organised securities market in the previous tax periods within the amount of the tax base for

such operations;

2) in the amount of the losses from operations in financial instruments of time transactions circulating in the organised market. The cited tax deduction shall be granted in the amount of the losses actually incurred by a taxpayer from operations in financial instruments of time transactions circulating in the organised market within the limits of the tax base for such operations.

3. The rate of the tax deductions provided for by this Article shall be estimated on the basis of the amount of the losses incurred by a taxpayer in the previous tax periods (within 10 years dating from the tax period for which the tax base is estimated). With this, when estimating the rate of a tax deduction in the tax period for which the tax base is estimated, the amount of the losses incurred by a taxpayer within more than one tax period shall be accounted in the same order in which the corresponding losses have been suffered.

The rate of the tax deduction provided for by this Article which is estimated in the current tax period may not exceed the amount of the tax base estimated with respect to the corresponding operations in this tax period. With this, the amount of a taxpayer's losses not accounted in estimation of the rate of a tax deduction may be accounted in estimation of the rate of a tax deduction in the following tax periods subject to the provisions of this Article.

4. To prove the right to a tax deduction when transferring to future periods the losses resulting from operations in securities and from operations in financial instruments of time transactions a taxpayer shall file the documents confirming the extent of the incurred loss within the whole time period while he reduces the tax base of the current tax period by the sum of previously incurred losses.

5. A tax deduction shall be granted to a taxpayer when filing the tax return with the tax authorities upon termination of a tax period.

**Federal Law** No. 336-FZ of November 28, 2011 supplemented this Code with Article 220.2. The Article shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law

**Article 220.2.** Tax Deductions When Carrying Forward Losses Resulting from Participation in an Investment Partnership

1. When estimating the tax base in compliance with **Item 3 of Article 210** of this Code, a taxpayer is entitled to have tax deductions in case of carrying forward the losses resulting from participation in an investment partnership.

Losses from participation in an investment partnership shall be carried forward in compliance with **Item 10 of Article 214.5** of this Code.

2. Tax deductions when carrying forward losses resulting from participation in an investment partnership shall be granted:

to the extent of the sums of losses resulting from operations of the investment companies where a taxpayer participates in securities circulating in the organised securities market;

to the extent of the sums of losses resulting from operations of the investment companies where a taxpayer participates in securities that do not circulate in the organised securities market;

to the extent of the sums of losses resulting from operations of the investment companies where a taxpayer participates in financial instruments of forward transactions that do not circulate in the organised securities market;

to the extent of the sums of losses resulting from operations of the investment companies where a taxpayer participates in participatory shares in the authorised capital of organisations;

to the extent of the sums of losses resulting from other operations of the investment companies where a taxpayer participates.

The cited tax deductions shall be granted to the extent of the sums of losses actually suffered by a taxpayer as a result of appropriate operations of an investment partnership in the previous tax periods within the limits of the value of the tax base for such operations.

**3.** The rate of the tax deductions provided for by this article shall be estimated on the basis of the sums of losses suffered by a taxpayer in the previous tax periods (within ten years starting from the tax period in respect of which the tax base is estimated). In so doing, when estimating the rate of the tax deduction in the tax period in respect of which the tax base is estimated, the sum of losses suffered by a taxpayer within more than one tax period shall be accounted in the same order as the appropriate losses have been suffered.

The rate of the tax deductions provided for by this article which is estimated in the current tax period may not exceed the value of the tax base estimated in respect of appropriate operations in this tax period. With this, the sums of the taxpayer's losses which are not accounted in estimation of the rate of a tax deduction may be accounted in estimating the rate of a tax deduction in the following tax periods subject to the provisions of this article.

**4.** To prove the right to tax deductions when carrying forward the losses resulting from participation in an investment partnership, a taxpayer shall present the documents proving the extent of the losses suffered within the whole time period when he was reducing the tax base of the current tax period by the sums of previously received losses.

**5.** A tax deduction shall be granted to a taxpayer when filing the tax declaration with tax authorities upon termination of a tax period.";

#### **Article 221.** Professional Tax Deductions

When calculating the tax base according to **Item 3 of Article 210** of this Code, the following categories of taxpayers shall be entitled to professional tax deductions:

**1)** taxpayers listed in **Item 1 of Article 227** of this Code in the amount actually spent by them and proved by documents expenses directly involved in the generation of incomes.

In so doing, said expenses shall be accepted for deduction in the composition determined by a taxpayer independently in the procedure similar to that for determining expenses for the purposes of taxation established by the **Chapter** "Tax on Profits of Organisations".

The amounts of personal property tax paid of taxpayers defined in this Subitem shall be accepted for deduction if this property being an item of taxation according to Articles of the Chapter "Tax on Income of Natural Persons" (except for apartment houses, flats, summer cottages and garages) is directly used to carry out business activity.

If the taxpayers can not provide documentary confirmation of expenses connected with their activity as individual businessmen, the professional tax deduction shall be made at the rate of 20 per cent of the total amount of incomes received by the individual businessman from business activity. This provision shall not apply to natural persons engaged in business activity without the formation of legal person, but who have not registered as individual businessmen;

**2)** taxpayers receiving incomes from performance of works (rendering of services) under civil contracts, - in the amount of their actual expense supported by documents - the former being directly involved in the performance of these works (rendering of services);

**3)** taxpayers receiving awards or rewards for creating, performance or other use of works of science, literature or art, awards to authors of discoveries, inventions and industrial models in the amount of the expenses actually made and supported by documents.

If these expenses can not be supported by documents, they shall be accepted for deduction in the following amounts:

of cent accrued	Standard rate expenses (in per to amount of income)
1	2
Creation of literary works, including those for theatre, cinema, variety artists, circus	20
Creation of fine arts and graphic works, photo works for publications, architecture and design works	30
Creation of sculptures, monumental and decorative paintings, works of decorative and applied arts, works of easel-painting, of theatre and cinema arts and graphical works of various techniques	40
Creation of audio-visual works (video, television and cinema films)	30
Creation of musical works: musical and scenic works, (operas, ballet performances, musical comedies), symphonic, choral,	40

chamber works, works for brass bands, original music for cinema films, television and video films and theatre productions	
Other musical works, including those prepared for publication	25
Performance of works of literature and arts	20
Creation of scientific works and designs	20
Discoveries, inventions and creation of industrial models (to the amount of income received over the first two years of their use)	30

For the purposes of this Article, taxpayer's expenses shall also include the amounts of tax envisaged by the tax and fee legislation in respect of the kinds of activity specified in this Article (except for tax on incomes of natural persons) accrued or paid by the taxpayer in the tax period in the procedure established by the legislation on taxes and fees, as well as the sums of insurance contributions for compulsory retirement insurance and insurance contributions for compulsory medical insurance charged or paid by the taxpayer for an appropriate period in the procedure established by the legislation on taxes and fees.

When determining the tax base, the expenses confirmed by documents may not be taken into account at the same time as the expenses within the limits of the established normative standard.

The taxpayers specified in this Article shall exercise their right to professional tax deductions upon filing an application in writing with a tax agent.

In the absence of a tax agent, professional tax deductions shall be granted to the taxpayers specified in this Article when filing a tax return upon the expiry of a tax period.

A state duty paid in connection with a taxpayer's professional activities shall likewise pertain to the said expenses thereof.

**Article 222.** Authorities of Legislative (Representative) Bodies of the Constituent Entities of the Russian Federation in the Establishment of Social and Property

## Deductions

Within the limits of social tax deductions established by **Article 219** of this Code and property tax deductions established by **Article 220** of this Code, legislative (representative) bodies of the constituent entities of the Russian Federation may establish other amounts of deductions with due account of their own region.

### **Article 223.** The Date of Actual Receipt of Income

**1.** For the purposes of this Chapter, unless otherwise stipulated by **Items 2 - 4** of this Article, the date of actual receipt of income shall be defined as the day of:

1) disbursement of income, including the transfer of the income to accounts of the taxpayer held with banks or by his instruction to accounts of third persons at the receipt of incomes in cash;

2) transfer of incomes in kind - when incomes are received in kind;

3) payment by the taxpayer of interest on received borrowed (credit) funds, on purchase of goods (works, services), on purchase of securities if incomes are received in the form of material benefit.

**2.** Upon the receipt of income in the form of remuneration for labour, the date of actual receipt by the taxpayer of such an income shall be defined as the last day of the month for which the income for performed job duties was charged to him according to the labour contract (the agreement).

Where labour relations are terminated before the expiry of a calendar month, the last working day for which a taxpayer's income was charged shall be deemed the date of actual receiving by the taxpayer of income in the form of remuneration for labour.

**3.** The sums of payment received for rendering assistance to self-employment of unemployed citizens and for promoting the creation by unemployed citizens who have opened their own businesses of additional jobs for job placement of unemployed citizens on account of budgets of the budget system of the Russian Federation in compliance with the programmes endorsed by the appropriate state power bodies shall be accounted in the composition of incomes within three tax periods with concurrent showing of appropriate sums in the composition of expenses within the limits of actually made expenses of each tax period which are provided for by the terms under which the cited sums of payment are received.

In the event of breaking the terms under which the payments provided for by this item are received, the sums of received payments shall be shown in full within the composition of incomes of the tax period in which the terms are broken. If upon the expiry of the third tax period the amount of the received payments cited in Paragraph One of this item exceeds the sum of the expenses accounted in compliance with this item, the remaining sums which are not accounted shall be shown in full within the composition of incomes of this tax period.

**4.** Financial support assets received in the form of subsidies in compliance with **Federal Law** No. 209-FZ of July 24, 2007 on Developing Small and Medium Scale Entrepreneurship in the Russian Federation (hereinafter referred to as the Federal Law on Developing Small and Medium Scale Entrepreneurship in the Russian Federation) shall be shown within the composition of receipts in proportion to the expenditures actually made on account of this source but at most within two tax periods as from the date when they are received. If upon the end of the second tax period the amount of the received financial support assets cited in this item exceeds the amount of the admitted expenditures actually made on account of this source, the difference between the cited amounts shall be shown in full within the composition of

receipts of this tax period. The given procedure for accounting financial support assets shall not extend to the acquisition of depreciable property on account of the cited source.

In the event of acquiring depreciable property on account of the financial support assets cited in this item, these financial support assets shall be shown within the composition of receipts as the outlays on acquisition of depreciable property are admitted in the procedure established by **Chapter 25** of this Code.

#### **Article 224. Tax Rates**

**1.** The tax rate shall be established in the amount of 13 per cent, unless otherwise stipulated by this Article.

**2.** The tax rate shall be established in the amount of 35 per cent concerning the following incomes:

Paragraph 2 is **removed**.

cost of prizes and prizes received in competitions, games and other activities held with the purposes of advertising goods, works and services, in the part exceeding the amounts stated in **Item 28 of Article 217** of this Code;

**Abrogated;**

amounts of interest on bank deposits, as regards the excess of the rates cited in Article 214.2 of this Code;

amounts of economic gain on interest when the taxpayers receive borrowed (credit) funds in the part exceeding the amounts specified in **Item 2 of Article 212** of this Code.

in the form of a fee for the use of monetary means of members of a credit consumer cooperative (shareholders), and also interest for the use by an agricultural credit consumer cooperative of means attracted in the form of loans from members of an agricultural credit consumer cooperative or from associated members of an agricultural credit consumer cooperative in the part of the excess of the sizes indicated in **Article 214.2.1** of this Code.

**3.** The tax rate shall be fixed in the amount of 30 per cent with respect to all incomes received by natural persons who are not tax residents of the Russian Federation, except for the incomes received in the following forms:

as dividends from the participating interest in the activity of Russian organisations, in respect of which the tax rate is fixed in the amount of 15 per cent;

those derived from the labour activities cited in **Article 227.1** of this Code in respect of which the tax rate is established in the amount of 13 per cent;

those derived from labour activities in the capacity of a highly-qualified specialist in compliance with Federal Law No. 115-FZ of July 25, 2002 on the Legal Position of Foreign Citizens in the Russian Federation in respect of which the tax rate is established in the amount of 13 per cent.

from the carrying out of labour activity by participants of the State programme for assisting voluntary migration to the Russian Federation of compatriots living abroad, and also by members of their families who have jointly moved to a permanent place of residence to the Russian Federation in whose respect the tax rate shall be established at a rate of 13 per cent.

those derived from the discharge of their labour duties by the crew members of vessels flying the State Flag of the Russian Federation in respect of which the tax rate is fixed in the amount of 13 per cent.

**4.** The tax rate shall be established in the amount of nine per cent with respect to the incomes from the share participation in the activity of organisations received in the form of dividends by the natural persons who are tax residents of the Russian Federation.

**5.** The tax rate shall be established in the amount of 9 per cent in respect of the incomes



in the form of interest on bonds with mortgage cover issued prior to January 1, 2007, as well as in respect of incomes of the founders of the mortgage cover trust management gained on the basis of acquiring mortgage participation certificates issued by the mortgage cover manager prior to January 1, 2007.

**Article 225.** The Procedure for Calculation of Tax

1. When determining the tax base according to **Item 3 of Article 210** of this Code, the amount of tax shall be calculated as a percentage share of the tax base corresponding to the tax rate established by **Item 1 of Article 224** of this Code.

When determining the tax base according to **Item 4 of Article 210** of this Code, the amount of tax shall be calculated as a percentage share of the tax base according to the tax rate.

2. The total amount of tax represents an amount received as a result of addition of amounts of tax calculated according to Item 1 of the present Article.

3. The total amount of the tax shall be calculated by results of a tax period as regards all incomes of the taxpayer whose date of receipt falls within the respective tax period.

4. The tax shall be calculated in whole roubles. An amount of tax less than 50 copecks shall be rejected, while 50 copecks or more shall be rounded up to a whole rouble.

**Article 226.** Features of Calculation of Tax by Tax Agents. The Order and Terms of Payment of Tax by Tax Agents

1. Russian organisations, individual businessman, notaries engaged in private practice, solicitors/barristers that have founded solicitor's studies, as well as detached units of foreign organisations in the Russian Federation from which or as a result of the relations with which the taxpayer has received incomes indicated in Item 2 of this Article, are obliged to calculate, to withhold from the taxpayer and to pay the tax computed according to **Article 224** of this Code with allowance for features stipulated by this Article. The tax on lawyers' incomes shall be calculated, withheld and paid by colleges of solicitors/barristers, solicitor/barrister bureaux and lawyer's offices.

The persons specified in Paragraph One of this Item are referred to in this Chapter as tax agents.

2. Calculation of the amounts and payment of tax according to the present Article are made for all incomes of the taxpayer, whose source is the tax agent, except for the incomes concerning which the calculation and payment of the tax are made according to **Articles 214.1, 214.3, 214.4, 214.5, 227, 227.1** and **228** of this Code with offset of the previously withheld amounts of tax.

3. Tax agents shall calculate amounts of tax in progressive total from the beginning of the tax period by results of each month as regards all incomes covered by the tax rate established by **Item 1 of Article 224** of this Code accrued to the taxpayer over the period in question, with the account taken of the tax amount withheld in the preceding months of the current tax period.

Amount of the tax with reference to incomes concerning which other tax rates are applied shall be calculated by the tax agent separately for each amount of said income accrued to the taxpayer.

The tax shall be calculated without account of incomes received by the taxpayer from other tax agents and amounts withheld by other tax agents.

4. Tax agents are obliged to withhold the computed amount of tax directly from incomes of the taxpayer upon their actual disbursement.

The deduction at the taxpayer of the charged amount of tax shall be made by the tax agent to the charge of any funds paid by the tax agent to the taxpayer, upon the actual disbursement of aforesaid funds to the taxpayer or by his instruction to third persons. In so doing, the withheld tax can not exceed 50 per cent of the amount of disbursement.

The provisions of this Item shall not extend to tax agents that are credit organisations with respect to withholding and paying the amounts of the tax from the incomes received by the customers of such credit organisations (except for the customers who are workers of such credit organisations) in the form of material benefit determined in accordance with **Subitems 1 and 2 of Item 1 of Article 112** of this Code.

**5.** Where it is impossible to deduct the amount of tax charged on a taxpayer, a tax agent shall be obliged at the latest in one month as of the end date of the tax period in which the corresponding circumstances occurred to notify in writing the taxpayer and the tax authority at the place where the tax agent is registered of the impossibility to deduct the tax and of the tax amount.

The form of a notice of the impossibility to deduct the tax and of the tax amount and a **procedure** for submitting it to the tax authority shall be endorsed by the federal executive authority in charge of the exercise of control and supervision in respect of taxes and fees.

**6.** The tax agents are obliged to transfer the amounts of calculated and withheld tax no later the day of actual receipt in the bank of effective cash to disburse the income, and also of the income transfer day from accounts of the tax agents with the bank to accounts of the taxpayer or by his instruction to bank accounts of third persons.

In other cases, tax agents shall transfer the calculated and withheld tax no later than the day following actual receipt by the taxpayer of the income, - for incomes disbursed in cash and also the day following the actual deduction of the calculated amount of tax - for incomes received by the taxpayer in kind or in a form of financial assistance.

**7.** The aggregate sum of tax calculated and withheld by a tax agent from the taxpayer for which he is recognised as the source of income shall be paid to the budget at the place where the tax agent is registered with a tax body.

Tax agents, Russian organisations, specified in **Item 1** of the present Article, that have detached units are obliged to transfer amounts of calculated and withheld tax to the budget both at the place of their location, and at the place of each of its detached units.

The amount of the tax payable to the budget at the location of detached units shall be defined on the basis of amount of taxable income, charged and paid to workers of such detached units.

**8.** Withheld by a tax agent from incomes of natural persons concerning which he is recognised as the source of income, the aggregate amount of tax exceeding 100 roubles, shall be transferred to the budget in the order established by this Article. If the aggregate sum of the withheld tax payable to the budget constitutes less than 100 roubles, it shall be added to the amount of tax subject to transfer to budget in the next month, but no later than December of the current year.

**9.** It is not allowed to pay tax at the expense of funds of tax agents. When concluding contracts and other transactions, it is prohibited to include into such any tax clauses according to which income paying tax agents shall undertake to bear expenses connected with the payment of tax for natural persons.

**Article 227.** Features of Calculation of Amounts of Tax by Some Categories of Natural Persons. The Order and Terms of Payment of Tax, and the Order and Terms of Payment of Advance Payments by Said Persons

See the **Procedure** for Individual Entrepreneurs to Keep Records of Income, Expenses and Economic Transactions, endorsed by **Order** of the Ministry of Finance of the Russian Federation and the Ministry of Taxation of the Russian Federation No. 86n/BG-3-04/430 of August 13, 2002

1. The calculation and payment of tax according to this Article shall be made by the following taxpayers:

1) natural persons registered in the order established by the current legislation and engaged in business activity without the status of a legal person - on amounts of incomes received from such activities;

2) notaries engaged in private practice, solicitors/barristers that have founded solicitor's studies and other persons engaged in the order established by the current legislation in private practice - on amounts of incomes received from such activity.

2. Taxpayers named in Item 1 of this Article shall independently calculate the tax payable to the corresponding budget in the order established by **Article 225** of this Code.

3. The total amount of tax payable to the appropriate budget shall be calculated by the taxpayer with allowance for the tax withheld by tax agents upon the disbursement to the taxpayer of the income, and also amounts of advance payments under the tax actually paid to the appropriate budget.

4. Losses of past years incurred by the natural person shall not reduce the tax base.

5. The taxpayers named in **Item 1** of this Article are obliged to present to the tax authorities at the place of their registration the appropriate tax declaration by times established by **Article 229** of the present Code.

6. The total sum of tax payable to the appropriate budget calculated according to the tax declaration with allowance for provisions of the present Article shall be paid at the place of registration of the taxpayer no later than July 15 of the year following the lapsed tax period.

7. If during the year the taxpayers named in **Item 1** of this Article will obtain any incomes received from the accomplishment of business activity or from pursuit of a private practice, the taxpayers are obliged to present the **tax declaration** stating the amount of the anticipated income from said activity in the current tax period to the tax authorities within five days upon the completion of the month from the date of appearance of such incomes. In so doing, the sum of the anticipated income shall be determined by the taxpayer.

8. The calculation of the sum of advance payments shall be made by the tax authority. Amounts of advance payments on the current tax period shall be made by the tax authorities on the basis of the amount of anticipated income stated in the tax declaration or the amount of the actually received income from activity types stated in **Item 1** of the present Article for the previous tax period with allowance for tax deductions stipulated by **Articles 218** and **221** of this Code.

9. Advance payments are paid by the taxpayer on the basis of the tax notices:

1) for January - June - not later than July 15 of the current year in the amount of half of the annual amount of advance payments;

2) for July - September - no later than October 15 of the current year in the amount of one quarter of the annual amount of advance payments;

3) for October - December - no later than January 15 of the next year in the amount of one quarter of the annual amount of advance payments.

10. In case of a significant (by more than 50 per cent) increase or reduction of income over a tax period, the taxpayer is obliged to present a new **tax declaration** which is to give details on the amount of the anticipated income from performance of activity indicated in Item 1 of this Article for the current year. In this case, the tax authorities shall recalculate the amounts

of advance payments for the current year as regards the outstanding deadlines of payment.

The recalculation of the amounts of advance payments is made by the tax authorities not later than within five days from receipt of the new tax declaration.

*The provisions of Article 227.1 of this Code shall be **applied** from July 1, 2010*

**Article 227.1.** Specifics of Estimation of the Amount of Tax and of Filing a Tax Return by Foreign Citizens Employed for Exercising Labour Activities for Natural Persons on the Basis of a Labour Contract or Civil Law Contract for Carrying Out Works (Rendering Services) for Satisfaction of Private, Domestic and Other Needs Which Are Not Connected with Business Activities. Procedure for Tax Payment

**1.** Foreign citizens employed for exercising labour activities for natural persons on the basis of a licence issued in compliance with Federal Law No. 115-FZ of July 25, 2002 on the Legal Position of Foreign Citizens in the Russian Federation (hereinafter referred to in this article as the licence) shall estimate and pay tax on incomes derived from the exercise of such activities in the procedure established by this article.

**2.** The tax shall be paid in the form of fixed advance payments at the rate of 1000 roubles per month.

*The deflator coefficient provided for by Item 3 of Article 227.1 of this Code of the Russian Federation (in the wording of **Federal Law No. 86-FZ of May 19, 2010**) shall **apply** to the estimation of the rate of fixed advance payments for tax on income of a natural person to be made in 2012 and subsequent periods*

**3. The rate of fixed advance payments cited in Item 2 of this article shall be subject to indexation by the deflator coefficient fixed annually for every following calendar year and taking into account changes in consumer prices of commodities (works, services) in the Russian Federation for the previous calendar year, as well as by the deflator coefficients which have been applied in compliance with this item before. The deflator coefficient shall be fixed and subject to official publication in the procedure established by the Government of the Russian Federation.**

**4.** A fixed advance payment shall be made by a taxpayer at the place of residence (place of stay) thereof before the starting date of the time period for which the licence is issued or the starting date of the time period for which the licence's validity term is extended.

In so doing, in a taxpayer's settlement document shall be cited the payment's denomination: "Tax on natural person's income in the form of fixed advance payment".

**5.** The total tax amount to be paid to the budget shall be estimated by a taxpayer subject to the fixed advance payments made within the tax period. If the amount of fixed advance payments made within the **tax period** exceeds the tax amount estimated on the basis of the results of the tax period proceeding from the incomes actually received by a taxpayer, such excessive amount shall not be deemed the tax amount paid in excess and shall not be repaid to the taxpayer or set off.

**6.** A taxpayer shall be relieved of filing with tax authorities a tax return in respect of tax, except when:

1) the total tax amount to be paid to an appropriate budget which is estimated by a taxpayer on the basis of the incomes actually derived from the activities cited in **Item 1** of this Article exceeds the sum of the fixed advance payments made within the tax period;

2) a taxpayer goes outside the Russian Federation before the end of the tax period and the total tax amount to be paid to an appropriate budget estimated by a taxpayer on the basis of the incomes actually derived from the activities cited in **Item 1** of this Article exceeds the sum of the fixed advance payments made;

3) the licence has been canceled in compliance with Federal Law No. 115-FZ of July 25, 2002 on the Legal Position of Foreign Citizens in the Russian Federation.

*Federal Law No. 158-FZ of November 29, 2001 amended Item 1 of Article 228 of this Federal Law. The amendments shall enter into force from January 1, 2002  
See the previous text of the Item*

#### **Article 228.** Features of Calculation of Tax Concerning Certain Types of Incomes. The Order of Payment of Tax

**1.** The calculation and payment of tax according to this Article shall be made by the following categories of taxpayers:

1) natural persons - on the basis of amounts of compensations received from natural persons and organisations who are not tax agents under concluded labour contracts and civil contacts, including the incomes under employment contracts or rent contracts of any property;

2) natural persons - proceeding from the amounts received from the sale of property belonging thereto on the right of ownership and property rights, except for the instances stipulated by **Item 17.1 of Article 217** of this Code when such incomes are not subject to taxation;

3) natural persons - tax residents of the Russian Federation, except for the Russian military servicemen cited in **Item 3 of Article 207** of this Code who receive incomes from sources located outside the Russian Federation - on the basis of amounts of such incomes;

4) natural persons receiving other incomes, during whose receipt the tax agents have withheld no tax - on the basis of amounts of such incomes.

5) the natural persons receiving prizes disbursed by the organisers of lotteries, totalizator and other risk-based gambling games (in particular, those involving the use of gambling machines), proceeding from the amounts of such prizes;

6) natural persons receiving income in the form of reward paid to them as to heirs (legal successors) of authors of works of science, literature, arts, as well as authors of inventions, useful models and industrial designs;

7) natural persons receiving from natural persons who are not individual businessmen income in monetary form and in kind by way of a gift, except as provided for by **Item 18.1 of Article 217** of this Code, when such income is not taxable.

8) the natural persons who receive incomes in the form of the monetary equivalent of immovable property and/or securities that have been contributed to replenish the earmarked capital of not-for-profit organisations in the procedure established by **Federal Law No. 275-FZ** of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations, except for the cases envisaged by **Paragraph 3 of Item 52 of Article 217** of this Code.

**2.** The taxpayers specified in Item 1 of this Article shall independently calculate the amounts of tax payable to the appropriate budget in the order established by **Article 225** of this Code.

The total amount of tax payable to the appropriate budget shall be calculated by the taxpayer with allowance for amounts of the tax withheld by tax agents upon disbursement of

income to the taxpayer. In so doing, losses of the past years sustained by the natural person shall not reduce the tax base.

**3.** The taxpayers listed in **Item 1** of this Article, are obliged to present the appropriate **tax declaration** to the tax authorities at the place of their registration.

**4.** The total amount of tax payable to the appropriate budget calculated on the basis of the tax declaration with allowance for provisions of this Article shall be paid at the place of residence of the taxpayer no later than July 15 of the year following the expired tax period.

**5. Abrogated.**

**Article 229.** The Tax Declaration

*The provisions of Item 1 of Article 229 of this Code (in the wording of **Federal Law No. 86-FZ of May 19, 2010**) shall be **applied** from July 1, 2010*

**1.** A **tax declaration** shall be submitted by the taxpayers named in **Articles 227, 227.1** and **228** of this Code.

The tax declaration shall be submitted no later than April 30 of the year following an expired tax period, unless otherwise provided for by **Article 227.1** of this Code.

**2.** Persons who are not obliged to submit a **tax declaration** shall have the right to submit such a declaration to the tax authorities at their place of residence.

**3.** When the activities specified in **Article 227** of this Code cease to exist, up to the end of the tax period within five days from the date of termination of such activities, taxpayers are obliged to present a declaration on the actually received incomes in the current tax period.

If during a calendar year a foreign natural person stops an activity the incomes from which are subject to taxation according to Articles 227 and 228 of this Code and leaves the territory of the Russian Federation, the tax declaration on incomes actually received over the period of his stay within the current tax period on the territory of the Russian Federation, should be presented by him no later than one month before his departure from the territory of the Russian Federation.

The tax which is charged in addition to the tax declarations the order of which submission is defined by this Item shall be paid no later than 15 calendar days from the time of submission of such declaration.

**4.** In the **tax declarations**, the natural persons shall state all the incomes they have received over the tax period, unless otherwise provided for by this Item, sources of their disbursement, tax deductions, the amount of tax withheld by tax agents, and the amount of advance payments actually paid during a tax period, tax amounts payable (additionally payable) or refundable according to the results of the tax period.

Taxpayers shall be entitled not to cite in the tax return thereof incomes which are not taxable (which are exempt from taxation) in compliance with **Article 217** of this Code, as well as incomes which were fully taxed by tax agents when received, if this does not impede the obtaining by a taxpayer of the tax deductions provided for by **Articles 218-221** of this Code.

**Article 230.** Enforcement of Provisions of This Chapter

**1.** Tax agents shall keep records of the incomes received from them by natural persons within a tax period, of the tax deductions granted to natural persons and of estimated and deducted taxes in tax accounting ledgers.

Forms of tax accounting ledgers and the procedure for showing therein analytical tax accounting data and data of basic accounting documents shall be independently developed by

a tax agent and shall contain the data enabling one to identify a taxpayer, the kind of income to be paid to the taxpayer and tax deductions granted thereto in compliance with the codes endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees, the income amounts and dates when they are paid, taxpayer's status, date of tax deduction and remittance of tax to the budget system of the Russian Federation and requisite elements of an appropriate payment document.

**2.** Tax agents shall present data to the tax authority at the place of their recording on the incomes of natural persons within the expired tax period and on the amounts of taxes charged, deducted and remitted to the budget system of the Russian Federation for this tax period annually at the latest on April 1 of the year following the expired tax period according to the **forms** and **formats**, as well as in the procedure, which are endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

The said information shall be submitted by the tax agents in electronic form along telecommunication channels or on electronic carriers. If the number of natural persons, who have derived incomes over the tax period, is less than ten, the tax agents may present such information on paper carriers.

**3.** Tax agents shall issue to natural persons upon their request information on incomes received by the natural persons and withheld amounts of tax on the **form** approved by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

## **Article 231.** Tax Collection and Refund Procedure

**1.** The amount of tax withheld by a tax agent in excess from a taxpayer's income is subject to repayment by the tax agent on the basis of the taxpayer's application in writing.

A tax agent is obliged to notify a taxpayer of every fact of tax deduction in excess that has become known thereto and of the amount of tax withheld in excess within 10 days as from the date when such fact is detected.

The amount of tax withheld in excess shall be repaid by a tax agent on account of the tax amounts which are subject to remittance to the budget system of the Russian Federation as forthcoming payments both in respect of the cited taxpayer and in respect of other taxpayers from whose income a tax agent deducts such tax within three months as from the date when the tax agent receives an appropriate application of the taxpayer.

The tax amounts withheld in excess shall be repaid to a taxpayer by a tax agent on a cashless basis by way of remitting monetary assets to the taxpayer's bank account cited in the application thereof.

If a taxpayer is repaid the amount of tax withheld in excess with a failure to observe the time fixed by **Paragraph Three** of this item, interest shall be charged on the amount of tax withheld in excess which is not repaid to the taxpayer in due time per each calendar day of delay in repayment thereof, this to be paid to the taxpayer. The interest rate shall be taken as equal to the **refinancing rate** of the Central Bank of the Russian Federation effective during the days of delay in payment.

Where the amount of tax to be remitted by a tax agent to the budget system of the Russian Federation is insufficient for repayment to a taxpayer of the amount of tax withheld in excess and remitted to the budget system of the Russian Federation at the time fixed by this article, the tax agent, within 10 days as from the date when the taxpayer files an appropriate application therewith, shall forward to the tax authority at the place of recording thereof an application for repayment to the tax agent of the amount of tax withheld by such tax agent in excess.

The amount of tax remitted to the budget system of the Russian Federation shall be repaid to a tax agent by a tax authority in the procedure established by **Article 78** of this Code.

A tax agent, jointly with an application for repayment of the amount of tax withheld in excess and repaid to the budget system of the Russian Federation, shall file with a tax authority an extract from the tax accounting ledger for an appropriate tax period and the documents proving that the tax amount has been withheld in excess and remitted to the budget system of the Russian Federation.

A tax agent, while repaying from the budget system of the Russian Federation the tax amount withheld in excess from a taxpayer by such tax agent and remitted to the budget system of the Russian Federation, is entitled to repay this tax amount on account of the own assets thereof.

Where there is no tax agent, a taxpayer is entitled to file an application with a tax authority for repayment of the tax amount earlier withheld therefrom in excess and remitted to the budget system of the Russian Federation concurrently filing a tax declaration upon termination of a tax period.

**1.1.** The tax amount shall be repaid to a taxpayer in connection with the re-calculation made on the basis of the results of a tax period in compliance with the acquisition by such taxpayer of the status of a tax resident of the Russian Federation by the tax authority where the former is registered at the place of residence (the place of stay) when the taxpayer files a tax declaration upon termination of the cited tax period, as well as the documents proving the status of a tax resident of the Russian Federation in this tax period, in the procedure established by **Article 78** of this Code.

**2.** Amounts of tax not withheld from natural persons or partially withheld by tax agents shall be collected by such from natural persons until these persons repay in full the tax arrears in the manner stipulated by **Article 45** of this Code.

**3. Abrogated** from January 1, 2011.

**Article 232.** Avoidance of Double Taxation

**1.** Amount of tax on incomes received outside the Russian Federation and actually paid outside the Russian Federation by a taxpayer who is a tax resident of the Russian Federation pursuant to the legislation of other states, are not accepted to offset tax payment in the Russian Federation, except as otherwise provided by an appropriate agreement (treaty) on avoidance of double taxation.

**2.** For exemption from the tax, offset, or to receive tax deductions or other tax privileges, the taxpayer should present to the tax bodies official confirmation that he is the resident of the state with which the Russian Federation has an agreement (treaty) on avoidance of double taxation and also a document on the income received and on his tax payment outside of the Russian Federation confirmed by the tax body of a respective foreign state which has been effective during the tax period (or a part thereof) in question. Confirmation can be submitted either before the payment of tax or advance payments on the tax or within one year after the end of that tax period on results of which the taxpayer applies to receive exemption from the tax, offset, tax deductions or privileges.

**Article 233. Abrogated** from January 1, 2010.

## **Chapter 24. Uniform Social Tax**

**Abrogated** from January 1, 2010.

*On insurance contributions to be made to the Pension Fund of the Russian Federation, the*



*Social Insurance Fund of the Russian Federation, the Federal Obligatory Medical Insurance Fund and regional obligatory medical insurance funds, see **Federal Law** No. 212-FZ of July 24, 2009*

***Federal Law** No. 110-FZ of August 6, 2001 supplemented Part II of this Code with Chapter 25 "Tax on Organisations' Profit". The Chapter **shall enter into force** from January 1, 2002*

## **Chapter 25. Tax on Organisations' Profit**

*See **effective provisions** of **Law** of the Russian Federation No. 2116-I of December 27, 1991 on the Taxation of the Profits of Enterprises and Organisations*

*See the **Methodical Recommendations** for Tax Bodies with Regard to the Application of Individual Provisions of Chapter 25 of the Tax Code of the Russian Federation Concerning the Specifics of Taxing Profits (Incomes) of Foreign Organisations, approved by **Order** of the Ministry of Taxation of the Russian Federation No. BG-3-23/150 of March 28, 2003*

### **Article 246. Taxpayers**

**1.** Recognised as the taxpayers of the tax on the profit of organisations (hereinafter in this Chapter "the taxpayers") shall be:

- Russian organisations;
- foreign organisations carrying out their activity in the Russian Federation through their permanent representations and (or) receiving incomes from sources situated in the Russian Federation.

The organisations which are responsible participants in a consolidated group of taxpayers shall be deemed taxpayers in respect of organisations profit tax for this consolidated group of taxpayers.

Participants in a consolidated group of taxpayers shall discharge the duties of taxpayers in respect of organisations profit tax for the consolidated group of taxpayers insofar as it is necessary for its estimation by the responsible participant in this group.

**2.** Organisations that are foreign organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation or foreign market partners of the International Olympic Committee in compliance with **Article 3.1** of the cited Federal Law shall not be deemed taxpayers in respect of the incomes received in connection with organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi.

Organisations that are official broadcasting companies in compliance with **Article 3.1** of the cited Federal Law shall not be deemed taxpayers in respect of the incomes derived from the following operations made under an agreement made with the International Olympic Committee or with an organisation authorised by it:

1) making mass media products within the period while the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi are organised, which is fixed by **Part 1 of Article 2** of the cited Federal Law;

2) making and disseminating mass media products (in particular, official television and

radio broadcasting including via digital and other communication channels) within the period while the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi are held which is fixed by **Part 2 of Article 2** of the cited federal Law.

### **3. Abrogated.**

**Article 246.1.** Relief from Performing a Taxpayer's Duties for an Organisation That Has Acquired the Status of Participant in a Project Involving Research Works, Development and Commercialisation of Their Results

**1.** Organisations that have acquired the status of participants in the project involving research works, development and commercialisation of their results in compliance with the **Federal Law** on the Skolkovo Innovation Center (hereinafter referred to in this article as project participants) shall enjoy within ten years from the date when they acquire the status of the project participants in compliance with the cited Federal Law the right to the relief from performing taxpayers duties (hereinafter referred to in this article as the right to the relief) in the procedure and under the terms which are provided for by this Chapter.

**2.** A project participant shall forfeit the right to the relief from a taxpayer's duties in the following cases:

in the event of losing the status of project participant from the first day of the tax period in which such status was lost;

if the annual proceeds from selling commodities (works, services, property rights) estimated in compliance with this Chapter of this Code and received by this project participant has exceeded a billion roubles, from the first day of the tax period in which the cited excess took place.

**3.** The tax amount for the tax period in which the status of project participant was lost or the aggregate amount of profit derived by the project participant exceeded 300 million roubles is subject to restoration and payment to the budget in the established procedure, with the appropriate amounts of penalties to be recovered from the project participant.

**4.** A project participant is entitled to exercise the right of relief from the first day of the month following the month in which the status of a project participant was obtained.

A project participant that has started to exercise the right to the relief must forward to the tax authority at the place of registration thereof a notification in writing and the documents cited in **paragraph two of Item 7** of this article at the latest on the 20th day of the month following the month starting from which this project participant started to exercise the right to the relief.

The form of a notification on exercising the right to the relief (of extending the duration of the right to the relief) shall be endorsed by the Ministry of Finance of the Russian Federation.

**5.** A project participant that has forwarded a notification on exercising the right to the relief (of extending the time period of the relief) to a tax authority is entitled to reject the relief by way of forwarding an appropriate notification to the tax authority at the place of registration thereof as a project participant at the latest on the first day of the tax period starting from which he intends to reject the relief.

The relief shall not be repeatedly granted to a project participant that has rejected it.

**6.** Upon termination of a tax period, at the latest on the 20th day of the following month, a project participant that has exercised the right to the relief shall forward the following to a tax authority:

the documents cited in **Item 7** of this article;

a notification on extending the exercise of the right to the relief within the following tax

period or of rejecting the relief.

If a project participant has not forwarded the documents cited in **Item 7** of this article (or has forwarded documents containing unreliable data) the tax amount shall be subject to restoration and payment to the budget in the established procedure, with the appropriate penalties to be recovered from the project participant.

**7.** The following shall be deemed the documents proving the right to the relief (to the extension of the time period of the relief) in compliance with **Items 4** and **6** of this article:

the documents proving the status of project participant and provided for by the **Federal Law** on the Skolkovo Innovation Centre;

an extract from the **register of receipts and expenditures** or a profit and loss report of a project participant proving the annual volume of proceeds from selling commodities (works, services and property rights).

**8.** Where it is provided for by **Items 4** and **6** of this article, a project participant is entitled to forward a notification and the documents to a tax authority by registered mail. In such case, the date of their filing with a tax authority shall be deemed the sixth day as from the date when the registered mail is sent.

**9.** The amounts of loss suffered by a taxpayer before exercising the right to the relief in compliance with this article may not be deferred to the future after recognising an organisation as a taxpayer.

#### **Article 247.** Object of Taxation

Seen as an object of taxation for the tax on the profit of organisations (hereinafter in this Chapter 'the tax') shall be profit derived by the taxpayer.

Recognised as profit for the purposes of this Chapter shall be:

1) for Russian organisations which are not participants in a consolidated group of taxpayers - derived incomes, reduced by the amount of the effected expenditures which are defined in conformity with the present Chapter;

2) for foreign organisations performing an activity in the Russian Federation through permanent representations incomes derived through these permanent representations, reduced by the amount of the outlays made by these permanent representations which are defined in conformity with this Chapter;

3) for other foreign organisations - incomes derived from sources situated in the Russian Federation. The incomes of the said taxpayers shall be determined in conformity with **Article 309** of this Code.

4) for organisations participating in a consolidated group of taxpayers - the amount of the aggregate profit of the participants in the consolidated group of taxpayers falling on a given participant and estimated in the procedure established by **Item 1 of Article 278.1** and by **Item 6 of Article 288** of this Code.

***Federal Law No. 57-FZ of May 29, 2002 amended Article 248 of this Code***

*The amendments **shall enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

***See the previous text of the Article***

#### **Article 248.** Procedure for Defining Incomes. Classification of Incomes

**1.** For the purposes of this Chapter, to incomes shall be referred:

1) the incomes derived from the sale of commodities (works, services) and of the rights of

property (hereinafter, the incomes from sale);

For the purposes of this Article goods shall be defined in compliance with **Item 3 of Article 38** of this Code;

2) the extra-sale incomes.

When defining the incomes, from the latter shall be excluded the amounts of the taxes presented in conformity with this Code by the taxpayer to the buyer (to the acquirer) of commodities (works, services or property rights).

The incomes shall be defined on the basis of the initial documents and other documents confirming that the taxpayer has received incomes, and of tax recording documents.

The incomes from sale shall be defined in the order established by **Article 249** of this Code, with account for the provisions of the present Chapter.

The extra-sale incomes shall be defined in the order established by **Article 250** of this Code, with account for the provisions of this Chapter.

**2.** For the purposes of this Chapter, the property (works, services) or the rights of property shall be seen as received free of charge, if the receipt of this property (works, services) or of the rights of property is not involved in the emergence of the receiver's duty to pass on the property (rights of property) to the person who is handing them over (to perform certain work for the handing over person or to render a service to the handing over person).

**3.** Incomes of a taxpayer expressed in foreign currency shall be recorded together with the incomes expressed in roubles.

Incomes of a taxpayer expressed in conventional units shall be recorded together with the incomes expressed in roubles.

Conversion of said incomes shall be effected by a taxpayer depending on the method of recognising incomes chosen by him in his accounting policy in compliance with **Articles 271 and 273** of this Code.

For the purposes of this Chapter, the amounts shown in the composition of a taxpayer's income shall not be subject to a repeated inclusion into the composition of his incomes.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 249 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 249.** Incomes from Sale

**1.** Recognised as the incomes from sale for the purposes of this Chapter shall be earnings derived from the sale of commodities (works, services) both of own manufacture and of those acquired before, as well as earnings from the sale of property.

**2.** The earnings from sale shall be defined proceeding from all the receipts connected with settlements for the sold commodities (works, services) or for the rights of property expressed in the form of money and (or) in kind. Depending on the method of recognising receipts and expenditures chosen by a taxpayer, proceeds connected with settlements for sold goods (works, services) or the rights of property shall be recognised for the purposes of this Chapter in compliance with **Article 271** and **273** of this Code.

**3.** The specifics in defining the incomes from sale for the individual categories of the taxpayers, or the incomes from sale derived in connection with particular circumstances shall be established by the provisions of this Chapter.

#### **Article 250.** Extra-Sale Incomes

For the purposes of this Chapter, recognised as extra-sale incomes shall be the incomes

not mentioned in **Article 249** of this Code.

In particular, seen as the extra-sale incomes of the taxpayers shall be incomes derived:

1) from share participation in other organisations except for the income used to make payment for supplementary shares (stakes) floated among the shareholders (stakeholders) of the organisation;

2) from the positive (negative) difference of exchange rates arising when the rate of sale (purchase) of foreign currency is higher (lower) than the official exchange rate of foreign currency established by the Central Bank of Russia on the date of transfer of ownership of the foreign currency (the specifics of defining the banks' incomes from these transactions are established by **Article 290** of this Code);

3) in the form of fines, penalties and (or) other sanctions acknowledged by debtors and subject to payment by debtors on the basis of an effective court decision, as well as of the sums of compensation for losses or for damage;

4) from letting the property (including the land plots) for rent (into sub-rent), where such incomes are not determined by a taxpayer in the procedure established by **Article 249** of this Code;

5) from giving over to use the rights to the results of intellectual activity and to the means of individualisation equated to them (in particular, from giving over to use the rights arising from patents for inventions, industrial samples and other kinds of intellectual property), where such incomes are not determined by a taxpayer in the procedure established by **Article 249** of this Code;

6) in the form of interest received under contracts of borrowing, credit, bank account, bank deposit, as well as on securities and other debt liabilities (the specifics of defining the banks' incomes in the form of interest are established by **Article 290** of this Code);

7) in the form of the sums of replenished reserves, the outlays on whose formation were accepted in the composition of the outlays in the order and on the terms established by **Articles 266, 267, 267.2, 292, 294, 294.1, 300, 324 and 324.1** of this Code;

8) in the form of the gratuitously received property (works, services) or of the rights of property, with the exception of the cases pointed out in **Article 251** of this Code.

When receiving property (works, services) free of charge, incomes shall be estimated proceeding from the market prices defined subject to the provisions of **Article 105.3** of this Code, but no less than the residual cost determined in compliance with this Chapter, as regards depreciated property, and no less than the cost of production (acquisition), as regards other property (carried out works, rendered services). Information on the prices shall be confirmed by the taxpayer receiving the property (works, services), either in documented form or by making an independent estimate;

9) in the form of income distributed in favour of the taxpayer, if he is a member of a simple partnership, in accordance with the order envisaged by **Article 278** of this Code.

10) in the form of the income of the past years exposed in the accounting (tax) period;

11) in the form of the positive exchange rate difference arising from the revaluation of the property in the form of currency values (except for foreign-currency denominated securities) and of claims (liabilities) whose cost is expressed in foreign currency (except for advance payment which are made (received), including those on the currency accounts in banks which is performed in connection with a change in the official exchange rate of the foreign currency to the rouble of the Russian Federation fixed by the Central Bank of the Russian Federation;

For the purposes of this Chapter positive difference of exchange rates shall mean the difference of exchange rates arising in the event of revaluation of property in the form of

currency values and claims shown in foreign currency, or in the event of marking down liabilities shown in foreign currency;

11.1) in the form of the sum difference a taxpayer has, when the sum of arising claims and liabilities calculated on the basis of the exchange rate of conventional monetary units, established by agreement of the parties on the date of sale (posting) of goods (works, services) and property rights, does not comply with the actually received (paid) amount in roubles;

12) in the form of fixed assets and intangible assets received free of charge in compliance with international treaties of the Russian Federation or with the laws of the Russian Federation by nuclear power plants for enhancing their safety, which are not used for production purposes;

13) in the form of the cost of received materials or other property during their pulling down or dismantling, when fixed assets are put out of operation in cases of their liquidation (with the exception of the cases envisaged by **Subitem 18 of Item 1 of Article 251** of this Code);

14) in the form of the property (monetary funds included), works and services, utilised other than in accordance with their intention, which were received in the framework of charitable activity (including charitable assistance and donations), of purpose-oriented receipts and purpose-oriented financing, with the exception of budgetary funds. With respect to the budgetary funds used other than for the purposes, the norms of the **budgetary legislation** of the Russian Federation shall be applied.

The taxpayers who have received property (monetary funds included), works or services in the framework of charitable activity, or purpose-oriented incomings, or purpose-oriented financing, shall submit to the tax bodies at the place of their recording, after the end of the tax period, a report on the purpose-oriented utilisation of the received funds, which shall be compiled in accordance with the **form** approved by the Ministry of Finance of the Russian Federation.

15) in the form of funds intended for the enterprises and organisations incorporating especially-high radiation-hazard and nuclear-hazard production facilities and installations to maintain reserves for ensuring the safety of said production facilities and installations at all stages of their life-cycle and development in accordance with the legislation of the Russian Federation on the use of atomic energy, such funds having been used for purposes other than their intended purpose;

16) in the form of the sums by which the authorised (summed up) capital (fund) of the organisation was reduced over the accounting (tax) period, if such reduction was effected with a simultaneous refusal of return of the cost of the corresponding part of the contributions (deposits) to the organisation's shareholders (partners) (with the exception of the cases envisaged by **Subitem 17 of Item 1 of Article 251** of this Code);

17) in the form of the return from a non-profit organisation of the earlier made contributions (deposits), if such contributions (deposits) were earlier recorded in the composition of the outlays on the creation of the tax base;

18) in the form of the sums of credit indebtedness (of a liability to the creditors), which is written off in connection with an expiry of the term of legal limitation or on the other grounds, with the exception of the cases envisaged by **Subitem 21 of Item 1 of Article 251** of the present Code. The provisions of this Item shall not extend to the write-off by a mortgage agent of payables in the form of liabilities to holders of bonds with mortgage cover;

19) in the form of the incomes derived from transactions with the financial instruments of futures transactions, taking into account the provisions of **Articles 301 - 305** of this Code;

20) in the form of the cost of the surpluses of the commodity material values and other property, exposed as a result of making an inventory;

21) in the form of the cost of mass media products and books subject to exchange in the event of return or writing off of such products for the reasons provided for by **Subitems 43** and

**44 of Item 1 of Article 264** of this Code. The value of the products specified in this Item shall be assessed in accordance with the procedure for assessing the balance of finished products established by **Article 319** of this Code.

22) in the form of the sums of correction of the taxpayer's profit as a result of application of the methods for determining for taxation purposes correspondence of the prices, applied in the transactions, to market prices (profitability), envisaged in **Articles 105.12** and **105.13** of the present Code.

23) in the form of the monetary equivalent -- returned to the donor or his successors -- of immovable property and/or securities contributed to replenish the earmarked capital of a not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations, less the following sums:

the value (balance value) of the immovable property at which it was recorded for taxation purposes on the books of the donor as of the date of transfer of such property for the purpose of replenishing the earmarked capital of the not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations -- when the monetary equivalent of the immovable property is returned;

the value at which the securities were recorded for taxation purposes on the books of the donor as of the date of their transfer for the purpose of replenishing the earmarked capital of the not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations -- when the monetary equivalent of the securities is refunded.

If the value of the immovable property or the securities mentioned in **Item 23 of Part 2** of this article exceeds the monetary equivalent of such asset returned/refunded to the donor or his successors the difference between these values shall be deemed loss and it shall be recorded for taxation purposes according to **Articles 268** and **280** of the present Code.

#### **Article 251.** Incomes Not Recorded When Defining the Tax Base

**1.** When defining the tax base, the following incomes shall not be taken into account:

1) in the form of the property and (or) rights of property, works or services received from the other persons as pre-payment for commodities (works, services) by the taxpayers defining the incomes and outlays in accordance with the method of calculation;

2) in the form of property and (or) the rights of property received in the form of a pawn or of deposit money as the security against liabilities;

3) in the form of property, rights of property or non-property rights assessed in cash which are received in the form of contributions (deposits) to the authorised (pooled) capital (fund) of an organisation (including income in the form of an excess of the price of placement of stocks (shares) over their nominal cost (initial amount));

3.1) in the form of amounts of value-added tax which are subject to tax deduction at the receiving organisation in compliance with **Chapter 21** of this Code when contributing property, intangible assets and property rights to the authorised (pooled) capital of economic companies and partnership companies or shares to share funds of co-operatives;

3.2) in the form of a property contribution of the Russian Federation to the property of a state corporation, state company or fund created by the Russian Federation on the basis of a federal law in which the formation of authorised capital is not stipulated;

3.3) in the form of subsidies received from the federal budget by a state corporation which is established by the Russian Federation on the basis of federal law and for which it is not provided for to form the authorised capital, in the amount of the assets transferred by this state corporation in 2009 to the Russian Federation for ownership;

3.4) in the form of property, property rights or non-property rights in the amount of their value in monetary terms which are transferred to an economic company or partnership for the purpose of increasing the net wealth thereof, in particular by way of forming the additional paid-in capital and/or funds, by appropriate stockholders or participants. This rule shall also extend to the instances when the net wealth of an economic company or partnership is increased concurrently with reduction or termination of a liability of the economic company or partnership towards appropriate stockholders or participants, if such increase of the net wealth is effected in compliance with the provisions stipulated by the legislation of the Russian Federation or with the provisions of the constituent documents of the economic company or partnership or has resulted from expression of the will of a stockholder or a participant in the economic company or partnership, as well as to the instances when dividends or the part of the distributed profit of an economic company or partnership which are not claimed for by stockholders or participants of the economic company or partnership are restored within the composition of the undistributed profit of the economic company or partnership;

4) in the form of property and (or) rights of property received within the limits of deposit (contribution) made by a partner of an economic company or partnership (by his legal successor or heir) when he leaves (withdraws from) the economic company or partnership, or if the property of a liquidated company or partnership is distributed between its participants;

5) in the form of property, rights of property and (or) non-property rights assessed in cash which are received within the limits of deposit made by a participant in a simple partnership contract (joint activity contract) or by his legal successor, in the event of detachment of his share from the property in the joint ownership of the participants of the contract, or in the case of dividing such property;

6) in the form of the funds received as gratuitous aid (assistance) to the Russian Federation in accordance with the procedure laid down by the **Federal Law** on Gratuitous Aid (Assistance) to the Russian Federation and on the Introduction of Amendments and Addenda into the Individual Legislative Acts of the Russian Federation on Taxes, and on the Establishment of Privileges for Payments into the State Extra-Budgetary Funds in Connection with Rendering Gratuitous Aid (Assistance) to the Russian Federation;

7) in the form of the fixed assets and the non-material assets received free of charge in conformity with the international treaties of the Russian Federation by the nuclear power plants for raising their safety which have been used for production purposes;

8) in the form of the property received by the state and municipal organisations by decision of the executive power bodies of all levels;

9) in the form of the funds which have come to a broker, agent and (or) other attorney under a commission contract, an agency agreement and (or) other similar agreement, as well as on account of compensation for the expenses borne by the broker, agent or other attorney instead of a client, principal and (or) other grantor where such expenses are not subject to inclusion into the expenses of the broker, agent and (or) other attorney under contracts made. A broker's fee, commission fee or any other similar remuneration shall not pertain to the said incomes;

10) in the form of the funds and other property received under contracts of credit and borrowing (and other similar funds or other property irrespective of the form of legalizing the borrowings, including debt securities), as well as in the form of funds and other property obtained from the settlements of such borrowings;



11) in the form of the property received by a Russian organisation free of charge:

- from an organisation, if the authorised (pooled) capital (fund) of the receiving party consists of over 50 per cent of the deposit of the handing over organisation;
- from an organisation, if the authorised (pooled) capital (fund) of the handing over party consists of over 50 per cent of the deposit of the receiving organisation;
- from a natural person, if the authorised (pooled) capital (fund) of the receiving party consists of over 50 per cent of the deposit (share) of this natural person.

In this case, the received property shall not be recognised as income for the purposes of taxation, if only in the course of one year as of the date of its receipt said property (save for monetary funds) is not handed over to third persons;

12) in the form of the funds derived in accordance with the demands of **Articles 78, 79, 176, 176.1 and 203** of this Code from the budget (extra-budgetary fund);

13) in the form of the sums of guarantee contributions into special funds set up in conformity with the legislation of the Russian Federation which are intended for reducing the risks of non-execution of liabilities under transactions which are obtained in the performance of the clearing activity or of an activity aimed at organising trading in the securities market;

**14)** in the form of the property received by organisations within the framework of the target financing. In this case, the organisations which have received the funds of target financing shall be obliged to keep separate records for the incomes (expenditures) received (made) within the framework of the target financing. If no such recording is carried out by the organisation which has received the funds under the target financing, the said funds shall be regarded as those subject to taxation as of the date of their receipt.

To the funds of target financing there shall be referred the property received by the taxpayer and used by him in accordance with the purpose defined by the organisation (natural person) which is the source of the target financing or by federal laws:

in the form of limits of budget obligations (budget appropriations) allocated in the established procedure to treasury institutions, as well as in the form of subsidies granted to budget-financed institutions and autonomous institutions;

in the form of limits on budget obligations (budget appropriations) about which the budget-supported institutions being beneficiaries of budget funds are informed before July 1, 2012;

- in the form of budgetary means assigned to condominiums managing blocks of flats, to housing, housing-construction cooperatives or other specialised consumer cooperatives, to managing organisations chosen by owners of premises in blocks of flats for participation financing of the conduct of major repairs in blocks of flats in accordance with the Federal Law on the Fund for Promoting the Reformation of the Municipal Housing Sector;

- in the form of received grants. For the purposes of this Chapter grants shall mean monetary assets and other property, where their transfer (receipt) satisfies the following conditions:

grants shall be provided on a gratuitous and non-repayment basis by Russian natural persons, not-for-profit organisations and also foreign and international organisations and associations according to the **list** of such organisations endorsed by the Government of the Russian Federation for the purpose of implementing specific programmes in the area of education, the arts, culture, science, physical education and sport (except for professional sport), public health, environmental protection, the protection of human and citizen's rights and freedoms envisaged by the legislation of the Russian Federation, the provision of social services to low-income and socially non-protected categories of citizens;

**abrogated;**

grants shall be provided on the conditions determined by grantors with the obligatory submission of reports by grantees on the target use of grants;

- in the form of the investments, received when holding investment tenders (auctions) in the order established by the legislation of the Russian Federation;

- in the form of the investments received from foreign investors for financing the capital production-intended investments, under the condition that they are used within one calendar year from the moment of their receipt;

- in the form of the funds of the share partners and (or) investors accumulated on the accounts of a building organisation;

- in the form of the funds received by a mutual insurance company from organisations who are members of the mutual insurance company;

- in the form of assets received from funds for rendering support to scientific, scientific-technical and innovative activities established in compliance with Federal Law No. 127-FZ of August 23, 1996 on Science and the State Scientific-Technical Policy for implementation of specific scientific, scientific-technical programmes and projects, as well as of innovative projects;

- in the form of assets received for forming funds for rendering support to scientific, scientific-technical and innovative activities established in compliance with Federal Law No. 127-FZ of August 23, 1996 on Science and the State Scientific-Technical Policy;

- in the form of the funds received by enterprises and organisations including especially dangerous radioactive and especially dangerous nuclear works and units from the reserves intended for guaranteeing the security of the said works and units at all stages of their life cycle and development in conformity with the legislation of the Russian Federation on the use of nuclear power. The said incomes shall be included in the composition of the extra-sale incomes if the grantee has actually used such funds for other than the intended purposes, or if he has not used them for the intended purpose in the course of one year after the end of the tax period in which they were received;

- in the form of fees for the air navigation service of the flights of aircraft in the air space of the Russian Federation, collected in the order established by the authorised body in the sphere of using air space;

- in the form of funds received by medical organisations, engaged in medical activities in the system of obligatory medical insurance, for rendering medical services from the insurance organisations effecting obligatory medical insurance of these persons;

- in the form of bank insurance contributions to the fund of the insurance of deposits in accordance with the **federal law** on the insurance of deposits of natural persons in the banks of the Russian Federation;

- in the form of target assets received by insurance medical organisations participating in compulsory medical insurance from a regional compulsory medical insurance fund in compliance with an agreement of financial support to compulsory medical insurance.";

- in the form of means of owners of premises in blocks of flats coming to the accounts of partnerships managing blocks of flats of owners of dwellings, housing, housing-constitution cooperatives and other specialised consumer cooperatives, managing organisations for financing the conduct of repair, capital repair of the common property of blocks of flats;

15) in the form of the cost of the shares additionally received by the shareholder organisation which are distributed among the shareholders by decision of the general meeting in proportion to the number of shares in their ownership, or in the form of the difference between the nominal cost of the new shares received instead of the original ones and the nominal cost of the shareholder's original shares in the placement of the shares among the shareholders in cases of an augmentation of the authorised capital of a joint-stock company (without changing the share of the shareholder's participation in this joint-stock company);

16) in the form of the positive difference which has emerged as a result of revaluating precious stones in cases of a change of the price lists of the settlement prices for precious stones in the established order;

17) in the form of the sums by which in a report (tax) period an organisation's authorised (pooled) capital was reduced in accordance with the demands of the legislation of the Russian Federation;

18) in the form of the cost of the materials and other property received in dismantling and pulling down of the objects withdrawn from operation in cases of their liquidation, which shall be destroyed in conformity with Article 5 of the Convention on the Prohibition of the Development, Production, Accumulation and Application of Chemical Weapons, as Well as Their Destruction, and with Part Five of the Appendix on Checking the Convention on the Prohibition of the Development, Production, Accumulation and Application of Chemical Weapons, as Well as Their Destruction;

19) in the form of the cost of amelioration and other objects of agricultural use (including intra-economic water supply, gas and electricity supply networks) built at the expense of the budgetary funds received by an agricultural commodity producer;

20) in the form of the property and (or) the rights of property received by organisations for the state stocks of special (radioactive) raw materials and of fissionable materials of the Russian Federation from transactions with material values from the state stocks of special (radioactive) raw materials and of fissionable materials aimed at the replenishment and the maintenance of the stocks;

21) in the form of the sums of the taxpayer's credit indebtedness of payment of taxes and fees, penalties and fines to budgets of different levels and of payment of fees, penalties and fines to budgets of governmental off-budget funds written off and/or reduced in some other way in conformity with the legislation of the Russian Federation or by decision of the Government of the Russian Federation;

22) in the form of equipment received on a gratuitous basis by state and municipal educational establishments, as well as by non-state educational establishments possessing licences for the performance of educational activity for exercising the activities stipulated by their statutes;

23) in the form of fixed assets received by organisations included into the structure of the All-Russia Public Organisation Dobrovolnoye Obschestvo Sodeystvia Armii, Aviatsii i Flotu Rossii (DOSAAF Rossii) (if these are handed over between two or more organisations included in the structure of the DOSAAF Rossii), used for training citizens in military-recorded specialities, for carrying out military-patriotic education of youths, as well as for the development of the aviation, technological and military-applied kinds of sport in conformity with the legislation of the Russian Federation;

24) in the form of the positive difference received from the revaluation of securities in accordance with the market cost;

25) in the form of the sums of the replenished reserves against the devaluation of securities (with the exception of the reserves whose formation caused the expenses which under **Article 300** of this Code previously decreased the tax base).

26) in the form of funds and other property which have been received by unitary enterprises from the owners of property of these enterprises or from the bodies authorised by them;

27) in the form of property (including monetary assets) and (or) property rights which have been received by a religious organisation in connection with committing religious ceremonies and rituals and from the sale of religious literature and articles of religious purpose;

28) in the form of the amounts received by universal service operators from the universal

service reserve in compliance with the laws of the Russian Federation on communications.

29) in the form of property, including cash, and/or property rights received by a mortgage agent in connection with his statutory activities;

30) **abrogated** from January 1, 2012;

**Federal Law** No. 359-FZ of November 30, 2011 amended Subitem 31 of Item 1 of Article 251 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

31) in the form of incomes derived from investing the pension savings intended for financing the accumulative part of the labour pension received from the organisations acting as insurers under obligatory pension insurance;

32) as investment in the form of integrated improvements of rented property made by the lessee, as well as capital investments into the fixed assets items provided under a contract of gratuitous use in the form of inseparable improvements made by a borrowing organisation;

33) ship-owners incomes derived from operation and/or sale of the ships registered in the Russian International Register of Ships. For the purposes of this Article, operation of the ships registered in the **Russian International Register of Ships** shall mean the use of such ships for carrying freight, passengers and their luggage, as well as for rendering services connected with the said carriage, provided that the point of departure and (or) the point of destination are located outside the territory of the Russian Federation, as well as granting of such ships on lease for rendering these services;

33.1) in the form of assets derived from the rendering by treasury institutions of state (municipal) services (from carrying out works), as well as from their exercising other state (municipal) functions;

33.2) shipowners' income derived from operation and sale of vessels built by Russian shipbuilding companies after January 1, 2010 and registered in the **Russian International Register of Ships**. With this, the operation of such vessels means for the purposes of this subitem their use for carriage of freight, passengers and their luggage, for towing and ensuring the cited services and kinds of activities, regardless of the location of the point of departure and/or the point of destination, as well as letting such vessels on lease for such use;

34) in the form of revenues of a development bank being a state corporation;

35) in the form of the sums of income from investing accumulations for the housing provision for servicemen, intended for the distribution by the nominal accumulation accounts of participants in the accumulation-mortgage system of the housing provision for servicemen;

36) in the form of income of taxpayers that are organisers of the Olympic Games and Paralympic Games in compliance with **Article 3** of Federal Law on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climate Health Resort and on Amending Certain Legislative Acts of the Russian Federation, derived in connection with the organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, including the income derived from investing temporarily available monetary funds, operation of Olympic facilities and other income, provided that the derived income is used for attaining the goals of their activities set for Russian organisers of the Olympic Games and Paralympic Games by the legislation of the Russian Federation, as well as by statutory documents thereof;

36.1) in the form of incomes of taxpayers which are Russian market partners of the International Olympic Committee in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation received in connection with the discharge of obligations of a market partner of the International Olympic Committee, in particular incomes derived from the sale of commodities (works, services), property rights, from gratuitous use of Olympic facilities, income in the form of difference in the rates of exchange resulting from such activities;

37) as property and/or property rights received under a concession agreement in accordance with the legislation of the Russian Federation;

38) income of a non-profit organisation exercising the functions of providing financial support to capital repair of apartment houses and to citizens' rehousing from hazardous housing stock in compliance with Federal Law No. 185-FZ of July 21, 2007 on the Fund for Assistance to Reforming of the Municipal Housing Economy (hereinafter referred to as the Federal Law on the Fund for Assistance to Reforming of the Municipal Housing Economy) which are derived from placing temporary spare monetary resources;

39) monetary means, within the limits of the payment to the victim, received by the insurer, that directly compensated the victim for the losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil responsibility of owners of transport vehicles from the insurer that insured the civil responsibility of the person that caused the harm to the property of the victim;

40) in the form of the cost of airtime and/or print space gratuitously received by taxpayers in accordance with legislation of the Russian Federation on elections and referendums.

41) in the form of incomes derived by an all-Russia public association exercising its activities in compliance with the **legislation** of the Russian Federation on public associations, the Olympic Charter of the International Olympic Committee and on the basis of its recognition by the International Olympic Committee, and by an all-Russia public association exercising its activities in compliance with the legislation of the Russian Federation on public associations, the Constitution of the International Paralympic Committee and on the basis of its recognition by the International Paralympic Committee within the framework of agreements on the transfer of property rights by the Olympic Committee of Russia and the Paralympic Committee of Russia (in particular of the rights to use intellectual property results and/or individualization means) in monetary terms and/or in kind (sporting outfits, rendering services involving traveling, accommodation and insurance of members of the Olympic delegation of the Russian Federation and the Paralympic delegation of the Russian Federation) from Russian and foreign organizers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation within the period of organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi.

42) in the form of funds, immovable property and securities contributed to form or

replenish the earmarked capital of the not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations and returned/refunded to the donor or his successors in the event of dissolution of the earmarked capital of the not-for-profit organisation, the cancellation of a donation or in another case, if the return/refund of the asset is envisaged by a contract of donation and/or **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations. When the immovable property or securities are returned the donor shall record such asset at the value (balance value) at which it was recorded for taxation purposes on the books of the donor as of the date of transfer of such asset for the purpose of replenishing the earmarked capital of the not-for-profit organisation. The donor's successors shall record such asset at the value (balance value) as of the date of transfer thereof for the purpose of replenishing the earmarked capital of the not-for-profit organisation;

43) interest on the placement in deposit accounts in credit institutions of funds received for the purpose of forming or replenishing the earmarked capital of a not-for-profit organisation or refunded by a managing company in connection with the termination of a contract of trust management of an asset, dividends, interest (coupon) yield and other incomes -- subject to transfer to a managing company for being managed according to **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations -- of a not-for-profit organisation being the owner of an earmarked capital from redemption in respect of securities which have been received for the purpose of replenishing the earmarked capital of the not-for-profit organisation or refunded by the managing company in connection with the termination of a contract of trust management of the asset.

44) in the form of the monetary assets received by the responsible participant in a consolidated group of taxpayers from the other participants in this group for paying tax (making advance payments, paying penalties and fines) in the order established by this Code for a consolidated group of taxpayers, as well as in the form of the monetary funds received by a participant in a consolidated group of taxpayers from the responsible participant in this group of taxpayers in connection with specification of the amounts of tax (advance payments, penalties and fines) to be paid in respect of this group of taxpayers.

**2.** The purpose-oriented receipts (with the exception of target receipts in the form of excisable commodities) shall not be taken into account either, when determining the tax base. To these shall be referred the target receipts for maintaining non-profit organisations and for the performance by them of their authorised activity, which have arrived gratis on the basis of decisions of state power bodies and local authorities or on the basis of decisions of managerial bodies of state extra-budgetary funds, as well as target receipts coming from other organisations and (or) from natural persons, which have been used by the said receivers for the intended purposes. With this, taxpayers who have received the said target receipts shall be obliged to keep separate records of incomes (expenses) received (made) within the framework of target receipts.

To the purpose-oriented incomes for the maintenance of non-profit organisations and for the performance by the latter of their authorised activity the following shall be referred:

1) the following effected in accordance with the legislation of the Russian Federation on not-for-profit organisations: the contributions of founders (stake-holders or members), the donations deemed such under the **civil legislation** of the Russian Federation, incomes in the

form of works (services) which are received without compensation by not-for-profit organisations and have been performed (provided) under relevant contracts and also deductions for maintaining in the procedure established by **Article 324** of this Code a reserve for a repair or overhaul of common property -- made to a partnership of the owners of dwelling premises, a housing cooperative, a fruit or vegetable garden cooperative or a garage-construction, housing-construction or another specialised consumer cooperative by their members;

1.1) target receipts for forming funds for rendering support to scientific, scientific-technical and innovative activities established in compliance with Federal Law No. 127-FZ of August 23, 1996 on Science and the State Scientific-Technical Policy;

2) the property and property rights assigned to not-for-profit organisations under a will in line of succession;

**3)** the assets allocated from the federal budget, from budgets of the subjects of the Russian Federation, from local budgets, or from the budgets of state extra-budgetary funds for the performance of the authorised activity by non-profit organisations;

4) the funds and other property and property rights received for the purpose of pursuing charitable activities;

5) the joint contribution of the founders of non-state pension funds;

6) pension contributions to non-state pension funds, if these are directed to the formation of the pension reserves of the non-state pension funds in the amount of at least 97 per cent;

**Federal Law** No. 359-FZ of November 30, 2011 amended Subitem 6.1 of Item 2 of Article 251 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

6.1) pension savings, including insurance premiums under obligatory pension insurance, intended for financing the accumulative part of the labour pension in compliance with the laws of the Russian Federation;

7) receipts from the owners to the institutions they have established, used for the intended purpose;

**8)** the deductions of the chambers of solicitors/barristers of Russian regions for the general needs of the Federal Chamber of Solicitors/Barristers at the rates and in the manner determined by the All-Russia Congress of Solicitors/Barristers; the deductions of solicitors/barristers for the general needs of the chamber of solicitors/barristers of the relevant Russian region at the rates and in the manner determined by the annual meeting (conference) of the solicitors/barristers of the chamber of solicitors/barristers of the Russian region, and also for the maintenance of a relevant solicitors'/barristers' study, college of solicitors/barristers or solicitor/barrister bureau;

9) the funds which have come in to trade union organisations in conformity with the collective contracts (agreements) for the trade unions to hold socio-cultural and other events envisaged by their authorised activity;

10) funds used for their intended purpose which are received by the structural organisations of the DOSAAF Rossii from the federal executive body authorised in the sphere of defence and (or) from other executive power body under a general contract, as well as the target deductions from the organisations included in the structure of the DOSAAF Rossii, used in accordance with the constituent documents thereof for citizens' training in conformity with the legislation of the Russian Federation in the military-recorded specialities, for the military-patriotic

education of youths and for the development of aviation, technological and military-applied kinds of sport.

10.1) the funds received without compensation by not-for-profit organisations for the purpose of supporting their activities which are envisaged their charters and are not relating to entrepreneurial activities from the structural units (branches) which have been formed by them in accordance with the legislation of the Russian Federation and are taxpayers (hereinafter referred to for the purposes of this article as "structural units (branches)) remitted by the structural units (branches) on the account of target-oriented funds they have received to support and pursue the activities stated in their charters;

10.2) the funds received by structural units (branches) from the not-for-profit organisations which have formed them in accordance with the legislation of the Russian Federation, remitted by the not-for-profit organisations on the account of the target-oriented funds they have received to support and pursue the activities stated in their charters;

11) property (including monetary assets) and (or) property rights which have been received by religious organisations for exercising their authorised activities.

12) in the form of assets received by the professional association of insurers established in compliance with **Federal Law** No. 40-FZ of April 25, 2002 on Obligatory Insurance of Civil Liability of Transport Vehicles' Owners and intended for covering the compensation payments provided for by the legislation of the Russian Federation on mandatory insurance of civil liability of the transport vehicles' owners for the purpose of forming funds in compliance with the requirements of international systems of mandatory insurance of civil liability of transport vehicles' owners which the Russian Federation has joined, in the form of assets received in compliance with the legislation of the Russian Federation on mandatory insurance of civil liability of transport vehicles' owners by the cited professional association of insurers as reimbursement for the compensation payments and expenses borne in connection with consideration of injured persons' claims for compensation payments, as well as in the form of assets received as payment for accreditation of technical inspection operators in compliance with the **legislation** in respect of the technical inspection of transport vehicles;

13) funds, immovable property or securities received by not-for-profit organisations for the purpose of the formation or maintenance of an earmarked capital which are taking place in the procedure established by Federal Law No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations;

14) monetary funds received by non-profit organisations owning special-purpose capital from the managing companies carrying out trust management of the property making up the special-purpose capital in accordance with the **Federal Law** on the Procedure for the Formation and Use of Special-Purpose Capital of Non-profit Organisations;

15) monetary funds received by non-profit organisations from specialised organisations managing special-purpose capital in accordance with the **Federal Law** on the Procedure for the Formation and Use of Special-Purpose Capital by Non-profit Organisations;

16) property rights in the form of the right to use on a gratuitous basis state and municipal property obtained by decisions of state power bodies and local authorities by non-profit organisations for the exercise of their authorised activities.

**3.** In the event of a reorganisation of organisations when tax base assessment is carried out the calculation of incomes of the newly formed organisations as well as the organisations that are being reorganised and that have been reorganised shall not include the value of property, property rights and non-property rights having a value in terms of money and/or



liabilities received (transferred) by succession in the event of reorganisation of legal entities that have been acquired (formed) by reorganised organisations before the date of completion of the reorganisation.

## **Article 252.** Outlays. Grouping of the Outlays

**1.** For the purposes of this Chapter, the taxpayer shall reduce the received incomes by the sum of the outlays he has made (with the exception of the outlays indicated in **Article 270** of this Code).

Recognised as outlays shall be the justified and Documented expenditures (and in the cases envisaged by **Article 265** of this Code, also the losses), made (incurred) by the taxpayer.

Seen as justified outlays shall be the expenditures justified from an economic viewpoint whose evaluation is expressed in monetary form.

Seen as documented outlays shall be the outgoings confirmed by the documents which are formalised in conformity with the legislation of the Russian Federation or documents drawn up in compliance with the business customs prevailing in the foreign state on whose territory the expenses in question were incurred and/or documents that indirectly confirm the expenses incurred (including a customs declaration, order on a business trip, travel documents, or a report on work completed under a contract). Recognised as outlays shall be any kind of expenditures, under the condition that they are made for the performance of an activity aimed at deriving an income.

**2.** Depending on their character, as well as on the conditions necessary for the performance and on the directions of the taxpayer's activity, the outlays shall be subdivided into outlays involved in production and sale, and extra-sales outlays.

**2.1.** For the purposes of this Chapter "expenses" for newly formed or reorganised organisations means the value (balance value) of property, property rights and non-property rights having a value in terms of money and/or liabilities received by succession in the event of reorganisation of legal entities that were acquired (formed) by the organisations that are being reorganised before the date of completion of the reorganisation. The value of property, property rights and non-property rights having a value in terms of money shall be assessed according to tax record data and documents of the party that performs the transferral as of the date of transfer of title to the said property, or property rights and non-property rights.

Also "expenses" for newly formed and reorganised organisations means the expenses (or losses, in the cases envisaged by this Code) envisaged by **Articles 255, 260 - 268, 275, 275.1, 279, 280, 283, 304, 318 - 320** of this Chapter effected (incurred) by the organisations that are being reorganised, in the portion that has not been taken into account by them in tax base calculation. For the purposes of taxation the said expenses shall be taken into account by successor organisations in the procedure and on the terms described in this Chapter. The composition of such expenses and the assessed amount thereof shall be assessed according to the tax record data and documents of the organisations that are being reorganised, as of the date of completion of the reorganisation (the date of the entry on termination of activity of each legal entity affiliated, where reorganisation is carried out in the form of affiliation).

Additional expenses relating to the transfer (receipt) of property (property rights and non-property rights) in the event of reorganisation of organisations shall be taken into account for taxation purposes in the procedure established by this Chapter.

**3.** The specifics in qualifying the outlays recognised for the purposes of taxation, for the individual taxpayers' categories, or the outlays made in connection with special circumstances shall be established by the provisions of this Chapter.

**4.** If certain expenditures may be referred on equal grounds simultaneously to several

groups of costs, the taxpayer shall have the right to decide on his own to which particular group he refers such outlays.

**5.** The outlays incurred by a taxpayer which are shown in foreign currency shall be accounted an aggregate with the outlays shown in roubles.

The outlays incurred by a taxpayer which are shown in conventional units shall be accounted an aggregate with the outlays shown in roubles.

The said outlays shall be converted by a taxpayer depending on the method of recognising such outlays chosen for his accounting policy for the purposes of taxation in compliance with **Articles 272** and **273** of this Code.

For the purposes of this Chapter, amounts shown in the composition of taxpayers' expenditures shall not be subject to repeated inclusion in the composition thereof.

#### **Article 253.** Outlays Involved in Production and Sale

**1.** The outlays involved in production and sale shall incorporate:

1) the outlays connected with the manufacture (output), storage and delivery of commodities, with the performance of works and rendering services, with the acquisition and (or) sale of commodities (works, services and rights of property);

2) the outlays on maintenance and operation, repairs and technical servicing of the fixed assets and of the other property, as well as for maintaining them in good condition (in a fit-for-operation state);

3) the outlays on the development of natural resources;

4) the outlays on scientific research and on research and development works;

5) the outlays on obligatory and voluntary insurance;

6) the other outlays involved in production and (or) sale.

**2.** The outlays connected with the production and (or) with sale are subdivided into:

1) material outlays;

2) outlays on the remuneration of labour;

3) sums of imposed depreciation charges;

4) other outlays;

**3.** The specifics in determining the outlays of banks, insurance institutions, non-state pension funds, consumer cooperation organisations and foreign organisations, clearing organisations, professional securities market-makers and foreign organisations shall be established subject to the provisions of **Articles 291, 292, 294, 296, 297, 299, 300** and **307-310** of this Code.

*Article 297 of this Code was abrogated by Federal Law No. 57-FZ of May 29, 2002 from January 1, 2005*

#### **Article 254.** Material Outlays

**1.** To the material outlays are referred, in particular, the following expenditures of the taxpayer:

1) for the acquisition of raw materials and (or) of other materials utilised in the manufacture of commodities (in the performance of works or in rendering services) and (or) forming their base or comprising a necessary component in the manufacture of commodities (in the performance of works or in rendering services);

2) for the acquisition of materials utilised:

- for packing and other kinds of preparing the manufactured and (or) the sold commodities (including pre-sale preparation);

- for other production and economic needs (such as staging tests, exerting control, the

maintenance and operation of the fixed assets and other similar items;

3) for the acquisition implements, appliances, instruments, apparatuses, laboratory equipment, overalls and other individual and collective means of protection envisaged by the legislation of the Russian Federation, and other property which are not depreciable property. The cost of such property shall be fully included into the composition of material expenses as it is put into operation;

4) for acquisition of completing parts subject to mounting and (or) semi-products subject to additional processing by a taxpayer;

5) for acquisition of fuel, water and all kinds of energy used for technological purposes, generation (in particular by the taxpayer proper for production purposes) of all kinds of energy, heating of buildings, as well as outlays on generation and/or acquisition of power, outlays on energy's transformation and transmission;

6) for the acquisition of the works and services of production nature performed by the outside organisations or individual businessmen, as well as for carrying out these works (for rendering services) by the taxpayer's internal structural subdivisions.

To the works (services) of the production nature shall be referred the performance of the individual operations involved in the output (manufacture) of products, in performing works and rendering services in processing raw materials (materials), the exertion of control over the observation of the started technological processes, the technical servicing of the fixed assets and other similar works.

To the works (services) of the production nature shall also be referred the transportation services rendered by the outside organisations (individual businessmen included) and (or) by the structural subdivisions of the taxpayer himself for shipping cargoes inside the organisation, in particular the moving of raw materials (materials), of implements, parts, ingots and other kinds of cargoes from the basic (central) store-house to the workshops (departments) and the delivery of finished products in accordance with the terms of the contracts (agreements);

7) those involved in the maintenance and utilisation of the nature protection fixed assets and other property (including outlays on the maintenance and pouring into of the purification installations, of ash-catchers, filters and other nature-protection objects, outlays on burying ecologically dangerous waste, those on buying the services of outside organisations involved in the acceptance, storage and destruction of ecologically hazardous waste, in the purification of the discharged waters, the arrangement of sanitary protection areas in accordance with applicable state sanitary and epidemiological rules and regulations, payments for the ultimately admissible ejections (dumping) of pollutant substances into the natural environment and the other similar expenses.

**2.** The cost of the inventory items included in the material outlays shall be defined proceeding from the prices of their acquisition (without account taken of value added tax and excise taxes, except for the cases envisaged by this Code), including the commission fees paid to intermediary organisations, the import customs duties and collections, the outlays on transportation as well as other expenditures connected with the acquisition of inventory items.

The value of inventory items or other property in the form of a surplus discovered in the course of stock-taking and/or of assets obtained as a result of dismantling or disassembly of decommissioned fixed asset items, as well as when repairing, updating, re-constructing, technically re-equipping, partially liquidating fixed assets items, shall be calculated as the sum of the income accounted by a taxpayer in the procedure envisaged by **Items 13 and 20 of Part 2 of Article 250** of the present Code.

**3.** If the cost of the returnable containers accepted from the deliverer with the inventory items is included in the price of these values, from the total sum of the outlays on the acquisition

thereof shall be excluded the cost of the returnable containers at the price of their probable use or sale. The cost of the non-returnable containers and packing, accepted from the deliverer with the inventory items, shall be included in the sum of the outlays on their acquisition.

The containers shall be referred to as either returnable or non-returnable in accordance with the terms of the agreement (contract) on the acquisition of the inventory items in question.

**4.** Where a taxpayer uses as raw materials, spare parts, completing parts, semi-products and other materials outlays products of his own making, as well as where a taxpayer includes in the composition of material outlays results of his own works and services, the said products and results of his own works or services shall be evaluated reasoning from the evaluation of finished products (works, services) in compliance with **Article 319** of this Code.

**5.** The amount of material outlays of the current month shall be decreased by the cost of the stock of inventory holdings transferred for production but not used in production as on the end of the month. Valuation of such inventory holdings should correspond to valuation thereof, when writing them off.

**6.** The sum of the material outlays shall be reduced by the cost of returnable waste. For the purposes of this Chapter, seen as returnable waste shall be the residuals of the raw materials (materials), semi-products, heat-carriers and other kinds of material resources which have accumulated in the course of the manufacture of the commodities (of the performance of works or of rendering services) and which have partially lost the consumer properties of the original resources (their chemical or physical properties) and by force of this are utilised with higher outlays (with a lower output of products), or which are not utilised for their direct purpose.

Not referred to returnable waste shall be the residuals of the inventory items, which are handed over in accordance with the technological process to the other subdivisions as fully valuable raw materials (materials) for the output of the other kind of commodities (works, services), as well as the by-products (associated products) obtained as a result of carrying out the technological process.

Returnable waste shall be evaluated in this order:

1) at the reduced price of the original material resource (at the price of the probable utilisation), if these wastes may be used for the basic or auxiliary production but with higher outlays (with a lower output of the finished products);

2) at the price of sale, if these products are sold on the side.

**7.** For the purposes of taxation, to the material outlays shall be equated:

1) the outlays on the reclamation of the lands and on the other nature-protection measures, unless otherwise established by **Article 261** of this Code;

*These provisions shall cover legal relations that have arisen since January 1, 2002*

2) the losses from the shortages and (or) spoilage during the storage and the transportation of the inventory items within the limit of the norms of natural losses, approved in the order established by the Government of the Russian Federation;

3) technological losses in the course of production and/or transportation. "Technological losses" means losses that occur in the course of production and/or transportation of goods (works, services) due to the technological features of the production cycle or/and of the process of transportation, and also by the physical and chemical characteristics of the raw materials being used;

4) the outlays involved in the preparatory mining works in the extraction of minerals, for the operational stripping works in quarries and for cutting works in the underground ore extraction mines within the boundaries of the mining plot, allotted to the ore-mining enterprises.

**8.** When determining the amount of material expenditures in writing off the raw and other materials utilised in the output (manufacture) of commodities (in the performance of works or in

rendering services), in conformity with the accounting policy accepted by the given organisation for the purposes of taxation, one of the following methods for the evaluation of the said raw materials and other materials shall be applied:

- the method of evaluation in accordance with the prime cost of a unit of the stocks;
- the method of evaluation in accordance with average cost;
- the method of evaluation in accordance with the cost of the acquisitions which are the first chronologically (FIFO);
- the method of evaluation in accordance with the cost of the acquisitions which are the last chronologically (LIFO).

#### **Article 255.** Outlays on the Remuneration of Labour

In the taxpayer's outlays on the remuneration of labour shall be included any calculations for the workers in the form of money and (or) in kind, stimulating the calculations and allowances, the compensatory allowances in connection with the work regime or labour conditions, the bonuses and single-time incentive payments, the outlays involved in the maintenance of these workers stipulated by the rules of the laws of the Russian Federation and the labour agreements (contracts) and (or) in the collective agreements.

For the purposes of this Chapter, to the outlays on the remuneration of labour shall be referred, in particular:

1) the sums calculated in accordance with the tariff rates, official salaries, piece-work payment rates, or percentages of the receipts in accordance with the forms and systems of the remuneration of labour accepted in the given taxpayer;

2) the calculations of an incentive kind, including bonuses for high production results, mark-ups to the tariff rates and salaries for the professional skills, for achieving high results in the work and for the other similar indices;

3) the calculations of an incentive and (or) compensatory nature, connected with the work regime and the conditions of labour, including mark-ups to the tariff rates and salaries for the night-time work and for the multi-shift work, for combining trades, for expansion of the serviced zones, for the performance of work under difficult, dangerous and particularly dangerous conditions of labour, for overtime work and work on days off and on holidays, effected in conformity with the legislation of the Russian Federation;

4) the cost of the communal services, meals and products given over to the workers gratis in conformity with the legislation of the Russian Federation, and the cost of the living premises granted to the taxpayer's workers free of charge in conformity with the relevant procedure established by the legislation of the Russian Federation (the sums of monetary compensation for non-granting of living premises, communal and other similar services free of charge);

5) expenses towards the acquisition (manufacture) of uniforms (accessories) (in as much as it concerns the portion of value not compensated by employees) which are retained by employees for permanent personal use and which are handed out in accordance with the legislation of the Russian Federation to employees free of charge or sold thereto at discounted prices. The same procedure is applicable to keeping a record of expenses towards the acquisition or manufacture by an organisation of uniforms and footwear, which testify that employees belong to the organisation;

6) the sum of the average earnings to workers, which are preserved during the time spent in the performance of the state and (or) public duties, and in the other cases stipulated by the legislation of the Russian **legislation on labour**;

7) the outlays on the remuneration of labour preserved for the workers during time spent on leave, envisaged by the legislation of the Russian Federation, the actually outlays on the fares of the workers and of the dependents of the workers, to the place of their spending leave

on the territory of the Russian Federation and back (including the expenditures on the payment for carrying the luggage of the workers of organisations situated in the areas of the Far North and in the localities equated to them) in accordance with the procedure envisaged by the effective legislation - for the organisations financed from the appropriate budgets and in the procedure provided for by the employer - for other organisations, an additional payment to the underaged for shorter working hours, outlays on the payment for breaks in the work of mothers for feeding their babies, as well as outlays on the remuneration of the time spent in undergoing medical examinations;

8) the monetary compensations for unused leave in compliance with the **labour laws** of the Russian Federation;

9) the allowances for the workers released in connection with the reorganisation or liquidation of the taxpayer, with the reduction of the labour force or of the number of workers on the taxpayer's staff;

10) the lump-sum awards for a long work record (the mark-ups for a long work record in the particular speciality) in conformity with the legislation of the Russian Federation;

11) the extra payments due to the regional regulation of the remuneration of labour, including allowances in accordance with the regional coefficients and the coefficients for work under hazardous natural-climatic conditions;

12) the extra payments for an uninterrupted record of work in the regions of the Extreme North and in the localities equated to them, in the areas of the European North and in other regions with hazardous natural-climatic conditions;

12.1) travel expenses in terms of actual amounts incurred and luggage carriage expenses on the basis of up to five tons per family in terms of actual amounts incurred but not exceeding the railway carriage tariffs envisaged for an employee of an organisation located in Extreme Northern **areas** and in areas qualifying as such (if there is no railway the said expenses shall be accepted in the amount of minimum air travel fare) and employee's family members in the event of travel to a new residence in another area due to rescission of a labour contract with the employee on any ground, including in the event of the employee's death, except for dismissal for improper actions;

**13)** the outlays on the remuneration of labour preserved in conformity with the legislation of the Russian Federation over the time of educational leave, granted to the taxpayer's workers and also expenses towards payment for travel to the area where education/training takes place and back;

14) the outlays on the remuneration of labour for the time of compelled inactivity or for the time when lower-paid work is performed in the cases envisaged by the legislation of the Russian Federation;

**15) abrogated** from January 1, 2010;

16) the sums of the employers' payments (contributions) under the obligatory insurance contracts, amounts of employers' premiums paid in compliance with the **Federal Law** on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and State Support for Pension Savings, as well as the sums of the employers' payments (contributions) under the contracts for the voluntary insurance (under contracts of non-state pension security) concluded in favour of workers with insurance organisations (with non-state pension funds) which possess the licences issued in conformity with the legislation of the Russian Federation for carrying out the corresponding kinds of activity in the Russian Federation.

In the cases of voluntary insurance (of non-state pension security), the said sums shall be referred to the outlays on the remuneration of labour under the contracts of:

life insurance, if such contracts are made for the time period of at least five years with Russian insurance organisations holding licences for the exercise of the appropriate kind of activity and within these five years insurance payments are not provided for, in particular in the

form of rents and/or annuities, except for insurance payments in case of death and/or infliction of harm to the health of an insured person;

the non-state provision of pensions on condition of applying the pension scheme that provides for recording pension premiums on the personal accounts of participants of non-governmental pension funds and/or of voluntary pension insurance upon the onset for the participant and/or the insured person of the pension grounds provided for by the laws of the Russian Federation that give the right to the pension within the framework of governmental provision of pensions and/or to the labour pension and within the period of validity of the pension grounds. With this, contracts of non-state provision of pensions must provide for paying pensions pending the exhaustion of funds on the personal account of a participant but within at least five years or for life, while contracts of voluntary pension insurance must provide for pensions' payment for life;

the voluntary personal insurance of workers, concluded for a term of no less than one year, which envisages coverage by the insurers of the insured workers' medical expenditures;

the voluntary personal insurance, providing for payments exclusively in case of death and/or infliction of harm to the health of the insured person.

The aggregate sum of employers' premiums paid in compliance with the **Federal Law** on Additional Insurance Premiums for the Accumulative Part of the Labour Pension and State Support for Pension Savings and of the contributions (the payments) of the employers, made under the contracts of the long-term life insurance of workers, voluntary pension insurance and (or) of the non-state pension security of workers, shall be recorded for the purposes of taxation in an amount not exceeding 12 per cent from the sum of the outlays on the remuneration of labour.

In the event of amending the terms and conditions of a contract of life insurance, as well as of a contract of voluntary pension insurance and/or a contract of non-governmental pension provision in respect of some or all insured employees (participants), if as a result of such amendments the terms and conditions of the contract no longer comply with the requirements of this Item, or in the event of dissolution of the said contracts in respect of some or all insured employees (participants), the employer's fees under such contracts in respect of the appropriate workers, previously included into the composition of outlays, shall be recognised as taxable as of the date of making such amendments to the terms and conditions of the said contracts and/or reduction of the term of these contracts' validity or their dissolution (except when a contract is dissolved ahead of time in connection with acts of God, that is, with emergency and unavoidable circumstances).

The fees under contracts of voluntary personal insurance which provide for covering by insurers of medical expenses of insured employees, as well as employers' outlays under contracts of rendering medical services made for the benefit of employees for a term of at least one year with medical establishments holding appropriate licences for the exercise of medical activities issued in compliance with the legislation of the Russian Federation shall be included into the composition of expenses in the amount of at most 6 per cent of the sum of labour remuneration outlays.

The fees under contracts of voluntary personal insurance providing for payments solely in case of death and/or infliction of harm to the health of the insured person shall be included into the composition of outlays in the amount of at most 15 000 roubles per year, which is estimated as the ratio of the total sum of fees paid under the said contracts to the number of insured employees.

When calculating the maximum amount of payments (contributions) under this Subitem, the amount of payments (contributions) provided for by this Subitem shall not be included into the outlays on labour wages.

17) the sums calculated in the amount of one tariff rate or salary (if the work is carried out

by the hour), which are envisaged by the collective agreements, for the days spent en route from the place of location of the organisation (from the gathering point) to the place of work and back, envisaged by the work schedule by the hour, as well as for the calendar days of the workers' detainment while en route because of weather conditions;

18) the sums calculated for the performed work to the natural persons attracted for the work for the taxpayer in accordance with special agreements on the supply of the work force with state organisations;

19) In the cases provided for by the laws of the Russian Federation the sums calculated at the principal place of work to the workers, the managers or the specialists of taxpayer during their training away from work in the system of raising the qualifications or of the re-training of the personnel;

20) the outlays on the remuneration of labour of workers who are blood donors for the days of their medical examination, of the blood taking and of the rest, granted after every day after blood taking;

21) the outlays on the remuneration of labour of workers who are not on the taxpaying organisation's staff, for the fulfilment by them of works under the concluded contracts of civil-legal nature (including turnkey contracts), with the exception of the remuneration of labour under contracts of civil-legal nature concluded with individual businessmen;

22) the allowances to servicemen undergoing military service at state unitary enterprises and in the building organisations of the federal executive power bodies in which the legislation of the Russian Federation has envisaged the military service, and to the rank and file servicemen and the commanding staff of the internal affairs bodies, of the State Fire Service, stipulated by the federal laws, by the laws on the status of servicemen and on the institutions and bodies engaged in the execution of criminal punishments in the form of deprivation of freedom;

23) additional payments to invalids, stipulated by the legislation of the Russian Federation;

24) expenditure in the form of allocations to the reserve for forthcoming payment of workers' leaves and (or) to the reserve for paying annual long-service bonuses made in compliance with Article 324.1 of this Code;

24.1) outlays on reimbursement of employees' outlays on payment of interest on loans (credits) for acquisition and/or construction of residential premises. The said outlays, for the purposes of taxation, shall be recognised in the amount of at most three per cent of the amount of outlays on labour wages;

25) other kinds of outlays made in the worker's favour, envisaged by the labour agreement and (or) by collective agreement.

## **Article 256.** Depreciated Property

**1.** Recognised as depreciated property for the purposes of this Chapter shall be property, (if not otherwise provided for by this Chapter), the results of intellectual activity and the other objects of intellectual property belonging to the taxpayer by right of ownership and used by him for the purpose of deriving an income whose amount is amortised by imposing depreciation charges. Recognised as depreciable property there shall be the property with the term of beneficial use over 12 months and with the initial cost thereof over 40 000 roubles.

The depreciated property received by a unitary enterprise from the owner of the property of the unitary enterprise into operative management or into economic management, shall be subject to depreciation at the given unitary enterprise in accordance with the procedure established by this Chapter.



The depreciable assets received by the investor organisation from the property owner in keeping with the legislation of the Russian Federation on investment agreements in the sphere of public services shall be subject to depreciation in this organisation during the validity term of an investment agreement in the order prescribed by this Chapter.

As depreciable property shall be recognised capital investments into fixed asset items let on lease in the form of non-separable improvements made by the lessee with the lessor's consent, as well as capital investments into fixed asset items provided under a contract of gratuitous use in the form of inseparable improvements made by a borrowing organisation with the consent of a lending organisation.

Assets that are subject to depreciation and that have been received by an organisation from the owner of the assets or created in accordance with the legislation of the Russian Federation on investment agreements in the area of provision of utility services or by the **legislation** of the Russian Federation on concession agreements shall be subject to depreciation in this organisation within the effective term of the investment agreement or concession agreement in the procedure established by this Chapter.

**2.** Not subject to depreciation shall be the land and the other nature utilisation objects (water, mineral wealth and other natural resources), and also the material production stocks, commodities, incomplete capital construction projects, securities and financial instruments of futures transactions (including forward and futures contracts and option contracts).

Not subject to depreciation there shall be the following types of depreciable property:

1) the property of budgetary organisations, with the exception of the property, acquired in connection with the performance of business activity and used for the performance of such activity;

2) the property of non-profit organisations gained in the form of target receipts or acquired at the expense of target receipts and used for carrying out non-profit making activity;

3) the property acquired (created) with the use of budgetary funds. Said rule shall not apply to the property gained by a taxpayer as result of privatization;

4) the objects of outdoor improvement (the objects of forest economy, road maintenance economy, whose construction has been carried out with the use of the sources of budgetary and other similar target financing, specialised installations for navigational situations) and other similar objects;

5) **abrogated** from **January 1, 2008**;

6) acquired publications (books, booklets and other similar objects) and works of art. With this, the cost of acquired publications and other similar objects, except for works of art, shall be included in the composition of other outlays connected with production and sale in the full amount at the moment of acquiring the said objects;

7) property acquired (created) at the expense of the funds which have been received in compliance with Subitems **14, 19, 22, 23** and **30 of Item 1 of Article 251** of this Code, as well as the property mentioned in **Subitems 6 and 7 of Item 1 of Article 251** of this Code;

8) acquired rights to the results of intellectual activity and other objects of intellectual property, where under the contract concerning the acquisition of the said rights payment shall be made by periodical installments within the whole term of this contract's validity.

**3.** For the purposes of this chapter the following fixed assets shall be excluded from the composition of depreciable property:

those transferred (received) under contracts for gratuitous use;

those temporarily closed down by decision of the leadership of an organisation for a term exceeding three months;

those being reconstructed or modernized by decision of the leadership of an organisation

within a term exceeding 12 months;

those registered in the **Russian International Register of Ships** for the time period while they are recorded in the Russian International Register of Ships.

When re-activating an object belonging to fixed assets, the depreciation with regard to it shall be calculated in the procedure which has been effective prior to the time of re-activation thereof and the term of beneficial use thereof shall be extended by the period of temporary closing-down of the object belonging to the fixed assets.

#### **Article 257.** Procedure for Determining the Cost of the Depreciated Property

1. Seen as fixed assets for the purposes of this Chapter shall be the part of the property which is applied as a labour facility for the manufacture and sale of commodities (for the performance of works and for rendering services), or for the management of the organisation with the initial cost over 40 000 roubles.

The original cost of a fixed asset shall be defined as the sum of the outlays on its acquisition (and in the event of acquiring a fixed asset by a taxpayer free of charge, or detecting it as a result of an inventory it shall be defined as the valuation cost of such property in compliance with **Items 8** and **20 of Article 250** of this Code), its erection, manufacturing, delivery and bringing to the condition of fitness for use, except for value-added tax and excise taxes, except for the cases envisaged by this Code.

Recognised as the original cost of the property which is the object of leasing shall be the sum of the leasing party's outlays on its acquisition, construction, delivery, manufacturing and bringing to a condition of fitness for use, with the exception of the sums of taxes subject to deduction and recorded in the composition of the outlays in conformity with this Code.

The replacement value of the depreciated fixed assets, acquired (created) before this Chapter is put into force, shall be defined as their initial cost with an account for the revaluations, performed before the date of enforcement of this Chapter.

When defining the replacement value of the depreciated fixed assets, for the purposes of this Chapter shall be taken into account the revaluation of the fixed assets, effected by the taxpayer's decision as in the state on January 1, 2002 and reflected in the taxpayer's business accounting after January 1, 2002. This revaluation shall be accepted for the purposes of taxation in an amount, not exceeding 30 per cent of the replacement value of the corresponding objects of fixed assets, reflected in the taxpayer's business accounting as in the state on January 1, 2001 (with an account for the revaluation as in the state on January 1, 2001, made by the taxpayer's decision and reflected in his business accounting in 2001). In this case, the size of the revaluation (of the devaluation) as in the state on January 1, 2002, reflected by the taxpayer in 2002, shall not be recognised as the taxpayer's income (outlays) for the purposes of taxation. In a similar order, for the purposes of taxation shall be accepted the corresponding revaluation of the sums of depreciation.

When the taxpayer carries out in the subsequent reporting (tax) periods after the enforcement of this Chapter the revaluation (devaluation) of the cost of the fixed assets objects by the market cost, the positive (negative) sum of such revaluation shall not be recognised as an income (as the outlays), taken into account for the purposes of taxation, and shall not be accepted in defining the replacement value of the depreciated property and in computing the depreciation charges, taken into account for the purposes of taxation in conformity with this Chapter.

The residual cost of the fixed assets, introduced before the enforcement of this Chapter, shall be defined as the difference between the replacement value of such fixed assets and the sum of depreciation, determined in the order, laid down in the **fifth paragraph** of this Item.

The residual cost of the fixed assets put into operation upon entry of this Chapter into

force shall be defined as a difference between their initial cost and the amount of depreciation accrued for the period of their depreciation.

When the taxpayer uses the objects of the fixed assets of his own manufacture, the original cost of such objects shall be defined as the cost of finished products calculated in compliance with **Item 2 of Article 319** of this Code increased by the sum of the corresponding excise duties on the fixed assets which are excisable commodities.

The initial value of the property received as the subject matter of a concession agreement shall be assessed as the market value of such property as of the time when it was received and increased by the sum of expenses incurred for additional construction, additional equipment, reconstruction, upgrading, technical re-equipment and bringing such property to a state in which it is fit for use, except for tax amounts which are deductible or taken into account as part of expenses in keeping with this Code.

The residual value of depreciable property whose depreciation is charged by the non-linear method shall be determined, if not otherwise established by this Chapter, on the basis of the following formula:

$$S_n = S \times (1 - 0,01 \times k)^n,$$

where  $S_n$  stands for the residual value of the said items upon the the expiry of  $n$  months after their inclusion in an appropriate depreciation group (subgroup);

$S$  stands for the initial (replacement value) of the said items;

$n$  stands for the number of full months expired since the date of including the said items into an appropriate depreciation group (subgroup) up to the date of their exclusion from this group (subgroup), without taking into account the period figured in full months during which such items were not within the composition of depreciable property in compliance with **Item Three of Article 256** of this Code;

$k$  stands for depreciation rate (in particular subject to the increasing (decreasing) coefficient applicable in respect of an appropriate depreciation group (subgroup)).

**2.** The original cost of the fixed assets shall be changed in the cases of completing the construction and the equipment, of the reconstruction, modernisation, technical re-equipment and partial liquidation of the corresponding objects, and also on other similar grounds.

Referred to the works involved in completing the construction and equipment, and also in the reconstruction and modernisation shall be the works caused by a change in the technological or official purpose of the equipment, building, structure or other object of the depreciated fixed assets, by the increased loads and (or) by the other new properties.

For the purposes of this Chapter, to the reconstruction shall be referred the restructuring of the existing fixed assets objects in connection with the improvement of production and with the higher technical and economic indices carried out according to the project for the reconstruction of the fixed assets, aimed at an expansion of the production capacities, raising the standard and changing the range of the products.

To the technical re-equipment shall be referred a complex of measures aimed at raising the technical and economic indices of the fixed assets or of their individual parts on the basis of the introduction of advanced hardware and technology, of the mechanisation and automation of the production, of the modernisation and replacement of the outdated and physically worn out equipment with new and more productive versions.

**3.** For the purposes of this Chapter, recognised as non-material assets shall be the results of intellectual activity and other objects of intellectual property, acquired and (or) created by the taxpayer (or the exclusive rights to them), which are used in the output of products (in the

performance of works or in rendering services) or for the organisation's managerial needs in the course of a long period of time (over twelve months).

For a non-material asset to be recognised, it shall possess the capability to bring economic gain (income) to the taxpayer and properly formalised documents confirming the existence of the non-material asset itself and (or) the taxpayer's possession of the exclusive right to the results of the intellectual activity (including the patents, certificates and other protective documents, and a contract on the cession (acquisition) of the patent or trade mark).

To the non-material assets are referred in particular:

1) the exclusive right of the patent holder to an invention, an industrial sample or a useful model;

2) the exclusive right of the author and other rightholders to the use of a computer programme or of a data base;

3) the exclusive right of the author or other rightholders to the use of the topology of the integral microschemes;

4) the exclusive right to a trade mark, a service mark, to the name of the place of commodity origin and company name;

5) the patent holder's exclusive right to selection achievements;

6) the possession of know-how, a secret formula or process, or of information concerning industrial, commercial or scientific experience.

The original cost of the depreciated non-material assets is defined as the sum of the outlays on their acquisition (creation) and on bringing them up to a state in which they are fit to use, except for value-added tax and excise taxes, except for the cases envisaged by this Code.

The cost of the non-material assets created by the organisation itself shall be defined as the sum of the actual expenditures on their creation and manufacture (including material outlays, outlays on the remuneration of labour and on the services of the outside organisations, and the patent duties connected with receiving patents and certificates), with the exception of the sums of the taxes recorded in the composition of the outlays in conformity with this Code.

To non-material assets shall not be referred:

1) scientific-research, research and development and technological works which have produced no positive result;

2) the intellectual and business qualities of the organisation's workers, their qualifications and labour capacity.

#### **Article 258.** Depreciation Groups. Specifics of Including the Depreciated Property into the Composition of the Depreciation Groups (Subgroups)

**1.** The depreciated property is divided into depreciation groups in accordance with the term of its beneficial use. Recognised as the term of beneficial use is the period in the course of which a fixed assets item or a non-material assets item serves to the purposes of the taxpayer's activity. The term of beneficial use shall be defined by a taxpayer independently as on the date of putting a given item of depreciated property into operation in conformity with the propositions of this Article and subject to the **classification** of the fixed assets endorsed by the Government of the Russian Federation.

A taxpayer shall be entitled to extend the term of beneficial use of a fixed assets item after the date of its putting into operation, where after the reconstruction, modernisation or technical re-equipment of such item the term of beneficial use thereof has increased. With this, the term of beneficial use of fixed assets may be extended within the limits of the time period established for the depreciation group in which such fixed asset was previously included.

If the term of beneficial use of an object belonging to fixed assets has not increased after reconstruction, modernisation or technical re-equipment of the item, the taxpayer, when

calculating depreciation thereof, shall take into account the remaining period of its beneficial use.

Capital investments in the rented fixed asset items specified in **Paragraph 1 of Item 1 of Article 256** of this Code shall be depreciated in the following procedure:

capital investments whose value is compensated for by the lessor to the lessee shall be depreciated by the lessor in the procedure established by this Chapter;

capital investments made by the lessee with the consent of the lessor whose value is not compensated for by the lessor shall be depreciated by the lessee within the effective term of the contract of lease on the basis of the depreciation amounts calculated with account taken of the useful life assessed for rented fixed asset items or for capital investments into the cited items in accordance with the **Classification** of Fixed Assets approved by the Government of the Russian Federation.

Capital investments into the fixed assets items obtained under a contract of gratuitous use which are cited in **Paragraph 1 of Item 1 of Article 256** of the Code shall be depreciated in the following procedure:

capital investments whose value is compensated for to an organisation being the lessee by an organisation being the lessor shall be depreciated by the organisation being the lessor in the procedure established by this Chapter;

capital investments made by an organisation being the lessee with the consent of the organisation being the lessor whose value is not compensated for by an organisation being the lessor shall be depreciated by the organisation being the lessee within the validity term of a contract of gratuitous use on the basis of the depreciation amounts estimated subject to the term of useful life determined for obtained fixed assets items or for capital investments into the cited items in compliance with the **Classification** of Fixed Assets approved by the Government of the Russian Federation.

**2.** The term of beneficial use of a non-material assets item shall be defined proceeding from the term of operation of the patent or of the certificate, and (or) from the other restrictions of the terms of use of intellectual property items in conformity with the legislation of the Russian Federation or with the applicable legislation of a foreign state, and also proceeding from the term of beneficial use of non-material assets, substantiated by the corresponding treaties. The depreciation rates for the non-material assets, for which it is impossible to define the term of beneficial use of a non-material assets item, shall be established as ten years (but shall be no longer than the term of the taxpayer's activity).

As regards the intangible assets cited in **Subitems 1 - 3, 5 and 6 of Paragraph Three of Item 3 of Article 257** of this Code, a taxpayer is entitled to fix independently the term of useful life thereof, which may not be less than two years.

**3.** The depreciated fixed assets (property) shall be divided into the following depreciation groups:

- the **first group** - all the short-life property with a term of beneficial use from 1 to 2 years inclusive;

- the **second group** - property with a term of beneficial use of over 2 years and up to 3 years inclusive;

- the **third group** - property with a term of beneficial use from 3 to 5 years inclusive;

- the **fourth group** - property with a term of beneficial use from 5 to 7 years inclusive;

- the **fifth group** - property with a term of beneficial use from 7 to 10 years inclusive;

- the **sixth group** - property with a term of beneficial use from 10 to 15 years inclusive;

- the **seventh group** - property with a term of beneficial use from 15 to 20 years inclusive;

- the **eighth group** - property with a term of beneficial use from 20 to 25 years inclusive;

- the **ninth group** - property with a term of beneficial use from 25 to 30 years inclusive;
- the **tenth group** - property with a term of beneficial use of over 30 years.

4. The **classification** of the fixed assets, divided into the depreciation groups, shall be endorsed by the Government of the Russian Federation.

5. Non-material assets shall be included into depreciation groups on the basis of the term of beneficial use thereof determined in compliance with **Item 2** of this Article.

6. For those kinds of fixed assets which are not cited in the depreciation groups, the term of beneficial use shall be fixed by the taxpayer in conformity with the technical conditions or with the recommendations of manufacturing organisations.

7. An organisation acquiring fixed assets items which have been in use (in particular in the form of a contribution to the authorised (pooled) capital or by way of legal succession when legal entities are re-organised) is entitled for the purpose of application of the straight-line method of these items' depreciation to determine the depreciation rate for this property subject to the beneficial use thereof reduced by the number of years (months) while this property was operated by the previous owners thereof. In so doing, the term of beneficial use of these fixed assets may be determined as the term of their beneficial use fixed by the previous owner thereof decreased by the number of years (months) while this property was operated by the previous owner thereof.

Where the term of actual use of a given fixed assets item by previous owners thereof turns out to be equal to the term of its beneficial use defined by the **Classification of Fixed Assets** endorsed by the Government of the Russian Federation in compliance with this Chapter or longer than this term, the taxpayer is entitled to define independently the term of beneficial use of this fixed assets item subject to occupational safety requirements and other factors.

8. In respect of the depreciable property items cited in **Paragraph 1 of Item 3 of Article 259** of this Code, depreciation shall be charged separately in respect of every property item in compliance with the term of beneficial use thereof in the procedure established by this Chapter.

9. For the purposes of this Chapter, depreciated property shall be put onto the records in accordance with its original cost, defined in conformity with **Article 257** of this Code, if not otherwise provided for by this Chapter.

The taxpayer is entitled to include in the composition of the expenditures of an accounting (tax) period outlays on capital investments in the amount of at most 10 per cent (at most 30 per cent in respect of the fixed assets pertaining to Depreciation Groups 3-7) of the initial value of fixed assets (except for the fixed assets obtained on a gratuitous basis), as well as at most 10 per cent (at most 30 per cent in respect of the fixed assets which pertain to Depreciation Groups 3-7) of the expenses borne as a result of fitting out, additional equipping, reconstruction, updating, technical re-equipping or partial liquidation of fixed assets whose amount is determined in compliance with **Article 257** of this Code.

If the taxpayer uses the said right, appropriate fixed assets items after their putting into operation shall be included into depreciation groups (subgroups) on the basis of the initial value thereof less at most 10 per cent (at most 30 per cent in respect of the fixed assets pertaining to Depreciation Groups 3-7) of the initial value thereof included into the composition of expenditures made within an accounting (tax) period, while the amounts by which the initial value of items is changed as a result of fitting out, additional equipping, reconstruction, updating, technical re-equipping or partial liquidation of items shall be accounted in the summary balance sheet of depreciation groups (subgroups) (changing the initial value of items for which depreciation is charged by using the straight-line method in compliance with **Article 259** of this Code) less at most 10 per cent (at most 30 per cent in respect of the fixed assets pertaining to Depreciation Groups 3-7) of such amounts.

*The provisions of Paragraph 4 of Item 9 of Article 258 of this Code (in the wording of **Federal***

*Law No. 224-FZ of November 26, 2008) shall apply to the fixed assets put into effect from January 1, 2008*

In the event of selling fixed assets in respect of which the provisions of Paragraph Two of this Item have been applied before the expiry of five years as of the date when they were put into operation, the amounts of outlays included into the composition of expenditures of the next accounting (tax) period in compliance with Paragraph Two of this Item are subject to restoration and inclusion into the tax base for tax.

**10.** Property received (transferred) on financial rent under a contract of financial rent (under a leasing contract) shall be included into the corresponding depreciation group by the party, which has to record the given property in accordance with the terms of the contract of financial rent (of the contact of leasing).

**11.** The fixed assets, the rights to which are subject to state registration in conformity with the **legislation** of the Russian Federation, shall be included in the composition of the corresponding depreciation group as from the moment of the documentarily confirmed fact of submitting the documents for the registration of the abovesaid rights.

**12.** The depreciable property items used before which are acquired by an organisation shall be included in the composition of the depreciation group (subgroup) in which they have been included by the previous owner thereof.

**13.** If an organisation using in its accounting policy the non-linear depreciation method applies increasing or reducing factors to the depreciation rates in compliance with **Article 259.3** of this Code and/or makes outlays on the scientific studies and/or the research and/or development works provided for by **Subitem 1 of Item 2 of Article 262** of this Code, the depreciable property items to which such factors are applied, as well as the depreciable property items used for carrying out scientific studies and/or research and development works, shall form a subgroup within the composition of a depreciation group and such depreciation groups and subgroups shall be accounted for on a separate basis. All the rules for forming and liquidation of a group, for an increase or decrease of the summary balance of a group shall extend to such subgroups and the depreciation rate specified on the basis of an increasing (reducing) factor shall be applicable to them.

The application to depreciation rates of depreciable property items of increasing (reducing) factors shall entail an appropriate reduction (extension) of the term of beneficial use of such items. With this, depreciation subgroups for depreciable property items to whose depreciation rates increasing (reducing) factors are applied shall be formed within a depreciation group on the basis of the term of beneficial use thereof without taking into account the extension (reduction) thereof determined by the **Classification of Fixed Assets** endorsed by the Government of the Russian Federation.

#### **Article 259.** Methods of and Procedure for Calculation of Depreciation Amounts

**1.** For the purposes of this Chapter, the taxpayer shall calculate depreciation using one of the following methods, while taking into account the specifics envisaged by this Chapter:

- 1) the straight-line method;
- 2) the declining method.

The method for charging depreciation shall be independently selected by the taxpayer as applied to all depreciable property items (except for the items for which depreciation is charged by the straight-line method in compliance with Item 3 of this Article) and shall be shown in the accounting policy for taxation purposes. It is allowed to change the method for charging depreciation from the start of a regular tax period. With this, the taxpayer is entitled to switch over from the declining method to the straight-line method for charging depreciation at most

once every five years.

The methods for charging depreciation established by this Item shall apply to all fixed assets irrespective of the date when they are acquired.

**2.** The sum of depreciation for the purposes of taxation shall be defined by taxpayers every month, in accordance with the procedure established by this Article. The depreciation shall be charged separately for every depreciation group (subgroup) when using the non-linear method for charging depreciation or separately for every depreciable property item when applying the straight-line depreciation method.

**3.** Irrespective of the method for charging depreciation established by the taxpayer for taxation purposes, the straight-line method for charging depreciation shall apply to buildings, structures, transfer mechanisms, and intangible assets included into depreciation groups 8-10, regardless of the time when appropriate items are put into operation.

In respect of other depreciable property items, regardless of the time of putting items into operation, shall only apply the method for charging depreciation established by the taxpayer in the accounting policy thereof for taxation purposes.

**4.** Depreciation with regard to a depreciable property item shall be accrued beginning from the first day of the month following the month when this object was put into operation.

**5.** If an organisation within a calendar month was established, liquidated, re-organised or transformed in such a way that under **Article 55** of this Code the tax period for it starts or expires before the end of a calendar month, depreciation shall be charged subject to the following specifics:

1) depreciation shall be charged by an organisation being liquidated up to the month (inclusive) when its liquidation was completed, while an organisation being re-organised shall do it up to the month (inclusive) in which the re-organisation was completed in the established procedure;

2) depreciation shall be charged by an organisation which is being established or formed as a result of re-organisation from the first day of the month following the month when the state registration thereof was effected.

The provisions of this Item shall not extend to the organisations modifying their organisational and legal form.

**6.** Organisations engaged in activities in the field of information technologies are entitled not to apply the depreciation procedure established by this Article with respect to electronic and computer technologies. In this case, the outlays of the said organisations on the acquisition of electronic and computer technologies shall be recognised as taxpayer's material expenses in the procedure established by **Subitem 3 of Item 1 of Article 254** of this Code. For the purposes of this Item, as organisations engaged in the activities in the field of information technologies shall be deemed those which are engaged in the development and sale of computer programmes, databases on material media or in an electronic form over communication channels regardless of the kind of a contract and/or in rendering services (carrying out works) involving the development, adaptation and modification of computer programmes and databases (of software tools and information computer products), installation, testing and maintenance of computer programmes and databases.

The organisations cited in this Item shall be obliged to satisfy the following conditions:

an organisation has the document proving its state accreditation as an organisation exercising activities in the area of information technologies in the procedure established by the Government of the Russian Federation;

the share of incomes derived from the sale of copies of computer programmes and databases, transfer of property rights to computer programmes and databases, from rendering services (carrying out works) involving the development, adaptation and modification of



computer programmes and databases (of software tools and information computer programmes), as well as services (works) involving installation, testing and maintenance of the cited computer programmes and databases on the basis of the results of the accounting (tax) period constitutes at least 90 per cent of the amount of all the organisation's incomes received for the cited period, in particular at least 70 per cent from foreign persons;

the organisation's staff on the payroll within the accounting (tax) period is at least 50 persons.

When assessing the share of incomes received from purchasers being foreign persons, the incomes received from foreign persons which exercise their activities outside the territory of the Russian Federation shall be taken into account. The place where the purchaser exercises its activities shall be defined as the place of the purchasers' actual presence in the territory of a foreign state on the basis of the state registration of an organisation or, where there is no such registration, on the basis of the place cited in the organisation's constituent documents, the place wherefrom the organisation is managed, the location of the standing executive body thereof or the location of its permanent representative office, if the computer programmes and data bases, works (services) and property rights provided for by this Item have been acquired through this permanent representative office, the place of residence of a natural person.

As the documents which prove receiving incomes from purchasers being foreign persons shall be deemed the contract (a copy thereof) made with a foreign person and the documents proving the fact of rendering services (carrying out works) or the customs declaration ( a copy thereof) bearing notes of the Russian customs authority which has released commodities under the customs procedure of export and of the Russian customs authority of the place of departure through which goods have been exported from the customs territory of the Customs Union.

#### **Article 259.1.** Procedure for Calculating Depreciation When Applying the Linear Method of Charging Depreciation

**1.** When the taxpayer establishes in the accounting policy thereof the linear method for charging depreciation, as well as when applying the linear method of charging depreciation in respect of depreciable property items in compliance with **Item 3 of Article 259** of this Code, the procedure for charging depreciation established by this Article shall apply.

**2.** The sum of depreciation calculated with respect to an item of depreciated property for one month shall be defined as the product of multiplying its original (replacement) cost by the depreciation norm established for the given object.

The depreciation rate for every object of depreciated property shall be defined by the formula:

$$K = \frac{1}{n} \times 100\%$$

where  $K$  is the depreciation rate in percentages of the original (replacement) value of the object of the depreciated property, and

$n$  is the term of beneficial use of a given item of depreciated property expressed in months (without the account taken of the reduction (extension) of this term in compliance with **Paragraph Two of Item 13 of Article 258** of this Code).

**3.** Depreciation in respect of depreciable property in the form of capital investments into fixed asset items which are depreciable and whose depreciation is charged using the linear method in compliance with this Article shall be charged for the lessor starting from the first day of the month following the month when this property was put into operation and for lessee from

the first day of the month following the month when this property was put into operation.

4. Depreciation in respect of depreciable property in the form of capital investments into fixed asset items obtained under a contract of gratuitous use which are depreciable and whose depreciation is charged using the straight-line method in compliance with this Chapter shall start for a lending organisation starting from the first day of the month following the month when this property was put into operation as capital investments and for a borrowing organisation from the first day of the month following the month when this property was put into operation.

5. Charging of depreciation shall be terminated starting from the first day of the month following the month when the value of depreciable property was completely written off or when a given item was withdrawn from the composition of the taxpayer's depreciable property for any reason.

6. Charging of depreciation in respect of items excluded from the composition of depreciable property in compliance with **Item 3 of Article 256** of this Code shall be terminated starting from the first day of the month following the month when this item is excluded from the composition of depreciable property.

7. In the event of termination of a contract of gratuitous use and return of depreciable property items to a taxpayer, as well as in the event of depreservation or completion of reconstruction (updating) of a fixed asset item, depreciation in respect of it shall be charged starting from the first day of the month following the month when the items were returned to the taxpayer, as well as when reconstruction (updating) or depreservation of a fixed asset was completed.

#### **Article 259.2.** Procedure for Calculation of Depreciation Sums When Applying the Non-Linear Method of Charging Depreciation

1. When the taxpayer uses in the accounting policy thereof for the purposes of taxation the declining of charging depreciation the procedure for charging depreciation established by this Article shall apply.

2. As of the first day of the month in which the accounting policy for the purposes of taxation provides for application of the declining method for charging depreciation, in respect of every depreciation group (subgroup) shall be determined the aggregated balance to be calculated as the aggregate value of all depreciable property items pertaining to a given depreciation group (subgroup) in the procedure established by **Article 322** of this Code subject to the provisions of this Article.

Hereafter the aggregated balance of every depreciation group (subgroup) shall be determined as of the first day of the month for which the sum of charged depreciation is determined in the procedure established by this Article.

In respect of depreciation groups and the subgroups included therein the aggregated balance shall be determined without taking into account the depreciable property items for which depreciation is charged by using the linear method in compliance with **Item 3 of Article 259** of this Code.

3. As depreciable property items are put into operation, the initial value of such items increases the aggregated balance sheet of an appropriate depreciation group (subgroup). With this, the initial value of such items shall be included in the aggregated balance of appropriate depreciation group (subgroup) as of the first day of the month following the month when they were put in operation.

When changing of the initial value of fixed assets in compliance with **Item 2 of Article 257** of this Code in case of fitting out, additional equipping, reconstruction, updating, technical re-equipping or partial liquidation of fixed assets, the amounts by which the initial value of the said items is changed shall be accounted in the aggregated balance of an appropriate depreciation group (subgroup).

4. The aggregated balance of every depreciation group (subgroup) shall be decreased on a monthly basis by the amount of depreciation charged in respect of this group (subgroup).

The sum of depreciation in respect of every depreciation group (subgroup) charged for one month shall be determined on the basis of the product of the aggregated balance of an appropriate depreciation group (subgroup) as of the start of a month and the depreciation rates established by this Article according to the following formula:

$$A = B \times \frac{k}{100}$$

where  $A$  stands for the sum of depreciation charged for one month in respect of an appropriate depreciation group (subgroup);

$B$  stands for the aggregated balance of an appropriate depreciation group (subgroup);

$k$  stands for the depreciation norm for an appropriate depreciation group (subgroup).

5. For the purposes of applying the declining method of charging depreciation, the following depreciation rates shall apply:

Depreciation group	Depreciation rate (monthly one)
First	14.3
Second	8.8
Third	5.6
Forth	3.8
Fifth	2.7
Sixth	1.8
Seventh	1.3

<b>Eighth</b>	1.0
<b>Ninth</b>	0.8
<b>Tenth</b>	0.7

**6.** Charging of depreciation in respect of depreciable property in the form of capital investments into leased fixed assets items which under this Article are subject to depreciation and whose depreciation is charged by using the declining method in compliance with **Article 259** of this Code shall start for the lessor as of the first day of the month following the month when this property was put into operation and for the lessee as of the first day of the month following the month when this property was put into operation.

**7.** Charging of depreciation in respect of depreciable property in the form of capital investments into fixed asset items obtained under a contract of gratuitous use which is depreciable under this Article and whose depreciation is charged by using the declining method in compliance with **Article 259** of this Code shall start for a lending organisation as of the first day of the month following the month when this property was put into operation and for borrowing organisation as of the first day of the month following the month when this property was put into operation.

**8.** Charging of depreciation in respect of the items whose depreciation has been charged by using the declining method and which are excluded from the composition of depreciable property in compliance with **Item 3 of Article 256** of this Code shall be terminated as of the first day of the month following the month when a given item is excluded from the composition of depreciable property. With this, the aggregated balance of an appropriate depreciation group (subgroup) shall be decreased by the residual value of the said items.

**9.** In the event of termination of a contract of gratuitous use and return of depreciable property items to the taxpayer, as well as in the event of depreservation or completion of reconstruction (updating) of a fixed asset item for which depreciation is charged by using the nonlinear method, depreciation in respect of it shall be charged starting from the first day of the month following the month when the items were returned to the taxpayer and when reconstruction (updating) or depreservation of the fixed asset item was completed, while the aggregate balance of an appropriate depreciation group (subgroup) shall be increased by the residual value of the said items subject to the provisions of **Item 9 of Article 258** of this Code.

**10.** In the event of withdrawal of depreciable property items, the aggregated balance of an appropriate depreciation group (subgroup) shall be decreased by the residual value of such items.

**11.** Where as a result of withdrawal of depreciable property the aggregate balance of an appropriate depreciation group (subgroup) has decreased so that the aggregate balance became equal to zero, such depreciation group shall be liquidated.

**12.** Where the aggregate balance of a depreciation group (subgroup) reduces to less

than 20 000 roubles, in the month following the month when the said value was attained, if within this time period the aggregate balance of an appropriate depreciation group (subgroup) did not increase as a result putting into operation depreciable property items, the taxpayer is entitled to liquidate the said group (subgroup) and, in so doing, the value of the aggregate balance shall be classified as off-sale outlays of the current period.

**13.** Upon the expiry of the term of beneficial use of a depreciable property item determined in compliance with **Article 258** of this Code the taxpayer may exclude this item from the composition of a depreciation group (subgroup) without changing the aggregate balance of this depreciation group (subgroup) as of the date when this depreciable property item is withdrawn from the composition thereof. With this, charging of depreciation shall go on proceeding from the aggregate balance of this depreciation group (subgroup) in the procedure established by this Article.

For the purposes of this Item the term of beneficial use of the depreciable property items put into operation before the first day of the taxation period, when the accounting policy establishes for the purposes of taxation the application of the non-linear method of charging depreciation, shall be accounted subject to the term of operation of appropriate items prior to the said date.

### **Article 259.3.** Application of Increasing (Decreasing) Coefficients to the Depreciation Norm

**1.** The taxpayer is entitled to apply a special coefficient to the basic depreciation rate but at most 2:

1) in respect of depreciable fixed assets used under the conditions of an aggressive environment and/or of a rigid shift schedule.

Taxpayers using depreciable fixed assets for operation under the conditions of an aggressive environment and/or a rigid shift schedule are only entitled to use the special coefficient cited in this Article when charging depreciation in respect of the said fixed assets.

For the purposes of this Chapter, the conditions of an aggressive environment shall mean the totality of natural and/or artificial factors whose impact causes increased wear of fixed assets in the course of their operation. Fixed assets' location in an explosive, fire hazardous, toxic or other aggressive technological environment that can be the reason (source) for initiating an emergency situation shall be likewise equated to operation under the conditions of an aggressive environment.

When applying the non-linear method of charging depreciation, the said special coefficient shall not apply to the fixed assets pertaining to depreciation groups from **one to three**;

2) in respect of own depreciable fixed assets of taxpayers which are agricultural organisations of an industrial type (battery farms, cattle breeding complex farms, beast farms, hothouse complex farms);

3) in respect of own depreciable fixed assets of taxpaying organisations having the status of a resident of an industrial production special economic zone or a special tourism-recreation special economic zone;

4) for the amortised fixed assets included in the objects with a high energy efficiency according to the list of such objects specified by the Government of the Russian Federation or the objects with a high class of energy efficiency if determination of classes of energy efficiency is envisaged for such objects in compliance with the **legislation** of the Russian Federation.

**2.** Taxpayers are entitled to apply to the basic depreciation rate a special coefficient, but 3 at most:

1) with respect to depreciable fixed assets which are the subject matter of a contract of

financial lease (contract of leasing) of taxpayers which must account these fixed assets in compliance with the terms of a contract of financial lease (contract of leasing).

The said special coefficient shall not apply to the fixed assets pertaining to depreciation Groups from **One to Three**;

2) with respect to depreciable fixed assets only used for carrying out scientific-and-technical activity.

3. Taxpayers that apply the declining method of charging depreciation and have transferred (received) fixed assets which are the subject of leasing under contracts made with participants of a leasing transaction before putting this Chapter into effect shall include such property into a separate subgroup within the composition of appropriate depreciation groups. Depreciation of this property shall be charged in respect of depreciable property items in compliance with the methods and norms which were in effect at the time when the property was transferred (received) also applying the special coefficient of at most 3.

4. It is allowable to charge depreciation according to the norms lower than those established by this Chapter by decision of the head of a taxpaying organisation consolidated in the accounting policy for taxation purposes in the procedure for selection of the method of charging depreciation to be applied.

When selling depreciable property by taxpayers using reduced depreciation norms, the residual value of depreciable property items to be sold shall be determined on the basis of the depreciation rate actually applied.

#### **Article 260.** Outlays on the Repairs of Fixed Assets

1. The outlays on the repairs of the fixed assets made by a taxpayer shall be considered as other outlays and shall be recognised for taxation purposes in the accounting (tax) period in which they were effected in the amount of actual expenses.

2. The provisions of this Article shall also apply to the outlays of the lessee of the depreciated fixed assets, if the contract (agreement) concluded between the lease-holder and the lease-giver does not stipulate the recompense of these outlays.

3. Taxpayers shall be entitled for ensuring the even inclusion of outlays on the repairs of fixed assets in two and more tax periods to create reserves for the forthcoming repairs of fixed assets in the procedure established by **Article 324** of this Code.

#### **Article 261.** Outlays on the Development of Natural Resources

1. For the purposes of this Chapter, recognised as outlays on the development of natural resources shall be the taxpayer's expenditures on the geological studies of the earth's bowels, on prospecting for commercial minerals and on the performance of preparatory works.

To the outlays on the development of natural resources shall be referred, in particular:

- outlays made on the search for and on an assessment of the deposits of commercial minerals (including the audit of the stocks), in particular, the outlays connected with construction (drilling) and/or liquidation (conservation) of boreholes (except for those recognized as depreciable property), on prospecting for commercial minerals and (or) on the hydrogeological investigations carried out on the plot of the earth's bowels in accordance with the licences or other permits of authorised bodies obtained in the established order, as well as outlays on the acquisition of the necessary geological and other kinds of information from third persons, including from state bodies;

- the outlays on preparing the territory for carrying out the mining, construction and other works in conformity with the established demands made on the safety and protection of the lands, mineral wealth and the other natural resources, and of the natural environment, including on the construction of temporary approach lines and roads for the transportation of the extracted

mining rock, useful minerals and wastes, and on preparing the sites for erecting the corresponding structures and for the preservation of the fertile soil layer intended for the subsequent reclamation of the lands and for the storage of the extracted mining rock, commercial minerals and the wastes;

- the outlays on the recompense of the complex damage inflicted upon the natural resources by the taxpayers in the process of the construction and operation of the objects, for relocation and the paying out of compensation for demolition of housing facilities during the development of the deposit/field. To these outlays shall also be referred the expenses envisaged by the contracts (agreements) with state power bodies of constituent entities of the Russian Federation, with local self-government bodies and (or) with the tribal and family communes of indigenous small-numbered peoples, concluded by these taxpayers.

**2.** The outlays on the development of natural resources made after this Chapter is put into operation shall be included in the composition of the other outlays in conformity with this Chapter, if the source of their financing is not the budgetary funds and (or) the resources of the state extra-budgetary funds.

The outlays on the development of natural resources mentioned in Item 1 of this Article shall be recorded in the order stipulated by **Article 325** of this Code. When effecting the outlays on the development of natural resources concerning several plots of the earth's bowels, the said outlays shall be recorded separately for every plot of the bowels in the part defined by the taxpayer in accordance with the accounting policy he has accepted for taxation purposes. The said outlays shall be recognised for taxation purposes as from the first day of the month following the month in which the given works (work stages) were completed, and shall be included in the composition of the other outlays in the following procedure:

the outlays stipulated by Paragraph Three of Item 1 of this Article shall be evenly included into the composition of expenditure within 12 months;

*The provisions of Paragraph 4 of Item 2 of Article 261 (as regards the recognition of expenses) of this Code (in the wording of **Federal Law No. 229-FZ** of July 27, 2010) shall **apply** in respect of the outlays on the development of natural resources made after January 1, 2011*

the outlays provided for by Paragraphs Four and Five of Item 1 of this Article shall be evenly included in the composition of expenditure within two years but within no longer term than the period of operation thereof.

**3. Abrogated** from January 1, 2011.

**4.** The procedure for recognising the outlays on the development of natural resources for the purposes of taxation envisaged by this Article shall also be applied to the outlays on building (boring) prospecting wells in the deposits of hydrocarbon materials which have proved to be unproductive, on carrying out a complex of geological works and tests with the use of this well, and also on the subsequent liquidation of this well. Such procedure shall be applied by the taxpayer, irrespective of whether he goes on with or stops further works on the corresponding plot of the earth's bowels after the liquidation of the unproductive well, under the condition that the outlays on this well are recorded separately. The outlays made on the unproductive well shall be recognised for taxation purposes evenly in the course of twelve months, beginning with the first day of the month following the month in which this well was liquidated in the established order as not having fulfilled its purpose.

The decision on recognising the corresponding well as unproductive shall be taken by the taxpayer once and for all, and shall not be subject to subsequent change. The taxpayer shall inform the tax body at the place of his recording of the decision adopted with respect to every well not later than the ultimate date fixed by this Chapter for submitting the tax declaration for

the reporting (tax) period into which he has actually included the outlays (part of such outlays) on the well into the composition of the other outlays.

**5.** Abrogated from January 1, 2011.

**6.** The outlays on the acquisition of works (services) of geological and other kinds of information from third persons, as well as outlays on an independent performance of the works aimed at the development of natural resources shall be recorded for the purposes of taxation in the amount of actual expenses.

**Article 262.** Outlays on Scientific Studies and (or) on Research and Development Works

**1.** For the purposes of this chapter, as the outlays on scientific studies and/or research and development works shall be deemed those which are involved in the creation of new products (commodities, works or services) or in the improvement of those which are already being manufactured, in the creation of new technologies, industrial engineering or management methods or in the improvement of those which are being applied.

**2.** The following shall be deemed the outlays on scientific studies and/or research and development works:

1) depreciation amounts related to fixed assets and intangible assets (except for buildings and structures) used in carrying out scientific studies and/or research and development works charged in compliance with this article for the time period defined as the number of full calendar months within which the cited fixed assets and intangible assets were used solely for scientific studies and/or research and development works;

2) amounts of outlays on labour wages of the employees participating in carrying out the scientific studies and/or research and development works provided for by **Items 1, 3, 16 and 21 of Part Two of Article 255** of this Code for the time period while these employees were carrying out the scientific studies and/or research and development works;

3) the material outlays provided for by **Subitems 1-3 and 5 of Item 1 of Article 254** of this Code directly connected with carrying out scientific studies and/or research and development works;

4) other outlays directly connected with carrying out scientific and/or research and development works in the amount of at most 75 per cent of the amount of the outlays on labour wages cited in **Subitem 2** of this item;

5) the cost of works under contracts for performing scientific studies and contracts on carrying out research and development works, as well as engineering works - in respect of the taxpayer acting as the orderer of the scientific studies and/or research and development works;

6) deductions for forming funds intended for rendering support to scientific, scientific-and-technical and innovative activities established in compliance with the Federal Law on Science and Governmental Scientific-and-Technical Policy in the amount of at most 1.5 per cent of the trade income estimated in compliance with **Article 249** of this Code.

**3.** If the employees cited in **Subitem 2 of Item 2** of this article, while carrying out scientific studies and/or research and development works, were involved carrying out other activities of the taxpayer that were not connected with carrying out scientific studies and/or research and development works, as the outlays on scientific studies and/or research and development works shall be deemed the appropriate sums of outlays on labour wages of the cited employees in proportion to the time period within which these employees were engaged in carrying out scientific studies and/or research and development works.

**4.** The taxpayer's outlays on scientific studies and/or research and development works provided for by **Subitems 1-5 of Item 2** of this article shall be recognised for taxation purposes, regardless of the results of appropriate scientific studies and/or research and development works, in the procedure provided for by this article after completing these studies or works (individual stages of works) and/or the signing of the acceptance certificate by the parties.



A taxpayer is entitled to include the outlays on scientific studies and/or research and development works in the composition of other outlays in the accounting (tax) period in which such studies or works (individual stages of works) were completed, unless otherwise provided for by this article.

**5.** A taxpayer is entitled to include the outlays directly connected with carrying out scientific studies and/or research and development works (except for the outlays provided for by **Subitems 1-3, 5 and 6 of Item 2** of this article) in the part thereof exceeding 75 per cent of the amount of the outlays on labour wages cited in **Subitem 2 of Item 2** of this article, in the composition of other outlays in the accounting (tax) period in which such studies or works (individual stages of works) were completed.

**6.** The taxpayer's outlays on scientific studies and/or research and development works provided for by **Subitem 6 of Item 2** of this article shall be recognized for taxation purposes in the accounting (tax) period in which the appropriate outlays were made.

**7.** A taxpayer making outlays on scientific studies and/or research and development works according to the list of scientific studies and/or research and development works established by the Government of the Russian Federation is entitled to include the cited outlays in the composition of other outlays of the accounting (tax) period in which such studies or works (individual stages of works) were completed as the sum of actual outlays with the coefficient of 1.5 to be applied thereto.

For the purposes of this article, as the taxpayer's actual outlays on scientific studies and/or research and development works shall be deemed those which are provided for by **Subitems 1-5 of Item 2** of this article.

**8.** A taxpayer using the right provided for by **Item 7** of this article shall submit to the tax authority at the organisation's location a report on the scientific studies and/or research and development works (individual stages of works) carried out, the outlays on which are recognized with the coefficient 1.5 to be applied thereto.

The cited report shall be submitted to a tax authority concurrently with a tax return based on the results of the tax periods in which scientific studies and/or research and development works (individual stages of works) were completed.

A report on carried out scientific studies and/or research and development works (individual stages of works) shall be filed by a taxpayer in respect of each scientific study and research and development work (individual stage of work) and must satisfy the general requirements established by a national standard for the structure of scientific and technical reports.

A taxpayer classified as a major taxpayer in compliance with **Article 83** of this Code shall submit the report provided for by this item to the tax authority at the place of registration as a major taxpayer.

A tax authority is entitled to order an expert examination of the report cited in this item for the purpose of verification of compliance of scientific studies and/or research and development works carried out with the list established by the Government of the Russian Federation in the procedure established by **Article 95** of this Code. The cited expert examination may be made by state academies of science, federal and national scientific research universities, state scientific centres, national scientific research centres or federal centres of science and high technology.

In the event of failure to submit the report on the scientific studies and/or research and development works (individual stages of works) carried out provided for by this item, the sums of outlays on carrying out these studies and/or works shall be accounted for within the composition of other outlays in the actual amount of outlays.

**9.** If as a result of making outlays on scientific studies and/or research and development works a taxpayer gains the exclusive rights to the results of intellectual activities cited in **Item 3**

**of Article 257** of this Code, these rights shall be recognized as intangible assets which are to be depreciated in the procedure established by this chapter or, at the taxpayer's choice, the cited outlays shall be accounted for in the composition of other outlays connected with manufacture and trade within two years. In so doing, the sums of outlays on scientific studies and/or research and development works, that have been previously included in the composition of other outlays in compliance with this article, are not subject to restoration and inclusion in the initial cost of an intangible asset.

In the event of sale at a loss by a taxpayer of an intangible asset obtained as a result of making the outlays on scientific studies and/or research and development works cited in **Item 7** of this article, this loss shall not be accounted for taxation purposes.

**10.** In the event of sale at a loss by a taxpayer of an intangible asset obtained as a result of making the outlays on scientific studies and/or research and development works cited in Item 7 of this article, this loss shall not be accounted for taxation purposes.

**11.** The sums of outlays on scientific studies and/or research and development works, including those whose results are not positive, according to the list provided for by **Item 7** of this article, which are started before January 1, 2012, shall be included by a taxpayer in the composition of other outlays in the accounting (tax) period in which they were made in the amount of actual outlays with the coefficient of 1.5 to be applied thereto in the procedure that was in effect in 2011. For this, in respect of such scientific studies and/or research and development works (individual stages of works) a taxpayer shall not submit the report provided for by **Item 8** of this article.

#### **Article 263.** Outlays on the Obligatory and Voluntary Property Insurance

**1.** The outlays on the obligatory and voluntary property insurance embrace the insurance fees for all kinds of the obligatory insurance and for the following kinds of the voluntary insurance of property:

1) voluntary insurance of the transportation facilities (of water, air, ground and pipeline transport), including those rented, the outlays on whose maintenance are included in the outlays involved in production and sale;

2) voluntary insurance of freight;

3) voluntary insurance of the production-profiled fixed assets (including those rented), of non-material assets and of the objects of the capital construction in progress (including those rented);

4) voluntary insurance against the risks involved in the performance of the construction and mounting works;

5) voluntary insurance of the commodity-material stocks;

6) voluntary insurance of the harvest of agricultural cultures and the livestock;

7) voluntary insurance of other property which the taxpayer uses in carrying out an activity aimed at deriving an income;

8) voluntary insurance of responsibility for inflicting harm or liability under a contract, if such insurance is a condition for the performance by the taxpayer of activity in conformity with the international liabilities of the Russian Federation or with the generally accepted international demands;

9) voluntary insurance of the risk of liability for failure to discharge or improper discharge of the obligations connected with financing of construction and/or construction of facilities for the Olympic Games implemented in compliance with **Article 14** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climate Health Resort and on Amending Certain Legislative Acts of the Russian Federation;

9.1) voluntary insurance of property interests connected with the circulation of bank cards issued (emitted) by the taxpayer if the insurant incurs losses as a result of the conduct by third persons of operations with the use of forged or lost bank cards or bank cards stolen from the holders, or of the write-off of monetary means on the basis of forged slips or receipts of an electronic terminal confirming the conduct of the operations by the holder of a bank card, or of the conduct of any other illegal operations with bank cards;

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 1 of Article 263 of this Code with Subitem 9.2. The Subitem shall **enter into force** upon the expiry of a month from the date when the said Federal Law is officially published and at the earliest on the first day of a regular **tax period** for the profit tax

9.2) voluntary insurance of export credits and investments against business and/or political risks;

10) other kinds of voluntary property insurance, if under the legislation of the Russian Federation such insurance serves as a condition of the exercise by the taxpayer of activities thereof.

**2.** The outlays on the obligatory kinds of insurance (those established by the legislation of the Russian Federation) shall be included in the composition of the other outlays within the limit of the insurance tariffs in conformity with the legislation of the Russian Federation and with the demands of the international conventions. If the given tariffs are not approved, the outlays on the obligatory insurance shall be included in the composition of the other outlays in the amount of the actual expenditures.

**3.** The outlays on the voluntary types of insurance indicated in this Article shall be included into the composition of the other outlays in the amount of the actual expenditures.

#### **Article 264.** Other Outlays Involved in the Production and (or) Sale

**1.** To the other outlays involved in the production and (or) in the sale, are referred the following taxpayer's outlays:

1) amounts of taxes and fees, customs duties and fees, insurance contributions to the Pension Fund of the Russian Federation for obligatory pension insurance, to the Social Insurance Fund of the Russian Federation for obligatory social insurance in case of temporary disability and in connection with motherhood, to the Federal Obligatory Medical Insurance Fund and to regional obligatory medical insurance funds for obligatory medical insurance charged in the procedure established by the legislation of the Russian Federation, except for those cited in **Article 270** of this Code;

2) the outlays on the certification of the products and services, and also on the declaration of conformity with the participation of a third party;

**2.1.** the outlays on standardization subject to the provisions of **Item 5** of this article;

3) the sums of the commission fees and other similar expenditures on the works (services), performed (rendered) by outside organisations;

4) the sums of the port and airfield fees, the outlays on the pilot's services and other similar expenses and the other similar payments;

5) the sums of paid out travelling allowances within the limit of the norms established in conformity with the legislation of the Russian Federation;

6) outlays on ensuring the fire safety of a taxpayer in compliance with the laws of the Russian Federation, outlays on the maintenance of a gas rescue team, outlays on the services rendered for the protection of property, on the fire prevention services, outlays on the acquisition and of the other services of security guard activity, including services provided by non-departmental security guards under the internal affairs bodies of the Russian Federation in accordance with the legislation of the Russian Federation as well as outlays on the maintenance of the internal security service for fulfilling the functions of economic protection of the banking and economic operations, and for the protection of material values (with the exception of the outlays on the equipment and on the acquisition of weapons and other special means of defence);

7) outlays on ensuring normal labour conditions and accident prevention measures provided for by the laws of the Russian Federation, outlays on civil defence in compliance with the laws of the Russian Federation, as well as outlays on the medical treatment of occupational diseases of workers engaged in jobs with harmful or dangerous working conditions, outlays connected the maintenance of premises and equipment of health units situated directly on the territory of the organisation;

8) the outlays on hiring workers, including the outlays on the services of specialized organisations profiled on an engagement of the personnel;

9) the outlays on rendering services involved in the guarantee repairs and servicing, including deductions into the reserve against the forthcoming outlays on the guarantee repairs and guarantee servicing (with account of the provisions of **Article 267** of this Code);

10) rent (lease) payments for rented (accepted for lease) property (including the land plots) and also expenses towards the acquisition of property for lease. If property received under a lease contract is recorded on the books by the lessee the following shall be recognised as expenses taken into account under this Subitem:

for the lessee: rent (lease) payments less the accumulated depreciation for the property accrued in accordance with **Articles 259 - 259.2** of this Code;

for the lessor: the expenses incurred to acquire the property that is leased out;

10.1) the payment made by the concessionaire to the awarding party during the period of use (operation) of the subject matter of the concession agreement (concession payment);

11) outlays on the maintenance of the company's transport facilities (motor, railway, air and other types of transport). The outlays on compensation for the use of personal passenger cars and motorbikes for making official trips within the **limit** of the norms established by the Government of the Russian Federation;

12) outlays on business trips, in particular, on:

- workers' fares to the place of destination of the business trip and back to the place of his permanent work;

- the hire of living premises. In this Item of the outlays, subject to compensation shall also be the worker's expenses incurred in the remuneration of additional services rendered in hotels (with the exception of the fees for services rendered in bars and restaurants, in hotel rooms and payments for the use of recreational and health facilities);

- the daily or field allowances;

- the formalisation and issue of visas, passports, vouchers, invitations and other similar documents;

- the consular and airfield fees, fees for the right of the entry, passage and transit of motor and the other transportation facilities, for the use of sea channels and of other similar installations, and other similar payments and fees;

12.1) outlays on the delivery from the place of residence (gathering) to the place of work and back of workers employed by the organisations exercising their activities by shifts or in the

field (in expeditions). The said outlays shall be provided for by collective agreements;

13) outlays on providing food allowances for sea crews, river and air vessels within the limit of the norms approved by the Government of the Russian Federation;

14) outlays on legal and informational services;

15) outlays on consulting and other such services;

16) payment to the state and (or) private notaries for notarial formalisation. This kind of outlay shall be accepted within the limit of the tariffs approved in the established order;

17) outlays on auditor services;

18) outlays on the management of the organisation or of its individual subdivisions, as well as outlays on the acquisition of services related to management of organisations or individual subdivisions thereof;

19) outlays on the services involved in sending over workers (technical and managerial personnel) by outside organisations for them to take part in the production process, in the management of the production or in the fulfilment of other functions involved in the production and (or) sale;

20) outlays on the publication of business accounting reports, as well as on publishing and on the other ways of revealing other kinds of information, if the legislation of the Russian Federation has imposed upon the taxpayer the duty to actualise such publication (revealing);

21) outlays involved in the presentation of the forms and of information of the state statistical observation, if the legislation of the Russian Federation has imposed upon the taxpayer the duty to present such information;

**22)** representation outlays connected with holding official reception and with the servicing of representatives from other organisations taking part in negotiations aimed at establishing and maintaining cooperation, in accordance with the procedure stipulated by **Item 2** of this Article;

23) outlays on training under basic and additional professional educational programmes, professional training and re-training of the taxpayer's employees in the procedure provided for by **Item 3** of this Article;

24) outlays on stationery;

**25)** outlays on postal, telephone, telegraph and other similar services, outlays on the remuneration of communication services and on services rendered by computer centres and banks, including those on the services of fax and satellite communication, of e-mail and of informational systems (SWIFT, Internet and other similar systems);

26) outlays connected with acquisition of the right to use computer software and data bases under contracts with the right holder (under licence and sublicense agreements). The said outlays shall also include outlays on acquisition of exclusive rights the software whose cost is below that of depreciable property defined by **Item 1 of Article 256** of this Code;

27) the outlays on the current study (research) of the market situation, on the collection of information directly involved in the production and sale of commodities (works, services);

28) the outlays on the advertising of the put out (acquired) and (or) of the sold commodities (works, services), of the activities of the taxpayer, of trade marks and service marks, including participation in exhibitions and in the fairs, taking into account the provisions of **Item 4** of this Article;

29) the contributions, deposits and other obligatory fees paid to non-profit organisations, if the payment of such contributions, deposits and other obligatory fees is a condition for the performance of their activity by the taxpayers who are payers of such contributions, deposits or other obligatory fees;

30) contributions to international organisations and organisations that provide payment systems and electronic data transmission systems, if the payment of such contributions is an

obligatory condition for the performance of their activity by the taxpayers who are payers of such contributions, or if it is a condition for the international organisation's rendering the services necessary for the performance of the said activity by the taxpayer who is a payer of such contributions;

31) the outlays involved in the remuneration of services to the outside organisations for the maintenance and sale, in accordance with the procedure established by the legislation of the Russian Federation, of the objects of pledge and pawn over the time when the said objects are kept by the pawn holder after they are handed over to him by the pawn giver;

32) outlays on the maintenance of settlements for shifts of workers and temporary settlements, including all objects of housing-communal and socio-cultural purpose, of truck farms and other similar services, in the organisations exercising their activities by shifts or in the field (in expeditions). The said expenses for the purposes of taxation shall be recognised within the limits of the normative standards for maintenance of similar objects and services endorsed by bodies of local self-government at the place of the taxpayer's activities. Where such normative standards are not endorsed by bodies of local self-government, the taxpayer shall be entitled to apply the procedure for determining outlays on the maintenance of these objects effective with regard to similar objects situated on the given territory and subordinate to the said bodies;

33) the deductions of the enterprises and organisations pouring into especially dangerous radioactive and nuclear works and objects for forming the reserves for guaranteeing the security of the said works and objects at all stages of their life cycle and development in conformity with the legislation of the Russian Federation on the use of nuclear power and in accordance with the **procedure** established by the Government of the Russian Federation;

34) the outlays on the preparation and development of new production, workshops and aggregates;

35) outlays connected with introduction of production technologies, as well as the methods of production engineering and management;

36) the outlays on services involved in keeping business accounting, rendered by outside organisations or the individual businessmen;

37) periodical (current) payments for the use of the rights to the results of intellectual activity and of the means of individualisation (in particular, of rights arising from the patents on the inventions, industrial samples and other forms of intellectual property);

38) the outlays effected by tax paying organisations making use of the labour of invalids in the form of funds directed towards the goals ensuring the social protection of invalids, if the invalids comprise no less than 50 per cent of the total number of such taxpayer's workforce and the share of the outlays on the remuneration of invalids' labour in the outlays on remuneration of labour is not less than 25 per cent.

In accordance with the legislation of the Russian Federation on the social protection of disabled persons the goals of social protection of disabled persons are as follows:

improving working conditions and the labour protection system for disabled persons;

job creation and preservation for disabled persons (the purchase and installation of equipment, including work arrangements for employees working at their residence);

training (including in new occupations and working techniques) and finding job opportunities for disabled persons;

manufacturing and repairing prosthetic items;

acquiring and servicing technical rehabilitation facilities (including the acquisition of guide dogs);

providing the services of sanatoria and health resorts to disabled persons and to persons who accompany Group I disabled persons and disabled children;

protecting the rights and lawful interests of disabled persons;  
measures for integrating disabled persons into society (including cultural, sport and other similar events);

giving the same opportunities to disabled persons as those available to other citizens (including transport services to persons who accompany Group I disabled persons and disabled children);

acquiring printed publications of public organisations of disabled persons and distributing them among disabled persons;

acquiring video materials with captions or translation for deaf people;

contributions sent by said organisations to public organisations of disabled persons for the maintenance thereof.

When determining the total number of invalids, into the average-listed number of workers shall not be included invalids combining jobs, working on turn-key contracts and other contracts of civil-legal nature;

39) the outlays of tax paying invalids' public organisations, and of tax-paying institutions, the only owners of whose property are the public organisations of invalids in the form of the funds oriented towards the performance of the activity of the said public organisations of invalids and towards the goals pointed out in Item 38 of this Item.

After the expiry of the tax period, the receivers of the funds intended for the exercise of activities of a public organisation of invalids and for the purposes of the social protection of invalids shall submit to the corresponding tax bodies at the place of their recording a report on the purpose-oriented use of the received funds.

If these funds have not been used, from the moment when the receiver has actually used such funds, not for the purpose (violated the terms for granting these funds), such funds shall be recognised as income of the taxpayer who has received these funds.

The outlays mentioned in **Subitem 38** of this Item and in the present Subitem cannot be included in the outlays connected with the production and (or) the sale of excisable commodities, mineral raw materials, other commercial minerals and other commodities in accordance with the list compiled by the Government of the Russian Federation in agreement with the all-Russia organisations of invalids, as well as with rendering intermediary services connected with the sale of such commodities, mineral raw materials and minerals;

39.1) outlays of taxpaying organisations whose authorised (pooled) capital is completely made up of the contribution of religious organisations in the form of receipts from the sale of religious literature and articles of religious purpose, provided that these amounts are transferred for the exercise of the authorised activities of the said religious organisations;

39.2) expenses toward the maintenance - in the procedure established by **Article 267.1** of this Code - of the forthcoming expenses reserves for the purpose of providing social protection to disabled persons envisaged by **Subitem 38** of this Item that have been incurred by a taxpayer that is a public organisation of disabled persons and also by a taxpayer that is an organisation that uses the labour of disabled persons, if disabled persons make up at least 50 per cent of the total number of employees of the employer, and the share of expenses towards the payroll of disabled persons in the payroll expenses make up at least 25 per cent;

39.3) outlays on forming reserves in the procedure established by **Article 267.2** of this Code to cover forthcoming outlays on scientific studies and/or research and development works;

40) payments for the registration of the rights to immovable property and to land, of the transactions in the said objects, payments for the supply of information on the registered rights and the remuneration of the services of the authorised bodies and specialised organisations involved in the assessment of property and in compiling documents of cadastre and technical recording (inventory) of the objects of immovable property;

41) outlays under the contracts of civil-legal nature (including turn-key contracts) concluded with individual businessmen not on an organisation's staff;

42) the outlays of the agricultural organisation taxpayers on providing food for the workers engaged in agricultural works;

43) outlays on the replacement of copies of periodical printed matter in which defects have been exposed or which have lost their marketable appearance in the course of transportation and (or) sale, and which have proved to have missing parts, but not over seven per cent of the cost of the edition of the corresponding issue of the periodical printed publication;

44) losses in the form of the cost of mass media products and books which have defects or have lost their marketable appearance, or which have not been sold within the time term indicated in this Subitem (morally outdated), and which are written off by the taxpayer engaged in the manufacture and issue of the mass media products and books, within the limit of ten per cent of the cost of the edition of the corresponding issue of the periodical publication or of the corresponding edition of books, as well as the outlays on writing off and utilisation of mass media products and books in which defects have been exposed or which have lost their marketable appearance or which have not been sold.

Recognised as outlays shall be the cost of mass media products and books which have not been sold to the following deadlines:

- as concerns the printed periodical publications before the output of the next issue of the corresponding periodical;

- as concerns books and other non-periodical printed matter - within 24 months after their issue;

- as concerns calendars (regardless of their form) before April 1 of the year to which they refer;

45) the contributions on the obligatory social insurance against accidents in production and against occupational diseases, made in conformity with the legislation of the Russian Federation;

46) the taxpayer's deductions made to provide for the supervisory activity of the specialised institutions for the purposes of exerting control over the observation by such taxpayers of the corresponding demands and terms, stipulated by the legislation of the Russian Federation, and the taxpayers' deductions into reserves created in conformity with the legislation of the Russian Federation regulating activities in the sphere of communications;

47) losses caused by spoilage;

48) outlays connected with maintenance of public catering units for servicing labour collectives (including amounts of accrued depreciation, outlays on repairing premises, outlays on lighting, heating, water and power supply, as well as on fuel for cooking) if such expenses are not taken into account in accordance with **Article 275.1** of this Code;

48.1) an employer's outlays on payment in compliance with the legislation of the Russian Federation of temporary disability allowance (except for industrial accidents and professional illnesses) for the days of an employee's temporary disability which are to be paid out of the employer's assets and whose number is established by Federal Law No. 255-FZ of December 29, 2006 on Compulsory Social Insurance against Temporary Disability and in Connection with Motherhood in the part thereof that is not covered by the insurance payments made to employees by insurance organisations that possess the licences issued in compliance with the laws of the Russian Federation for exercising the appropriate type of activity under the contracts made with employers for the benefit of employees in the event of their temporary disability (except for industrial accidents and professional illnesses) for the days of temporary disability thereof which are to be paid out of the employer's assets and whose number is established by



Federal Law No. 255-FZ of December 29, 2006 on Compulsory Social Insurance against Temporary Disability and in Connection with Motherhood;

48.2) payments (premiums) of employers under contracts of voluntary personal insurance made with insurance organisations having licences issued in compliance with the **laws** of the Russian Federation for exercising the appropriate type of activity for the benefit of employees in the event of their temporary disability (except for industrial accidents and professional illnesses) for the days of temporary disability which are to be paid out of the employer's assets and whose number is established by Federal Law No. 255-FZ of December 29, 2006 on Compulsory Social Insurance against Temporary Disability and in Connection with Motherhood. The said payments (premiums) shall be included into the composition of outlays if the amount of insurance payments under such contracts does not exceed the amount of the temporary disability allowance (except for industrial accidents and professional illnesses) defined in compliance with the legislation of the Russian Federation for the days of an employee's disability determined in compliance with the laws of the Russian Federation which are to be paid out of the employer's assets and whose number is established by Federal Law No. 255-FZ of December 29, 2006 on Compulsory Social Insurance against Temporary Disability and in Connection with Motherhood. With this, the total sum of these employers' payments (premiums) and the premiums indicated in Paragraph Ten of Item 16 of Article 255 of this Code shall be included into the composition of outlays in the amount of 3 per cent of the sum of outlays on labour wages at the most;

48.3) expenses of taxpayers connected with gratuitous provision of airtime and/or print space in accordance with legislation of the Russian Federation on elections and referendums;

**Federal Law** No. 235-FZ of July 18, 2011 supplemented Item 1 of Article 264 of this Code with Subitem 48.4. The Subitem shall **enter into force** upon the expiry of one month after the day of the **official publication** of the said Federal Law, but no earlier than the first day of the next **tax period** for tax on organisations' profit

48.4) the taxpayers' expenses relating to the provision without compensation of the services of making and/or disseminating social advertising in accordance with the **legislation** of the Russian Federation on advertising. The expenses specified in this subitem shall be recognised for taxation purposes, given the observance of the requirements applicable to social advertising established by **Subitem 32 of Item 3 of Article 149** of this Code;

49) the other outlays involved in the production and (or) sale.

**2.** To the representation outlays shall be referred the taxpayers' outlays on official receptions and (or) on servicing the representatives of other organisations, taking part in negotiations aimed at establishing and (or) at maintaining mutual cooperation, as well as the participants who have arrived to attend the meetings of the taxpayer's board of directors (of the board) or of the other management body, regardless of the place of holding such events. To the representation outlays shall be referred those made on holding official receptions (lunches, dinners or other similar events) arranged for the said persons, as well as for the officials of a taxpaying organisation participating in the talks, on providing transport facilities to take these persons to the place of holding representation events and (or) meetings of the management body and back, on snack bar servicing during negotiations, and on the remuneration of the services of interpreters who are not on the taxpayer's staff, to provide for translation during the representation events.

To the representation outlays shall not be referred those made on organising entertainment and recreation, prophylactic activity or the treatment of diseases.

The representation outlays shall be included in the course of the reporting (tax) period in

the composition of the other outlays in an amount not exceeding four per cent of the taxpayer's outlays on the remuneration of labour over this reporting (tax) period.

**3.** The taxpayer's outlays on training under basic and additional professional education programmes, professional training and re-training of the taxpayer's employees shall be included in the composition of other expenses, if:

1) training and re-training under basic and additional professional education programmes, professional training and re-training of the taxpayer's employees are effected on the basis of an agreement made with Russian educational establishments holding an appropriate licence or with foreign educational establishments having an appropriate status;

2) either the taxpayer's employees who have made a labour contract with the taxpayer or natural persons who have made with the taxpayer a labour contract providing for a natural person's duty at the latest in three months after the end of the said training, professional training or retraining paid for by the taxpayer to make a labour contract therewith and to work for the taxpayer for a least one year are trained under basic and additional professional educational programmes or are professionally trained and retrained. If a labour contract made by the said natural person and the taxpayer was terminated before the expiry of one year as of the date when it came into effect, except when a labour contract is terminated due to the circumstances which do not depend on the will of the parties (**Article 83** of the Labour Code of the Russian Federation), the taxpayer is obliged to include in the off-sale income of the reporting (tax) period when this labour contract was terminated the amount of payment for training, professional training or re-training of an appropriate natural person that has been previously accounted while calculating the tax base. If a labour contract has not been made by a natural person with the taxpayer upon the expiry of three months after termination of training, professional training or re-training paid for by the taxpayer, the said outlays shall be likewise included into the off-sale outlays of the accounting (tax) period when this time period for making the labour contract expired.

The taxpayer is obliged to keep the documents proving outlays on training for the whole period of validity of an appropriate contract of training and one working year of a natural person whose training, professional training or re-training have been paid for by the taxpayer in compliance with the labour contract made with the taxpayer but at least within four years.

Outlays connected with arranging recreation, rest or treatment, with maintenance of educational institutions, as well as with carrying works or rendering services for them on a free-of-charge basis shall not be recognised as outlays on training of the taxpayer's employees or natural persons which are provided for by this Item.

**4.** For the purposes of this Chapter, to the organisation's outlays on advertising shall be referred:

- the outlays on advertising effected through the mass media (including announcements in the press and in radio and television programmes) and the information-telecommunication networks;

- outlays on lit and other outdoor advertising, including the manufacture of advertisement stands and panels;

- outlays on taking part in exhibitions, fairs and displays, on the decoration of showcases, of sales exhibitions, rooms for the exposition of samples and demonstration halls, on the production of advertising booklets and catalogues containing information on goods sold, works performed, services provided, trademarks and service marks, or on an organisation proper, and on the price discounts concerning the commodities which have fully or partially lost their original properties because of being put on display.

The taxpayer's outlays on the acquisition (the manufacture) of the prizes given out to the

winners during the large scale advertising campaigns, as well as the taxpayer's outlays on other types of advertising not indicated in Paragraphs from Two to Four of this Item, which are carried out by him with a report (tax) period for the purposes of taxation shall be recognised in the amount not exceeding one per cent of the proceeds from sale to be defined in conformity with **Article 249** of this Code.

**5.** As the outlays on standardization shall be deemed the outlays on carrying out the works involved in developing the national standards included in the programme of national standards' development endorsed by the national agency of the Russian Federation in charge of standardisation, as well as the outlays on carrying out the works involved in the development of regional standards, provided that accordingly the standards are endorsed as the national standards by the national agency of the Russian Federation in charge of standardization and the regional standards are registered with the Federal Information Fund of Technical Regulations and Standards in the procedure established by the **legislation** of the Russian Federation on technical regulation.

As outlays on standardization shall not be deemed the outlays on carrying out the works involved in the development of national and regional standards by the organizations engaged in the development thereof in the capacity of the executor (contractor or subcontractor).

**Article 264.1.** Outlays on the Acquisition of the Right to the Land Plots

*The provisions of Item 1 of Article 264.1 of this Code shall apply to the taxpayers who have concluded contracts for the acquisition of the land plots mentioned in this Item since January 1, 2007 up to December 31, 2011*

**1.** For the purposes of this Chapter, as the outlays on the acquisition of the right to the land plots shall be seen those made on the acquisition of land plots from out of the lands in the state or the municipal ownership, on which there are buildings, structures and installations or which are acquired for the purposes involved in the capital construction of fixed assets objects on these land plots.

**2.** As the outlays on the acquisition of the right to the land plots shall also be recognised those made on the acquisition of the right to conclude a contract for the lease of the land plots, under the condition that such contract of lease is actually signed.

*The provisions of Item 3 of Article 264.1 of this Code shall apply to the taxpayers who have concluded contracts for the acquisition of the land plots mentioned in Item 1 of this Article since January 1, 2007 up to December 31, 2011*

**3.** The outlays on the acquisition of the right to the land plots, mentioned in **Item 1** of this Article, shall be included into the composition of other outlays connected with the production and (or) realization, in the following order:

1) at the taxpayer's choice, the sum of the outlays on the acquisition of the right to the land plots shall be seen as the outlays of the accounting (tax) period evenly in the course of the period, which shall be defined by the taxpayer on his own and which shall not be less than five years, or as the outlays of the accounting (tax) period in an amount, not exceeding thirty per cent of the tax base of the previous tax period, computed in conformity with **Article 274** of this Code, up to the complete recognition of the entire sum of the said outlays, unless otherwise envisaged in this Article.

The procedure for recognising the outlays on the acquisition of the right to the land plots shall be applied in conformity with the accounting policy the organisation has adopted for the purposes of taxation.

For the computation of the ultimate amounts of the outlays, computed in accordance with this Article, the tax base of the previous tax period shall be defined while not taking into account the sum of the outlays of the said tax period on the acquisition of the right to the land plots.

If land plots are acquired on the terms of an instalment plan, whose time term exceeds that mentioned in the first paragraph of this Subitem, such outlays shall be recognised as those of the accounting (tax) period evenly in the course of the time term, fixed in the contract.

2) the sum of the outlays on the acquisition of the right to the land plots shall be included into the composition of other outlays as from the moment of the documentally confirmed fact of submitting documents for the state registration of this right.

For the purposes of this Article, as the documental confirmation of the rights shall be seen the receipt slip on the receipt by the body, carrying out the state registration of rights to immovable property and of transactions with it, of documents for the state registration of the said rights.

4. The rules established by **Item 3** of this Article, shall also be applied with respect to the procedure for recognising the outlays, mentioned in **Item 2** of this Article, unless otherwise stipulated in this Item.

If the contract for the lease of the land plot is not subject to the state registration in conformity with the legislation of the Russian Federation, the outlays on the acquisition of the right to conclude such contract of lease shall be recognised as the outlays evenly in the course of the term of validity of this contract of lease.

*The provisions of Item 5 of Article 264.1 of this Code shall apply to the taxpayers who have concluded contracts for the acquisition of the land plots mentioned in Item 1 of this Article since January 1, 2007 up to December 31, 2011*

5. At the realization of the land plots and of the buildings (structures, installations), situated on it, the profit (the loss) shall be defined in the following order:

1) the profit (the loss) from the realization of buildings (structures and installations), shall be accepted for taxation purposes in accordance with the procedure, established in this Chapter;

2) the profit (the loss) from an implementation of the right to the land plot shall be defined as the difference between the price of realization and the outlays not recompensed to the taxpayer, involved in the acquisition of the right to this land plot. As the unrecompensed outlays is understood for the purposes of this Article the difference between the taxpayer's outlays on the acquisition of the right to the land plot and the sum of the outlays, recorded for the purposes of taxation until the moment of the exercise of the said right in the order, established in this Article;

3) the loss from an implementation of the right to the land plot shall be included into the composition of the taxpayer's other outlays in equal parts in the course of the term, fixed in conformity with **Subitem 1 of Item 3** of this Article, and of the actual term of possession of this land plot.

## **Article 265.** Extra-Sale Outlays

1. Into the composition of the extra-realisation outlays, not connected with production and the sale, are included the justified outlays on the performance of an activity which is not directly involved in the production and (or) in sale. To such outlays are, in particular, referred:

1) outlays on the maintenance of the property handed over under a rental contract (of leasing) (including on the depreciation of this property);

For organisations which hand over on a systematic basis for payment into temporary use

and (or) into temporary possession and use their property and (or) the exclusive rights arising from the patents on inventions, on industrial samples and on other kinds of intellectual property, seen as outlays involved in the production and realisation shall be the outlays connected with this activity;

2) outlays in the form of interest on any kind of debt liabilities, including interest calculated on securities and other liabilities, issued (emitted) by the taxpayer subject to the specifics provided for by **Article 269** of this Code (for banks, the specifics in defining the outlays in the form of interest shall be established in conformity with **Articles 269** and **291**), and also the interest payable in connection with the restructuring of a debt relating to taxes and fees in accordance with the procedure established by the Government of the Russian Federation.

Recognised as outlays shall, in this case, be interest on any kind of debt liabilities, irrespective of the character of the granted credit or loan (current and(or) investment). Recognised as outlays shall be only the sum of interest calculated over the actual time of use of the borrowed funds (the actual time of the said securities being placed at the disposal of third persons), and of the initial income established by the issuer (lender) in the terms of issuance (issue, contract) but not above the actual amount;

3) the outlays on organising the issue of own securities, especially on the preparation of the prospectus of the emission of securities, on the manufacture or acquisition of blank forms, on the registration of securities, outlays connected with servicing own securities, including outlays on the services for keeping a register of the owners of securities, on depository services, on the services of agents for paying interest (dividends), the outlays connected with keeping a register, providing information to share holders in compliance with the laws of the Russian Federation, and other similar outlays;

4) outlays connected with servicing the securities acquired by a taxpayer, including payment for the services related to keeping a register of the owners of securities, for depository services, outlays connected with the receipt of information in compliance with the laws of the Russian Federation, and other similar outlays;

5) outlays in the form of negative currency exchange rates arising from revaluating the property in the form of currency values (except for foreign-currency denominated securities) and claims (liabilities) whose cost is expressed in foreign currency, except for advance payments which are made (received) including on currency accounts in banks, which is carried out in connection with a change in the official exchange rate of foreign currency to the rouble of the Russian Federation, fixed by the Central Bank of the Russian Federation;

For the purposes of this Chapter, a negative currency exchange rate shall be recognised as the currency exchange rate arising in the course of discounting property in the form of currency values or claims expressed in foreign currency or in the course of revaluating liabilities expressed in foreign currency;

5.1) outlays in the form of the sum difference which a taxpayer has, when the sum of arising liabilities and claims calculated on the basis of the exchange rate of conventional monetary units established by agreement of the parties on the date of sale (posting) of goods (works, services) or property rights does not comply with the actual amount of money in roubles received;

6) outlays in the form of negative (positive) difference emerging as a result of deviations in the rate of sale (purchase) of foreign currency from the official exchange rate of the Central Bank of the Russian Federation, established on the date of the transfer of ownership of foreign currency (the specifics of determining the outlays of banks on these operations shall be established by **Article 291** of this Code);

7) outlays of taxpayers who apply the method of calculation, on setting up the reserves against risky debts (in conformity with the order established by **Article 266** of this Code);

8) outlays on the liquidation of fixed assets withdrawn from operation, or on writing off intangible assets, including the amounts of depreciation which is not fully accrued in compliance with the established time period of beneficial use thereof, as well as outlays on the liquidation of incomplete construction projects and other property whose installation is not completed (outlays on dismantling, disassembling and removal of disassembled property), on guarding mineral wealth and other similar work;

Outlays in the form of the sums of depreciation which is not additionally charged in compliance with the established time period of beneficial use thereof shall be included into off-sale expenditures which are connected with production and sale solely in respect of the depreciable property items for which depreciation is charged by the straight-line method. Depreciable property items in respect of which depreciation is charged by the nonlinear method shall be withdrawn from operation in the procedure established by **Item 13 of Article 259.2** of this Code;

9) outlays on temporary closing down and re-activating industrial capacities and objects, including expenditure on the maintenance of conserved industrial capacities and objects;

10) court outlays and arbitration fees;

11) outlays on cancelling production orders, as well as outlays on production which has not yielded any products. Outlays on canceling production orders, as well as outlays on production which has not yielded any products, shall be recognised on the basis of acts of a taxpayer endorsed by the head thereof or by a person authorised by him in the amount of direct factor costs determined in compliance with **Articles 318 and 319** of this Code;

12) outlays on operations with tare, unless otherwise provided for by the provisions of **Item 3 of Article 254** of this Code;

13) outlays in the form of fines, penalties and (or) other sanctions for violating the contractual or debt liabilities recognised by debtors and subject to payment by debtors on the basis of effective court decisions, as well as outlays on the recompense of inflicted damage;

14) outlays in the form of the sums of taxes referred to the delivered inventory items, works and services, if the credit indebtedness (the liabilities to the creditors) on such delivery is written off in the reporting period in conformity with **Item 18 of Article 250** of this Code;

15) outlays on the remuneration of services rendered by banks including those connected including the services connected with the sale of foreign currency when collecting tax, fee, penalty and fine in the procedure provided for by **Article 46** of this Code, with the installation and operation of electronic systems of documents circulation between a bank and clients, including "client-bank" systems;

16) outlays on holding a meetings of shareholders (participants, partners), in particular, outlays connected with renting premises, with preparing and forwarding information necessary for holding such meetings, as well as other outlays directly involved in holding the meeting;

17) in the form of outlays not subject to compensation from the budget, on performing works involved in mobilisation preparations, including expenditures on maintaining the capacities and objects which are loaded (used) only partially but still necessary for the fulfilment of the mobilisation plan;

18) outlays on transactions with the financial instruments of futures transactions, taking into account the provisions of **Articles 301-305** of this Code;

19) expenses in the form of deductions of the organisations incorporated in the structure of the DOSAAF Rossii - for the purposes of accumulation and re-distribution of funds to organisations incorporated in the structure of the DOSAAF Rossii - for the purpose of ensuring the training of citizens, in accordance with the legislation of the Russian Federation, in listed military occupations, of military-patriotic upbringing of youngsters, of development of aviation,

technical and applied military sports;

19.1) expenses in the form of a bonus (discount) paid out (provided) by a seller to a buyer as a result of compliance with certain terms and conditions of a contract, including the amount of purchases;

19.2) expenses in the form of targeted deductions from lotteries effected in the amount and according to the procedure envisaged by the **legislation** of the Russian Federation;

**Federal Law** No. 235-FZ of July 18, 2011 supplemented Item 1 of Article 265 of this Code with Subitem 19.3. The Subitem shall **enter into force** upon the expiry of one month after the day of the **official publication** of the said Federal Law, but no earlier than the first day of the next **tax period** for tax on organisations' profit

19.3) the expenses towards the maintenance of future expenses reserves by a taxpayer being a not-for-profit organisation registered in accordance with the **Federal Law** on Not-for-Profit Organisations, determined in the amount and in the procedure established by **Article 267.3** of this Code;

20) other justified outlays.

**2.** For the purposes of this Chapter, to the extra-sale outlays shall be equated the losses incurred by the taxpayer in the reporting (tax) period, in particular:

1) in the form of the losses of the past tax period identified in the current reporting (tax) period;

2) sums of bad debts, and where a taxpayer has decided on the creation of a reserve against doubtful debts, the sums of bad debts not covered at the expense of the reserve;

3) the losses from idle time because of internal production reasons;

4) the losses from idle time because of external reasons not compensated by the guilty persons;

5) outlays in the form of a shortage of material values in production and warehouses, as well as at trading enterprises in the absence of guilty persons, and losses from embezzlements whose culprits have not been caught. In the given cases, the fact of the absence of guilty persons shall be documentarily confirmed by an authorised state power body;

6) the losses from natural calamities, fires, accidents and other emergency situations, including the expenditures connected with the aversion or with the liquidation of the aftermath of the natural calamities and emergency situations.

7) losses in a transaction of cession of the right of claim in the procedure established by **Article 279** of this Code.

#### **Article 266.** Outlays on Setting Up Reserves Against Risky Debts

**1.** Recognised as a risky debt shall be any kind of indebtedness to the taxpayer that has emerged in connection with the sale of goods, performance of works, provision of services, if this indebtedness is not settled before the deadline fixed by the contract and is not secured against with a pawn, surety or bank guarantee.

A debt in respect of which the creation of a reserve against possible loan losses is provided in compliance with **Article 292** of this Code, shall not be regarded as doubtful for taxpaying banks.

For taxpaying insurance companies determining receipts and expenditures by the method of calculations under insurance contracts, co-insurance contracts and reinsurance contracts in respect of which insurance reserves have been formed, a reserve against doubtful debts in respect of the debit indebtedness connected with payment of insurance premiums (fees) shall not be set up.

**2.** Recognised as risky debts (unrecoverable debts) shall be those debts to the taxpayer on which the fixed term of legal limitation has expired, and also those debts on which in

conformity with the **civil legislation** liability is terminated, because it is impossible to fulfil it, on the grounds of an act of the state body or in the face of the organisation's liquidation.

**3.** The taxpayer shall have the right to set up reserves against doubtful debts in accordance with the procedure stipulated by this Article. The sums of deductions into these reserves shall be included into the composition of the extra-sale outlays on the last date of the reporting (tax) period. This provision shall not be applied towards the outlays for the formation of reserves against debts incurred in connection with the non-payment of interest, with the exception of banks. Banks shall have the right to create reserves against risky debts with respect to the indebtedness which has accumulated because of non-payment of interest on the debt liabilities and with respect to other kinds of indebtedness, with the exception of loan indebtedness and of indebtedness equated to it.

**4.** The sum of the reserve against risky debts shall be determined by the results of an inventory of the debit indebtedness, carried out on the last date of reporting (tax) period, and shall be calculated in this way:

1) as concerns risky indebtedness with a term of over 90 calendar days - in the sum of the set up reserve shall be included the full sum of indebtedness discovered on the grounds of the inventory;

2) as concerns the risky indebtedness with a term of 45 to 90 calendar days (inclusive) - in the sum of the reserve shall be included 50 per cent from the sum of the indebtedness exposed on the grounds of the inventory;

3) as concerns the risky indebtedness with a term of less than 45 days the sum of the created reserve shall not be increased.

The sum of the established reserve against risky debts shall not exceed 10 per cent of the earnings of the reporting (tax) period, defined in conformity with **Article 249** of this Code (for banks - of the sum of incomes determined in compliance with this Chapter, except for the incomes in the form of restored reserves).

The reserve against risky debts may be used by the organisation only for coverage of the losses from hopeless debts, recognised as such in the order established by this Article.

**5.** The sum of the reserve against high risk losses not fully used by the taxpayer in the reporting period for the coverage of losses from hopeless debts may be put off by him to the next reporting (tax) period. In this case, the sum of the reserve created again in accordance with the results of the inventory of the reserve, shall be corrected by the sum of the residual of the reserve of the previous reporting (tax) period. If the sum of the reserve created again by the results of the inventory of the reserve is less than the sum of the residual of the reserve of the previous reporting (tax) period, the difference shall be included in the composition of the taxpayer's extra-sale incomes in the report (tax) period. If the sum of the reserve created again by the results of the inventory of the reserve is larger than the sum of the residual of the previous reporting (tax) period, the difference shall be included in the extra-sale outlays in the current reporting (tax) period.

If the taxpayer adopts the decision on setting up a reserve against high risk debts, the writing off recognised as hopeless in conformity with this Article shall be made at the expense of the sum of the created reserve. If the sum of the created reserve is less than the sum of the hopeless debts subject to writing off, the difference (loss) shall be included in the composition of the extra-sale outlays.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 267 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**



**Article 267.** Outlays on Setting Up a Reserve for the Guarantee Repairs and Guarantee Servicing

1. Taxpayers selling commodities (works) shall have the right to create reserves for forthcoming outlays on the guarantee repairs and guarantee servicing, and the deductions on the formation of such reserves shall be accepted for the purposes of taxation in accordance with the procedure stipulated by this Article.

2. The taxpayer shall adopt a decision on setting up such reserves on his own and shall establish in the accounting policy for the purposes of taxation the ultimate amount of the deductions into this reserve. The reserve shall be created in this case with respect to those commodities (works), for which, in conformity with the terms of the contract concluded with the buyer, are envisaged the servicing and repairs in the course of the guarantee period.

3. Recognised as outlays shall be the sums of deductions into the reserve as on the date of selling the said commodities (works). The size of the established reserve shall not exceed the ultimate amount defined as the share of the taxpayer's outlays on the guarantee repairs and servicing he has actually made, in the amount of his earnings from the sale of such commodities (works) for three previous years, multiplied by the amount of proceeds from the sale of said goods (works) for the report (tax) period. Where a taxpayer has been selling goods (works) on conditions of making warranty repair and servicing for a term of less than three years, the volume of proceeds from the sale of the said goods (works) for the actual period of such sale shall be taken into account when calculating the maximum amount of such reserve.

4. Taxpayers who have not sold commodities (works) under a term of the guarantee repairs and servicing shall have the right to create a reserve against the guarantee repairs and servicing of commodities (works) in an amount not exceeding the expected outlays on the said expenditures. Seen as expected expenditures shall be the outlays envisaged in the plan for the fulfilment of guarantee liabilities with account taken of the guarantee term.

After the expiry of the tax period, the taxpayer shall correct the size of the established reserve, proceeding from the share of the actually effected outlays on the guarantee repairs and servicing in the volume of the earnings from the sale of the said commodities (works) for the previous period.

5. The sum of the reserve for warranty repair and servicing of goods (works) not fully used by the taxpayer in the reporting period for repair of the goods (works) sold on condition of providing a warranty may be put off by him to the next reporting (tax) period. In this case, the sum of the reserve created anew for the next tax period shall be corrected by the sum of the residual of the reserve of the previous reporting (tax) period. If the sum of the newly created reserve is less than the sum of the residual of the reserve of the previous reporting (tax) period, the difference shall be subject to inclusion in the composition of the taxpayer's extra-sale incomes for the current tax period.

If a taxpayer adopts the decision on setting up a reserve for warranty repair and servicing of goods (works), writing off outlays on warranty repair shall only be made at the expense of the sum of the created reserve. If the sum of the created reserve is less than the sum of the expenses on repairing made by a taxpayer, the difference shall be subject to inclusion in the composition of other outlays.

6. Where a taxpayer adopts a decision on termination of the sale of goods (of carrying out works) on conditions of providing warranty repair and warranty servicing thereof, the sum of the previously created and unused reserve shall be subject to inclusion in the composition of the taxpayer's incomes upon the termination of the validity of contracts for warranty repair and warranty servicing.

**Article 267.1.** Expenses towards the Maintenance of Reserves for Future Expenses

### Used to Ensure the Social Protection of Disabled Persons

1. Taxpayers that are public organisations of disabled persons and the organisations specified in Paragraph 1 of **Subitem 38 of Item 1 of Article 264** of this Code may maintain a reserve for future expenses used to ensure the social protection of disabled persons. These reserves may be formed for a term of up to five years.

2. On the basis of elaborated programmes that have been approved by the taxpayer he shall at his own discretion take a decision on the maintenance of the reserve specified in **Item 1** of this Article, which is reflected in the record-keeping philosophy for taxation purposes. In this case the taxpayer's expenses incurred when said programmes are implemented shall be effected from the reserve specified in **Item 1** of this Article.

3. The amount of the reserve maintained shall depend on planned expenses (on a cost-estimate) for the implementation of the programmes approved by the taxpayer. The sum of deductions to this reserve shall be included in non-sales expenses as of the last date of the accounting (tax) period. In this case the maximum rate of deductions to the reserve mentioned in **Item 1** of this Article shall not exceed 30 per cent of the taxable profit received in the current period and calculated with no account taken of this reserve.

4. If the amount of the maintained reserve specified in **Item 1** of this Article turns out to be below the sum of actual expenses for the implementation of the programmes specified in **Item 2** of this Article the difference between the said sums shall be included in non-sales expenses.

The sum of the reserve that has not been completely spent by the taxpayer in the planned period shall be included in the taxpayer's non-sales expenses of the current accounting (tax) period.

5. Taxpayers maintaining reserves for future expenses used to ensure the social protection of disabled persons shall file a report with tax bodies on the use of these funds as earmarked upon the expiry of the tax period.

If the funds mentioned in **Paragraph 1** of this Item have been used for purposes other than their intended purpose they shall be included in the tax base of the tax period in which they were used for purposes other than their intended purpose.

### **Article 267.2.** Outlays on Forming Reserves to Cover Forthcoming Outlays on Scientific Studies and/or Research and Development Works

1. A taxpayer is entitled to create reserves to cover forthcoming outlays on scientific studies and/or research and development works (hereinafter referred to in this article as reserves) in the procedure provided for by this article.

2. A taxpayer on the basis of the programmes of scientific studies and/or research and development works devised and endorsed by it shall independently render the decision on creation of each reserve and shall reflect this decision in its accounting policy for taxation purposes. The reserve for implementation of each approved programme cited in this item may be created for the time period for which carrying out the appropriate scientific studies and/or research and development works is planned but for at most two years. The time period for creation of a reserve selected by a taxpayer shall be reflected in the accounting policy for taxation purposes.

3. The amount of an appropriate reserve may not exceed the planned outlays on (an estimate of) implementation of the programme of scientific studies and/or research and development works endorsed by a taxpayer.

An estimate for implementation of the programme of scientific studies and/or research and development works endorsed by a taxpayer may only include the outlays recognized as outlays on scientific studies and/or research and development works in compliance with

**Subitems 1-5 of Item 3 of Article 262** of this Code.

For this, the ceiling amount of deductions to form reserves may not exceed the sum defined according to the following formula:

$$N = I \times 0.03 - S,$$

where N is the ceiling amount of deductions to form reserves;

I is earnings from realization in the accounting (tax) period estimated in compliance with **Article 249** of this Code;

S is the taxpayer's outlays cited in **Subitem 6 of Item 2 of Article 262** of this Code.

**4.** The sum of deductions for forming a reserve shall be included in the composition of other outlays as of the last date of an accounting (tax) period.

**5.** A taxpayer forming a reserve to cover forthcoming outlays on scientific studies and/or research and development works shall make the outlays on implementation of programmes of scientific studies and/or research and development works from the cited reserve.

Where the sum of the created reserve cited in **Item 1** of this article is below the amount of actual expenses on implementation of the programmes cited in **Item 2** of this article, the difference between the cited sums shall be accounted as the taxpayer's outlays on scientific studies and/or research and development works in compliance with **Articles 262** and **332.1** of this Code.

The amount of a reserve that was not used in full by a taxpayer within the time period when the reserve was created is subject to restoration in the composition of off-sale earnings of the accounting (tax) period when appropriate deductions to the reserve were made.

**Federal Law** No. 235-FZ of July 18, 2011 supplemented this Code with Article 267.3. The Article shall **enter into force** upon the expiry of one month after the day of the **official publication** of the said Federal Law, but no earlier than the first day of the next **tax period** for tax on organisations' profit

**Article 267.3.** Expenses towards the Maintenance of the Future Expenses Reserves of Not-for-Profit Organisations

**1.** Taxpayers being not-for-profit organisations (hereinafter referred to in this article as a "taxpayer"), except for those formed as a state corporation, state company or an association of legal entities are entitled to maintain a reserve for the future expenses which are relating to the pursuance of entrepreneurial activities and taken into account in tax base assessment.

**2.** A taxpayer shall at his discretion take a decision on maintaining a future expenses reserve and designate in his accounting policies for taxation purposes the types of expenses in respect of which said reserve is created.

If the taxpayer has taken a decision on maintaining a future expenses reserve the expenses for which said reserve is created shall be written off on the account of the amount of the reserve created.

**3.** The amount of the future expenses reserve created shall be determined according to the expense estimates elaborated and endorsed by the taxpayer for a term of up to three calendar years.

The amount of deductions to the reserve shall be included in the non-sales expenses as of the last date of the accounting (tax) period. A cap on the amount of deductions to the future expenses reserve shall not exceed 20 per cent of the sum of the incomes of the accounting (tax) period which are taken into account in tax base assessment. In this case, if the taxpayer has created a future expenses reserve for the purpose of making the expenses envisaged in

several expense estimates then in his tax accounting the taxpayer shall at his own discretion determine the amount of deductions to the reserve between expense estimates.

4. An amount of the reserve that has not been fully used by the taxpayer for the purpose of making the expenses envisaged by an expense estimate shall be included in the taxpayer's non-sales incomes as of the last date of the tax (accounting) period on which the final date of the expense estimate falls.

If the amount of the reserve created turns out to be below the actual expenses for which the reserve has been maintained the difference between said amounts shall be included in the expenses taken into account in tax base assessment.

#### **Article 268.** Specifics in Defining the Outlays in the Sale of Goods and/or Property Rights

1. When selling goods, taxpayers shall have the right to reduce the incomes from such operations by the cost of the sold goods and/or property rights, defined in the following order:

1) in the sale of the depreciated property - by the residual cost of the depreciated property, defined in conformity with **Item 1 of Article 257** of this Code;

2) in the sale of other property (with the exception of securities, of the products of one's own manufacture and of the purchased commodities) - by the cost of the acquisition (creation) of the given property, as well as by the amount of the outlays cited in Paragraph Two of **Item 2 of Article 254** of this Code;

2.1) in the event of sale of property rights (stakes, participatory shares): for the price of acquisition of the said property rights (stakes, participatory shares) and for the amount of expenses relating to the acquisition and sale thereof.

When a sale takes place of stakes or participatory shares received by stakeholders or holders of participatory shares in the event of reorganisation of organisations the price of acquisition of such stakes or participatory shares shall be deemed their value assessed in accordance with **Items 4-6 of Article 277** of this Code.

In the event of a sale of a property right which is a right to claim a debt tax base calculation shall be carried out with account taken of the provisions established by **Article 279** of this Code;

3) in the sale of the purchased commodities - by the cost of the acquisition of the given commodities, defined in conformity with the accounting policy accepted by the organisation for taxation purposes, with the use of one of the following methods for the evaluation of the purchased commodities:

- in accordance with the cost of the commodities which are the first acquired by the time of acquisition (FIFO);

- in accordance with the cost of those commodities which are the last acquired by the time of acquisition (LIFO);

- in accordance with the average cost;

- in accordance with the cost of commodity unit.

When selling the property indicated in this Article, the taxpayer shall also have the right to reduce the incomes from such operations by the sum of the outlays directly involved in such sale, in particular, by the outlays involved in the assessment, storage, handling and transportation of the sold property and/or property rights. When selling the purchased commodities, the outlays involved in their acquisition and sale shall be formed with account taken of the provisions of **Article 320** of this Code.

2. If the price of acquisition (creation) of property (property rights) indicated in **Subitems 2, 2.1 and 3 of Item 1** of this Article with account taken of the outlays involved in its sale

exceeds the earnings from its sale, the difference between these values shall be recognised as the taxpayer's loss which shall be recorded for the purposes of taxation.

**3.** If the residual cost of the depreciated property mentioned in **Subitem 1 of Item 1** of this Article, with account taken of the outlays involved in its sale, exceeds the earnings from its realization, the difference between these values shall be recognised as the taxpayer's loss, which is recorded for the purposes of taxation in the following order. The incurred loss shall be included in the composition of the taxpayer's other outlays in equal parts in the course of the term defined as the difference between the term of beneficial use of this property and the actual term of its use until the moment of sale.

#### **Article 268.1.** Specifics of Recognising Incomes and Outlays When Acquiring an Enterprise as a Property Complex

**1.** For the purposes of this Chapter, the difference between the purchase price of an enterprise as a property complex and the net wealth value of the enterprise as a property complex (assets less liabilities) shall be recognised as the taxpayer's outlay (income) in the procedure established by this Article.

The amount of excess of the purchase price of an enterprise as a property complex over the net wealth value thereof should be regarded as the price makeup paid by the purchaser in expectation of future economic benefits.

The amount of excess of the net wealth value of an enterprise as a property complex over the purchase price thereof should be regarded as the price reduction granted to the purchaser in the absence of the factors of availability of stable purchasers, quality reputation, marketing and sales skills, business links, management experience, the personnel qualification level and subject to other factors.

**2.** The amount of paid price makeup (granted price reduction) when purchasing an enterprise as a property complex shall be defined as the difference between the purchase price and the net wealth value of assets of an enterprise as of a property complex determined on the basis of the transfer act.

When purchasing an enterprise as a property complex by way of privatization through an auction or a tender, the amount of the price makeup paid by the purchaser (the granted price reduction) shall be defined as the difference between the purchase price and the assessed (initial) value of the enterprise as of a property complex.

**3.** The amount of the price mark-up paid by the purchaser (price reduction granted to him) shall be accounted for taxation purposes in the following way:

1) the mark-up paid by the purchaser of the enterprise as of a property complex shall be recognised as an outlay evenly within five years starting from the month following the month when the state registration of the purchaser's ownership of the enterprise as of a property complex was effected;

2) the reduction granted to the purchaser of the enterprise as of a property complex shall be recognised as income in the month when the state registration of the transfer of ownership of the enterprise as of a property complex was effected.

**4.** The loss incurred by the seller as a result of selling an enterprise as a property complex shall be recognised as an outlay accountable for taxation purposes in the procedure established by **Article 283** of this Code.

**5.** For the purposes of this Article, as the purchaser's outlays on acquisition within the composition of an enterprise as of a property complex of assets and property rights shall be recognised their value determined on the basis of the transfer act.

#### **Article 269.** Specifics of Referring Interest on Debt Liabilities to Outlays

**Federal Law** No. 235-FZ of July 18, 2011 amended Item 1 of Article 269 of this Code. The amendments shall **enter into force** upon the expiry of one month after the day of the **official publication** of the said Federal Law, but no earlier than the first day of the next **tax period** for tax on organisations' profit

1. For the purposes of this Chapter, seen as debt liabilities shall be credits, commodity and commercial credits, loans, bank deposits, banking accounts or other borrowings, regardless of the form of their legalisation.

Recognised as outlays shall be the interest calculated on any kind of debt liability under the condition that the amount of interest calculated by the taxpayer on the debt liability does not essentially deviate from the average level of interest collected on debt liabilities issued in the same quarter (month - for the taxpayers which have passed to the calculation of monthly advance payments reasoning from actually received profits) on comparable terms. Seen as debt liabilities issued on comparable terms shall be the debt liabilities issued in the same currency for the same time terms in comparable amounts against similar securities. When determining the average level of interest on inter-bank credits, only information on the inter-bank credits shall be taken into account. This provision shall likewise apply to interest in the form of discount which a noteholder gets as a difference between the price of repurchase (payment) of a promissory note and the price of sale thereof.

Seen as essential deviation from the amount of the computed interest on a debt liability shall be deviations by more than 20 per cent towards a rise or a reduction from an average level of interest calculated on similar debt liabilities issued in the same quarter on comparable terms.

*It shall be **established** that within the period while this Paragraph is suspended, if there are no debt commitments towards Russian organisations issued in the same quarter under comparable terms, as well as, at the taxpayer's choice, the limit amount of interest recognised as an expense (including the interest and foreign currency exchange differences in respect of the commitments shown in conditional monetary units at the rate of the conditional monetary units established as agreed by the parties) shall be deemed equal to the double **refinancing rate** of the Central Bank of the Russian Federation when legalizing a debt commitment in roubles, and equal to 15 per cent, as regards debt commitments in foreign currency*

If there are no debt obligations issued in the same quarter on comparable terms, and also - at the taxpayer's discretion - the maximum rate of interest recognised as an expense (including interest and sum differences on obligations denominated in conventional monetary units at the exchange rate established by agreement of the parties) shall be assumed to be equal to the **refinancing rate** of the Central Bank of the Russian Federation increased 1.1 times, if the debt obligation is drawn up in roubles, and by 15 per cent, for debt obligations drawn up in a foreign currency, unless otherwise provided for by **Item 1.1** of this Article.

For the purposes of this Article the "refinancing rate of the Central Bank of the Russian Federation" means the following:

for debt obligations not containing a clause on modification of interest rate over the entire effective term of the debt **obligation: the refinancing rate** of the Central Bank of the Russian Federation effective as of the date of fund-raising;

for all other debt obligations: the refinancing rate of the Central Bank of the Russian Federation effective as of the date when expenses in the form of interest were recognised.

*The provisions of Items 1.1 of Article 269 of this Code (in the wording of **Federal Law** No. 229-FZ of July 27, 2010) shall **apply** in respect of the expenses in the form of interest on debt liabilities incurred starting from January 1, 2010*

**1.1.** Where there are no debt obligations owed to Russian organisations issued in the

same quarter under comparable terms and also - at the taxpayer's discretion - the maximum rate of interest recognised as an expense (including interest and sum differences on obligations denominated in conventional monetary units at the exchange rate established by agreement of the parties) shall be assumed:

from January 1 up to December 31 of 2010 inclusive - as equal to the interests rate fixed by agreement of the parties but not exceeding the **refinancing rate** of the Central Bank of the Russian Federation which is 1.8 times as much when a debt obligation is shown in roubles and as equal to 15 per cent -when a debt obligation is shown in foreign currency, if not otherwise provided for by this item;

from January 1, 2011 up to December 31, 2012 inclusive - as equal to the interest rate, fixed by agreement of the parties but not exceeding the refinancing rate of the Central Bank of the Russian Federation multiplied by 1.8 when showing a debt obligation in roubles and as equal to the product of the refinancing rate of the Central Bank of the Russian Federation and the coefficient of 0.8 when a debt liability is shown in foreign currency.

In respect of the outlays in the form of interest on debt obligations arising before November 1, 2009, if there are no debt obligations owed to Russian organisations issued in the same quarter under comparable terms and also - at the taxpayer's discretion - the maximum rate of interest recognised as an expense (including interest and sum differences on obligations denominated in conventional monetary units at the exchange rate established by agreement of the parties) shall be assumed, from January 1 to June 30, 2010 inclusive, as equal to the refinancing rate of the Central Bank of the Russian Federation multiplied by 2 when a debt obligation is shown in roubles and as equal to 15 per cent when a debt obligation is shown in foreign currency.";

**2.** If a taxpayer that is a Russian organisation has an outstanding debt relating to a debt obligation owed to a foreign organisation that, directly or indirectly, holds over 20 per cent of the charter (contributed) capital (fund) of this Russian organisation or a debt obligation owed to a Russian organisation that is deemed under the legislation of the Russian Federation an affiliated person of said foreign organisations, and also a debt obligation in respect of which such an affiliated person and/or this foreign organisation proper acts as a surety, guarantor or otherwise undertakes to secure the discharge of the Russian organisation's debt (hereinafter referred to in this article as "controlled debt owed to a foreign organisation"), and if the amount of controlled debt owed to the foreign organisation is more than three times as high (more than 12.2 times as high, for banks and also for organisations exclusively engaged in finance lease activity) as the difference between the sum of assets and the amount of liabilities of the taxpayer that is a Russian organisation (hereinafter referred to for the purposes of this Item as "own capital") as of the last date of the accounting (tax) period the following rules shall be applicable in the calculation of the maximum rate of interest subject to inclusion in expenses, with account being taken of the provisions of **Item 1** of the present Article.

A taxpayer shall be obliged on the last day of every report (tax) period to calculate the ultimate amount of interest on controlled debt recognised as an outlay by way of dividing the amount of interest on the controlled debt in every report (tax) period calculated by the taxpayer by the capitalization coefficient calculated as on the last report date of the appropriate report (tax) period.

The capitalisation coefficient shall in this case be defined by dividing the amount of the corresponding unsettled controlled indebtedness by the size of one's own capital, corresponding to the share of this foreign organisation's direct or indirect participation in the authorised (summed up) capital (the fund) of the Russian organisation, and by dividing the obtained result by three (for the banks and for the organisations engaged in the leasing activity - by twelve and a half).

For the purposes of this Item, when determining the amount of one's own capital, the sums of debt liabilities in the form of indebtedness of taxes and fees, including the current indebtedness of taxes and fees, the sums of postponements and instalments and investment tax credits shall not be taken into account.

**3.** Into the composition of the outlays shall be included interest on controlled indebtedness, calculated in conformity with Item 2 of the present Article, but no more than the actually calculated interest.

The rules laid down by **Item 2** of this Article, shall not be applied to interest on the borrowed funds if the unsettled indebtedness is not controlled.

**4.** The positive difference between accrued interest and the maximum interest accrued in accordance with the procedure established by **Item 2** of this Article shall qualify for taxation purposes as a dividend paid to a foreign organisation in respect of which there is a controlled debt and it shall be taxable in accordance with **Item 3 of Article 284** of this Code.

#### **Article 270.** Outlays Not Recorded for the Purposes of Taxation

When defining the tax base, the following outlays shall not be recorded:

1) those in the form of the sums of dividends calculated out by the taxpayer, and of the other sums of an income after tax profit;

2) those in the form of penalties, fines and other sanctions transferred into the budget (state extra-budgetary funds), interest to be paid to the budget in compliance with **Article 176.1** of this Code, as well as in the form of fines and other sanctions collected by the state organisations, to which the right to inflict these sanctions is granted by the legislation of the Russian Federation;

**Federal Law** No. 336-FZ of November 28, 2011 amended Item 3 of Article 270 of this Code. The amendments shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for tax on profits of organisations

3) those in the form of a contribution into the authorised (summed up) capital, or of a contribution into a simple partnership and an investment partnership;

4) in the form of the sum of the tax as well as the sums of the payments for above-the-norm ejections of pollutants into the environment;

5) those in the form of the outlays on the acquisition and (or) on the creation of the depreciated property and also expenses incurred in the event of additional construction, additional equipping, upgrading, technical refurbishing of fixed asset items, except for the expenses cited in **Item 9 of Article 258** of this Code;

6) those in the form of contributions for the voluntary insurance, except for the outlays indicated in **Articles 255, 263** and **291** of the present Code;

7) those in the form of contributions into the non-state pension security, except for the outlays pointed out in **Article 255** of the present Code;

8) in the form of interest calculated by a tax paying borrower to the creditor above the sums recognised as outlays for the purposes of taxation in conformity with **Article 269** of this Code;

9) in the form of the property (including monetary assets) transferred by a commission agent, an agent and (or) other attorney in the execution of contracts of commission, of agency contracts and of other similar contracts, as well as on account of covering the expenses made by a commission agent, an agent and (or) other attorney instead of a consignor, principal and (or) another trustor under the terms and conditions of contracts made;



10) those in the form of deductions into the reserve against the devaluation of investments into securities, set up by organisations in conformity with the legislation of the Russian Federation, with the exception of the sums of deductions into the reserves against the devaluation of securities, made by professional securities market traders in conformity with **Article 300** of this Code;

11) those in the form of guarantee deposits, transferred into the special funds established in conformity with the demands of the legislation of the Russian Federation, intended for reducing the risks of the non-execution of liabilities on transactions in the performance of the clearing activity or of an activity aimed at organising trading on the securities market;

12) those in the form of funds and other property handed over under contracts of credit and loan (of other similar funds or other property regardless of the form of legalisation of borrowings including debt securities), as well as in the form of the sums directed towards the repayment of such borrowings;

13) those in the form of losses incurred by the objects of the servicing of production and economies, including the objects of communal housing and the socio-cultural sphere, in the part exceeding the ultimate amount defined in conformity with **Article 275.1** of this Code;

14) those in the form of property, works, services and rights of property handed over by way of prepayment by taxpayers who define the incomes and expenditures by method of computation;

15) those in the form of voluntary membership fees (including entrance fees) into public organisations, of the sums of voluntary contributions made by participants in the unions, associations and organisations (amalgamations) for the maintenance of the said unions, associations and organisations (amalgamations);

16) those in the form of the cost of gratuitously handed over property (works, services, the rights of property) and of outlays involved in such handing over, unless otherwise stipulated by this Chapter;

17) those in the form of the cost of the property handed over in the framework of the purpose-oriented financing in conformity with **Subitem 14 of Item 1 of Article 251** of this Code;

18) those in the form of the negative difference formed as a result of the revaluation of precious stones when the price lists are amended in the established order;

19) those in the form of taxes presented in conformity with this Code by the taxpayer to the buyer (acquirer) of commodities (works and services, as well as rights of property), unless otherwise provided for by this Code;

20) those in the form of the funds transferred to the trade union organisations;

21) those in the form of the outlays on any kind of remuneration given to the management or to the workers besides the remunerations paid out on the grounds of labour agreements (contracts);

22) those in the form of bonuses paid out to workers at the expense of special-purpose funds or of purpose-oriented receipts;

23) those in the form of material assistance to workers;

24) those for the payment of leave to workers, including to women with children, granted additionally in accordance with the terms of collective agreements (above those envisaged by the currently applicable legislation);

25) those in the form of extra payments to pensions, single-time allowances to retiring veterans of labour, the incomes (dividends, interest) on shares or the deposits of the organisation's labour collective, the compensatory allowances in connection with price rises made above the size of the indexation of the incomes by decision of the Government of the Russian Federation, compensations for the higher cost of meals in canteens, snack-bars or

prophylactic locations, or providing for them at privileged prices or free of charge (with the exception of special meals for the individual worker categories in the cases envisaged by currently applicable legislation, and with the exception of cases when free of charge or privileged meals are stipulated by labour agreements (contracts) and (or) collective agreements;

26) for the remuneration of fares for going to the place of work and back in public transport and by special routes in departmental vehicles, with the exception of the sums to be included in the composition of the outlays on the manufacture and sale of commodities (works, services) because of the technological specifics of the production, and with the exception of cases when outlays on the remuneration of fares to the place of work and back are envisaged by labour agreements (contracts) and (or) collective agreements;

27) for coverage of the price differences in the sale at privileged prices (tariffs) (below the market prices) of commodities (works, services) to workers;

28) for coverage of the price differences in the sale at privileged prices of products of auxiliary economies for organising public catering;

29) for the remuneration of vouchers for treatment or rest, of excursions or travel, of studies in sports sections, circles or clubs, of attending cultural and entertainment or physical culture (sport) events, of subscription to literature other than normative-technical and other literature used for industrial purposes literature, and of commodities for the workers' personal consumption, as well as other similar outlays made in the workers' favour; of the consignor, of the principal or other trustees;

30) those in the form of the outlay of the taxpayers - organisations for the state stock of special (radioactive) raw materials and of fissionable materials of the Russian Federation on transactions with material values of the state stock of special (radioactive) raw materials and fissionable materials involved in the replenishment and maintenance of the said stock;

31) those in the form of shares handed over by the emitting taxpayer, placed between the shareholders in accordance with the decision of the general meeting of shareholders in proportion to the number of shares already in their ownership, or the difference between the nominal cost of the new shares handed over instead of the original ones, and the nominal cost of the original shares of the shareholder during the placement of shares among the shareholders in case of an augmentation of the emitter's authorised capital;

32) those in the form of property or of rights of property handed over as a pledge or a pawn;

33) those in the form of sums of taxes calculated into the budgets of different levels, if the taxpayer has earlier included such taxes in the composition of the outlays, when the taxpayer's credit indebtedness on such taxes is written off in conformity with **Subitem 21 of Item 1 of Article 251** of this Code;

34) those in the form of the purpose-oriented deductions made by the taxpayer for the purposes pointed out in **Item 2 of Article 251** of the present Code;

35) abrogated from January 1, 2011;

36) **abrogated** from January 1, 2008;

37) those in the form of the travelling allowances paid out above the norm, established by the legislation of the Russian Federation;

38) those on compensation for the use of personal cars and motorbikes on business trips, on the remuneration of food rations for the crews of the sea, river and air vessels above the norms of such outlays, fixed by the Government of the Russian Federation;

39) those in the form of payment to the state and (or) to a private notary for formalisation by a notary above the tariffs approved in the established order;

40) those in the form of contributions, deposits and other obligatory payments made to non-profit organisations and international organisations, except for those pointed out in

**Subitems 29 and 30 of Item 1 of Article 264** of this Code;

41) those for the replacement of copies of the periodical printed matter which contain defects, which have lost their commercial appearance or which have been found to be absent, as well as losses in the form of the cost of mass media products and books which have lost their commercial style, in which defects have been exposed and which have not been sold, except for the outlays and losses pointed out in **Subitems 43 and 44 of Item 1 of Article 264** of this Code;

42) those in the form of representation outlays in the part exceeding their amounts envisaged by **Item 2 of Article 264** of this Code;

43) those in the form of outlays envisaged by the sixth paragraph of **Item 3 of Article 264** of this Code;

44) for the acquisition (manufacture) of the prizes given to the winners in drawing such prizes when holding mass advertising campaigns, as well as outlays on other kinds of advertising which are not provided for by **Paragraphs from Two to Four of Item 4 of Article 264** of this Code in excess of the ultimate norms established by Paragraph Five of Item 4 of Article 264 of this Code;

45) those in the form of deductions to form funds intended for rendering support to scientific, scientific-and-technical and innovative activities established in compliance with the Federal Law on Science and Governmental Scientific-and-Technical Policy in excess of the sums of the deductions provided for by **Subitem 6 of Item 2 of Article 262** of this Code;

46) the negative difference obtained from the revaluation of securities in accordance with the market cost;

47) those in the form of outlays of the founder of trust management connected with the execution of an asset management contract, where the asset management contract stipulates that the founder of trust management is not the beneficiary;

48) those in the form of outlays of religious organisations in connection with carrying out religious ceremonies and rituals, as well as in connection with the sale of religious literature and articles of religious purpose.

48.1) in the form of assets transferred to medical organisations to pay for the medical assistance rendered to insured persons in compliance with an agreement of rendering, and payment for, medical assistance under compulsory medical insurance made in compliance with the **legislation** of the Russian Federation on compulsory medical insurance;

**Federal Law** No. 359-FZ of November 30, 2011 amended Subitem 48.2 of Article 270 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

48.2) those in the form of outlays, including the remuneration to the management company and the specialised depository, made from the funds of organisations acting as insurers under obligatory pension insurance, when investing the pension savings intended for financing the accumulative part of the labour pension;

**Federal Law** No. 359-FZ of November 30, 2011 amended Subitem 48.3 of Article 270 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

48.3) those in the form of the amounts that are directed to organisations acting as insurers under obligatory pension insurance for replenishing the pension savings funds intended for financing the accumulative part of the labour pension and that are shown on the pension accounts of the accumulative part of the labour pension;

**Federal Law** No. 359-FZ of November 30, 2011 amended Subitem 48.4 of Article 270 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

48.4) those in the form of labour savings for financing the accumulative part of the labor pension transferred under the laws of the Russian Federation by non-state pension funds to the Pension Fund of the Russian Federation and (or) another non-state pension fund that act as insurers under obligatory pension insurance;

48.5) shipowners' outlays on maintenance, repair and for other purposes connected with maintenance, operation and sale of the vessels registered in the **Russian International Register of Ships**;

48.6) outlays of a development bank being a state corporation;

48.7) those incurred by taxpayers that are Russian organisers of the Olympic Games and Paralympic Games in compliance with **Article 3** of the Federal Law on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climate Health Resort and on Amending Certain Legislative Acts of the Russian Federation, including the expenses connected with engineering survey works for construction, architectural construction designing, construction, re-construction and organisation of Olympic facilities' operation;

48.8) those in the form of the sums of remuneration and other payments made to members of the board of directors;

48.9) those of a non-profit organisation exercising the functions of providing financial support to capital repair of apartment houses and rehousing of citizens from hazardous housing stock in compliance with the Federal Law on the Fund for Assistance to Reforming of the Communal Housing Economy which are incurred in connection with placing temporary spare monetary resources;

48.10) in the form of payments to the victim made by way of direct compensation for losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil responsibility of owners of transport vehicles by the insurer that insured the civil responsibility of the victim;

48.11) outlays of treasury institutions in connection with the exercise of the state (municipal) functions, in particular with rendering state (municipal) services (with carrying out works);

48.12) those made by taxpayers that are Russian market partners of the International Olympic Committee in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation in connection with participation in the organisation and holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi within the period of organisation of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi which is fixed by **Part 1 of Article 2** of the cited Federal Law;

48.13) those connected with the provision of safe conditions and protection of labour in coal mining made (incurred) by a taxpayer and to be deducted by the taxpayer in compliance with **Article 343.1** of this Code, except for the expenses provided for by **Item 5 of Article 325.1** of this Code.

48.14) in the form of the monetary assets transferred by a participant in a consolidated group of taxpayers to the responsible participant in this group to pay tax (make advance payments, to pay penalties and fines) in the procedure established by this Code for a consolidated group of taxpayers, as well as in the form of the monetary assets transferred by the responsible participant in a consolidated group of taxpayers to a participant in this group in connection with specification of the sums of tax (advance payments, penalties and fines) to be paid in respect of this consolidated group of taxpayers;

49) the other outlays, not meeting the criteria pointed out in **Item 1 of Article 252** of this Code.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 271 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 271.** Procedure for Recognising Incomes When Using the Calculation Method

**1.** For the purposes of this Chapter, the incomes shall be recognised in the reporting (tax) period in which they have taken place, irrespective of the actual incoming of monetary funds, of other property (works, services) and (or) of the rights of property (method of calculation).

**2.** As concerns incomes referring to several reporting (tax) periods and if the connection between the incomes and the outlays cannot be clearly identified or is identified only in an indirect way, these shall be distributed by the taxpayer on his own, with account taken of the principle of evenness in recognising incomes and outlays.

*Federal Law No. 191-FZ of December 31, 2002 supplemented Item 2 of Article 271 of this Code with the following paragraph entering into force from January 1, 2003*

For production facilities with a long technological cycle (over one tax period), except for case when completed works (services) are delivered in phases under the contracts concluded, income from the sale of the said works (services) shall be distributed by the taxpayer at the taxpayer's own discretion in compliance with the principle of expense formation for the said works (services).

**3.** For incomes from sale, unless otherwise envisaged by this Chapter, recognised as the date of deriving an income shall be the day of sale of these commodities (works, services, rights of property) defined in conformity with **Item 1 of Article 39** of this Code, regardless of the actual arrival of monetary funds (other property (works, services) and/or of the rights of property) in payment for them. In the sale of commodities (works, services) under a contract of commission (under an agency agreement) by the tax paying consignor (the principal), the date of receiving incomes from the sale thereof shall be the date of selling the property (property rights) owned by the consignor (the principal) which is indicated in the notice of the commission agent (agent) on the sale thereof and (or) in the report of the commission agent (agent).

As the date of sale of the securities held by a taxpayer shall be likewise deemed the date of termination of the obligations involving the transfer of securities by way of setting off

homogeneous counterclaims.

For the purposes of this Chapter, as homogeneous shall be deemed the claims to transfer securities with an equal extent of rights of the same issuer, of the same kind, of the same category (type) or of the same unit investment fund (as regards investment shares of unit investment funds).

In so doing, a set-off of counterclaims must be proved by documents in compliance with the legislation of the Russian Federation on termination of obligations involving the securities' transfer (acceptance), in particular by reports of a clearing organisation, of the person engaged in broker's activity or of the managers who render to a taxpayer in compliance with the legislation of the Russian Federation clearing and broker's services or are engaged in trust management in the taxpayer's interests.

4. Recognised as the date of obtaining an income for the extra-realisation incomes shall be:

1) the date of the parties' signing an act on the transfer and acceptance of the property (of the acceptance and handing over of works or services), - as concerns the incomes:

- in the form of property (works, services) received free of charge; - other similar incomes;

2) the date of arrival of monetary funds to a taxpayers's settlement account (his cashier's office) - as regards incomes:

in the form of dividends from share participation in the activity of other organisations;

in the form of monetary assets received free of charge;

in the form of the sums of returned contributions previously paid to non-profit making organisations which were included into the composition of outlays;

in the form of other similar incomes;

3) the date of settlements or of the taxpayer's submitting the documents in accordance with the terms of the concluded agreements - as concerns the incomes:

from leasing property;

in the form of licence payments (including royalties) for the use of objects of intellectual property;

in the form of other similar incomes;

4) the date of one's recognition as a debtor or the date of entry of a court decision into legal force - as regards incomes in the form of fines, penalties and (or) other sanctions for violating the terms of contractual or debt liabilities, as well as in the form of the sums for the recompense of losses (damage);

5) the last day of the reporting (tax) period - as concerns the incomes:

- in the form of the sums of replenished reserves and other similar incomes;

- in the form of an income placed in favour of the taxpayer, if he is taking part in a simple partnership;

- incomes from the trusted management of the property;

- other similar incomes;

6) the date of exposing an income (of receiving and /or/ of revealing documents confirming the existence of the income) - as concerns the incomes of previous years;

7) the date of the transfer of ownership with regard to foreign currency and precious metals, when making transactions in foreign currency and precious metals, as well as the last date of the current month - as regards incomes in the form of positive exchange rate difference in respect of property and the claims (liabilities) whose cost is expressed in foreign currency (except for advance payments), and positive revaluation of the cost of precious metals;

8) the date of compiling an act on the liquidation of the depreciated property formalised in

accordance with the demands of business accounting - as concerns incomes in the form of materials or other kinds of property received during the liquidation of the depreciated property withdrawn from use;

9) the date when the recipient of property (including monetary assets) actually used the said property (including monetary assets) not for the purpose they were intended for, or violated the terms and conditions under which they were provided - as regards the incomes in the form of property (including monetary assets) specified in **Items 14 and 15 of Article 250** of this Code;

10) the date of transfer of ownership of foreign currency - as regards incomes from sale (purchase) of foreign currency.

11) the date of receipt of an income in the form of the monetary equivalent of an asset that has been contributed to replenish the earmarked capital of a not-for-profit organisation in the procedure established by **Federal Law** No. 275-FZ of December 30, 2006 on the Procedure for the Formation and Use of the Earmarked Capital of Not-for-Profit Organisations and refunded to the donor or his successors is the date on which the funds are credited to the taxpayer's settlement account.

**4.1.** The sums of payment received for rendering assistance to self-employment of unemployed citizens and for promoting the creation by unemployed citizens who have started their own businesses of additional jobs for job placement of unemployed citizens on account of budgets of the budget system of the Russian Federation in compliance with the programmes endorsed by appropriate state power bodies shall be accounted in the composition of incomes within three tax periods with a concurrent showing of appropriate sums in the composition of expenses within the limits of actually made expenses of each of the tax periods which are provided for by the terms under which the cited sums of payment are received.

In the event of breaking the terms under which the payments provided for by this item are received, the sums of received payments shall be shown in full within the composition of incomes of the tax period in which the terms are broken. If upon the expiry of the third tax period the amount of the received payments cited in Paragraph One of this item exceeds the sum of the expenses accounted in compliance with this item, the remaining sums which are not accounted shall be shown in full within the composition of incomes of this tax period.

**Federal Law** No. 245-FZ of July 19, 2011 reworded Item 4.2 of Article 271 of this Code. The new wording shall **enter into force** from the date when the said Federal Law is officially published and shall **extend** to legal relations arising from January 1, 2010

**4.2.** The state financing assets in the form of subsidies provided for by **Federal Law** No. 126-FZ of August 22, 1996 on State Support for Cinematography of the Russian Federation, as well as the assets received by cinematographic organizations from the Federal Fund for Social and Economic Support to Domestic Cinematography for making, hiring, demonstrating and promoting a national film whose source are budget appropriations shall be accounted within the composition of off-sale incomes in proportion to the outlays provided for by the terms of obtainment of the cited assets which are actually made on account of this source but at most within at least three tax periods as from the date when the cited assets are received.

The cited procedure for accounting the cited assets shall not extend to acquisition (creation) of depreciable property on account of this source. In the event of acquisition (creation) of depreciable property on account of the cited assets, these assets shall be shown within the composition of incomes as the outlays on the acquisition (creation) of the depreciable property are recognized.

Should the conditions for receiving the assets provided for by this item be violated, the

received assets shall be shown in full within the composition of the off-sale incomes of the tax period in which such violation took place. If upon the expiry of the third tax period the sum of the received assets cited in **Paragraph One** of this item exceeds the sum of the expenses accounted in compliance with this item which have been actually made on account of this source, the difference between the cited sums shall be shown in full within the composition of off-sale incomes of this tax period.

**4.3.** Financial support assets received in the form of subsidies in compliance with the **Federal Law** on Developing Small and Medium Scale Entrepreneurship in the Russian Federation shall be shown within the composition of off-sale receipts in proportion to the expenditures actually made on account of this source but at most within two tax periods as from the date when they are received. If upon the end of the second tax period the amount of received financial support assets cited in this item exceeds the amount of the admitted expenditures actually made on account of this source, the difference between the cited amounts shall be shown in full within the composition of off-sale receipts of this tax period. The given procedure for accounting financial support assets shall not extend to the acquisition of depreciable property on account of the cited source.

In the event of acquiring depreciable property on account of the financial support assets cited in this item, these financial support assets shall be shown within the composition of receipts as the outlays on acquisition of depreciable property are admitted.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 271 of this Code with Item 4.4. The Item shall **enter into force** from the date when the said Federal Law is officially published and shall **extend** to legal relations arising from January 1, 2010

**4.4.** The assets received in the form of subsidies as the state support to the development of cooperation between Russian educational institutions of higher professional education and organizations implementing the complex projects involving the creation of high technology products shall be accounted within the composition of off-sale incomes in proportion to the expenses provided for by the terms of obtainment of the cited assets that have been actually made on account of this source but at most within three tax periods as from the date when the cited asset are received.

This procedure for accounting the cited assets shall not extend to acquisition (creation) of depreciable property on account of this source. In the event of acquisition (creation) of depreciable property on account of the cited assets, these assets shall be shown within the composition of income as the outlays on acquisition (creation) of the depreciable property are recognized.

Should the conditions for receiving the assets provided for by this item be violated, the received assets shall be shown in full within the composition of the off-sale incomes of the tax period in which such violation took place. If upon the expiry of the third tax period the sum of the received assets cited in Paragraph One of this item exceeds the sum of the expenses accounted in compliance with this item which have been actually made on account of this source, the difference between the cited sums shall be shown in full within the composition of off-sale incomes of this tax period.

**5.** In the sale by a financial agent of financing services against the cession of a monetary claim, as well as the sale by a new creditor who has obtained the said claim, of financial services, the date of receiving the income shall be defined as the day of the subsequent cession of the given claim or of the debtor's settlement of the given claim. In the case of the cession by the tax paying seller of the commodity (works, services) - of the right of claim to a third person, the date of deriving an income from the cession of the right of claim shall be defined as the day of the parties' signing the act on cession of the right of claim.



**6.** As concerns debt and other similar contracts (other debt liabilities including securities) concluded for a term of more than one reporting (tax) period, the income for the purposes of this Chapter shall be recognised as received and shall be included into the composition of appropriate incomes as at the end of a month of an appropriate report period.

In the event of termination of a contract (repayment of a debt) prior to the expiry of a report period the income shall be recognised as received and shall be included into the composition of appropriate incomes, as on the date of termination of the contract (repayment of the debt).

**7.** The sum difference shall be recognised as an income:

1) for a taxpaying seller - as on the date of paying bills receivable concerning acquired goods (works, services), property, property rights and other rights, and in the event of advance payment - as on the date of acquiring goods (works, services), property, property rights and other rights.

2) with the buyer taxpayer - as of the date of redemption of the payables for the purchased commodities (works, services), property, property or other rights, and in case of an advance payment - as of the date of purchase of the commodities (works, services), property, property or other rights.

**8.** The incomes expressed in foreign currency shall be converted for the purposes of taxation into roubles at the official exchange rate established by the Central Bank of the Russian Federation, as on the date of recognising the appropriate income. The claims and liabilities expressed in foreign currency and the property in the form of currency values shall be converted into roubles at the official exchange rate established by the Central Bank of the Russian Federation, as on the date of transfer of ownership with regard to transactions in said property, termination (execution) of claims and liabilities, and (or) on the last date of a report (tax) period depending on what has happened before.

In the event of receiving an advance payment or caution money, incomes shown in foreign currency shall be re-calculated in roubles at the official exchange rate fixed by the Central Bank of the Russian Federation as of the date of receiving the advance payment or caution money (in the part thereof falling at the advance payment or caution money).

**Article 272.** Procedure for Recognising the Outlays When Using the Calculation Method

**1.** The outlays accepted for taxation purposes with account taken of the provisions of this Chapter and shall be determined subject to the provisions of **Articles from 318 to 320** of this Code shall be recognised as such in the reporting (tax) period to which they refer, regardless of the time of the actual payment out of the monetary funds and (or) of other forms of their coverage.

Expenses shall be recognised in the accounting (tax) period in which these expenses occur under the terms of transactions. If the transaction does not contain such terms and the connection between incomes and expenses cannot be identified in a clear-cut way or if it can be identified indirectly then expenses shall be distributed by the taxpayer at his own discretion.

Where the terms and conditions of a contract provide for the receipt of incomes within more than one reporting period and handing over of goods (works, services) by stages is not stipulated, the outlays shall be distributed by a taxpayer independently subject to the principle of evenness in recognising incomes and outlays.

Taxpayer's outlays which cannot be directly referred to the expenditures made on specific kinds of activity shall be distributed proportionately to the share of the corresponding income in the summary volume of all the taxpayer's incomes.

**2.** Recognised as the date of effecting material outlays shall be:

- the date of handing over raw and other materials into production - in the part of the raw and other materials falling on the put out commodities (performed works, rendered services);
- the date of the taxpayer's signing the act on the acceptance - handing over of the services (works) - as concerns the services (works) of production nature.

**3.** Depreciation shall be recognised as the outlays every month, proceeding from the sum of the computed depreciation calculated in accordance with the procedure laid down by **Articles 259, 259.1, 259.2 and 322** of this Code.

Expenses in the form of capital investment envisaged by **Item 9 of Article 258** of this Code shall be recognised as indirect expenses of the same accounting (tax) period on which, according to this Chapter, the date of commencement of depreciation (the date of change of the initial value) of the fixed assets falls in respect of which the capital investments were made.

**4.** The outlays on the remuneration of labour shall be recognised as the outlays every month, proceeding from the sum of the outlays on the remuneration of labour computed in conformity with **Article 255** of the present Code.

**5.** The outlays on the repairs of fixed assets shall be recognised as outlays in the reporting period in which they were actually made, regardless of their remuneration with account taken of the specifics envisaged by **Article 260** of this Code.

**5.1.** The outlays on standardisation made by a taxpayer independently or jointly with other organizations (in the amount corresponding to the shares of outlays thereof) shall be recognized for the taxation purposes in the accounting (tax) period following the accounting (tax) period in which the standards were endorsed as national standards by the national agency of the Russian Federation in charge of standardization or registered as regional standards with the Federal Information Fund of Technical Regulations and Standards in the procedure established by the **legislation** of the Russian Federation on Technical Regulation.

**6.** The outlays on obligatory and voluntary insurance (on non-state pension security) shall be recognised as outlays in the reporting period in which the taxpayer has actually transferred (handed out from the cashier's office) the monetary funds for making insurance (pension) contributions in conformity with the terms of the agreement. If the terms of the agreement of insurance (of the non-state pension security) envisage the payment of the insurance (pension) contribution in a single-time deposit, the outlays made under the agreements signed for a term of over one reporting period shall be recognised evenly in the course of the term of operation of the agreement pro rata to the number of calendar days of the contract's effective term in the accounting period. If the terms and conditions of a contract of insurance (of non-governmental pension provision) stipulate for payment of the insurance premium (pension fee) by installments, then under contracts made for the time period exceeding one reporting period outlays on each payment shall be recognised evenly within the time period corresponding to the period of the fees' payment (a year, six months, quarter, month) in proportion to the number of calendar days of the contract's validity in the reporting period.

**7.** Recognised as the date of making the extra-realisation and other outlays shall be, unless otherwise established by **Articles 261, 262, 266 and 267** of this Code:

1) the date of calculation of the taxes (fees) - for outlays in the form of the sums of the taxes (advance payments of taxes), fees and of other obligatory payments;

2) the date of calculation in compliance with the requirements of this Chapter - as regards outlays in the form of allocations to the reserves recognised as outlays in compliance with this Chapter;

3) the date of settlements in compliance with the terms and conditions of contracts made or the date of submitting to the taxpayer the documents which serve as a basis for making settlements, or the last date of a report (tax) period - as regards the outlays:

in the form of the sums of commission fees;  
in the form of payments to outside organisations for the works carried out (the services rendered) by them;

in the form of rentals (of the leasing payments) for the rented property (for that taken into leasing);

in the form of other similar outlays;

4) the date of transfer of the monetary funds from the taxpayer's settlement account (of the payment out from his cashier's office) - for outlays:

- in the form of the sums of the paid out travelling allowances;

- in the form of compensation for the use of personal cars and motorbikes in business trips;

5) the date of approval of an advance report - for outlays:

on business trips;

on the maintenance of the company's transport;

for representation outlays;

for other similar outlays;

6) the date of the transfer of ownership with regard to foreign currency and precious metals when making transactions in foreign currency and precious metals, as well as the last date of the current month - as regards outlays in the form of the negative exchange rate difference in respect of the property and claims (liabilities) whose cost is expressed in foreign currency (except for advance payments), and in the form of the negative revaluation of the cost of precious metals;

7) the date of realisation or of other kinds of withdrawal of securities, in particular the date of termination of obligations by way of setting off homogeneous counterclaims - for the outlays involved in the acquisition of securities, including their cost;

8) the date of one's recognition as a debtor, or the date of entry into legal force of a court decision - as regards the outlays in the form of the sums of fines, penalties and (or) other sanctions for breach of contractual or debt liabilities, as well as in the form of the sums of recompense for losses (damage);

9) the date of transfer of ownership in respect of foreign currency - as regards the outlays on sale (purchase) of foreign currency;

10) the date of sale of stakes or participatory shares: for expenses in the form of value of acquisition of the stakes or shares.

**8.** On loan and other similar agreements (other debt liabilities including securities) concluded for a term of over one reporting period, for the purposes of this Chapter the outlays shall be recognised as effected and shall be included in the composition of the corresponding outlays as of the end of a month of an appropriate report period.

In the event of terminating a contract (repaying a debt liability) prior to the expiry of a report period outlays shall be recognised as effected and shall be included in the composition of appropriate outlays, as on the date of terminating the contract (repaying the debt liability).

**8.1** The expenses towards the acquisition of property transferred for lease specified in **Subitem 10 of Item 1 of Article 264** of this Code shall be deemed an expense in the accounting (tax) periods in which rent (lease) payments are envisaged in accordance with contractual terms. In this case the said expenses shall be taken into account in the amount pro rata to the amount of the rent (lease) payments.

**9.** A sum difference shall be regarded as an outlay:

for a taxpaying vendor - on the date of repaying bills receivable for sold goods (works,

services), property rights, and in the event of an advance payment - on the date of selling goods (works, services), property rights;

for a taxpaying purchaser - on the date of repaying bills payable for acquired goods (works, services), property, property rights and other rights, and in the event of an advance payment - on the date of acquiring goods (works, services), property, property rights or other rights.

**10.** The outlays expressed in foreign currency for the purposes of taxation shall be converted into roubles at the official exchange rate established by the Central Bank of the Russian Federation, as on the date of recognising the appropriate outlay. The claims and liabilities expressed in foreign currency and property in the form of currency values shall be converted into roubles at the official exchange rate established by the Central Bank of the Russian Federation, as on the date of transfer of ownership, when making transactions in such property, of termination (execution) of a liability or claim, and (or) on the last date of the report (tax) period depending on what has happened before.

In the event of remittance of an advance payment or earnest money, the outlays which are shown in foreign currency shall be re-calculated in roubles at the official exchange rate fixed by the Central Bank of the Russian Federation as of the date of remittance of the advance payment or earnest money (in the part thereof falling at the advance payment or earnest money).

*Federal Law No. 57-FZ of May 29, 2002 amended Article 273 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 273.** Procedure for Defining the Incomes and Outlays Using the Cash Method

**1.** Organisations (except for banks) shall have the right to define the date of receiving an income (of making an expenditure) with the use of the cash method, if over the previous four months the sum of earnings from the sale of commodities (works, services) of these organisations not taking into account value-added tax, has not exceeded one million roubles in every quarter.

Organisations which have obtained the status of a participant in a project that involves carrying out research works, development and commercialisation of their results in compliance with the **Federal Law** on the Skolkovo Innovation Center and which are accounting their receipts and expenditures in the procedure established by **Chapter 26.2** of this Code shall define the date of receiving an income (making an outlay) on the basis of the cash method without taking into account the restriction cited in **Paragraph One** of this item.

**2.** For the purposes of this Chapter, recognised as the date of deriving an income shall be the day of arrival of the funds onto the accounts in banks and (or) to the cashier's office, and of the receipt of other property (works, services) and (or) of the rights of property, as well as a repayment of a debt with regard to the taxpayer in another way (the cash method).

**2.1.** The sums of payment received for rendering assistance to self-employment of unemployed citizens and for promoting the creation by unemployed citizens who have started their own businesses of additional jobs for job placement of unemployed citizens on account of budgets of the budget system of the Russian Federation in compliance with the programmes endorsed by appropriate state power bodies shall be accounted in the composition of incomes

within three tax periods with concurrent showing of appropriate sums in the composition of expenses within the limits of actually made expenses of each tax period which are provided for by the terms under which the cited sums of payment are received.

In the event of breaking the terms under which the payments provided for by this item are received, the sums of received payments shall be shown in full within the composition of incomes of the tax period in which the terms are broken. If upon the expiry of the third tax period the amount of the received payments cited in Paragraph One of this item exceeds the sum of the expenses accounted in compliance with this item, the remaining sums which are not accounted shall be shown in full within the composition of incomes of this tax period.

**Federal Law** No. 245-FZ of July 19, 2011 reworded Item 2.2 of Article 273 of this Code. The new wording shall **enter into force** from the date when the said Federal Law is officially published and shall **extend** to legal relations arising from January 1, 2010

**2.2.** The state financing assets in the form of subsidies provided for by **Federal Law** No. 126-FZ of August 22, 1996 on State Support for Cinematography of the Russian Federation , as well as the assets received by cinematographic organizations from the Federal Fund for Social and Economic Support to Domestic Cinematography for making, hiring, demonstrating and promoting a national film whose source are budget appropriations shall be accounted within the composition of off-sale incomes in proportion to the outlays provided for by the terms of obtainment of the cited assets which are actually made on account of this source but at most within at least three tax periods as from the date when the cited assets are received.

This procedure for accounting the cited assets shall not extend to acquisition (creation) of depreciable property on account of this source. In the event of acquisition (creation) of depreciable property on account of the cited assets, these assets shall be shown within the composition of incomes as the outlays on acquisition (creation) of the depreciable property are recognized.

Should the conditions for receiving the assets provided for by this item be violated, the received assets shall be shown in full within the composition of the off-sale incomes of the tax period in which such violation took place. If upon the expiry of the third tax period the sum of the received assets cited in **Paragraph One** of this item exceeds the sum of the expenses accounted in compliance with this item which have been actually made on account of this source, the difference between the cited sums shall be shown in full within the composition of off-sale incomes of this tax period.

**2.3.** Financial support assets received in the form of subsidies in compliance with the **Federal Law** on Developing Small and Medium Scale Entrepreneurship in the Russian Federation shall be shown within the composition of off-sale receipts in proportion to the expenditures actually made on account of this source but at most within two tax periods as from the date when they are received. If upon the end of the second tax period the amount of received financial support assets cited in this item exceeds the amount of the admitted expenditures actually made on account of this source, the difference between the cited amounts shall be shown in full within the composition of off-sale receipts of this tax period. Such procedure for accounting financial support assets shall not extend to the acquisition of depreciable property on account of the cited source.

In the event of acquiring depreciable property on account of the financial support assets cited in this item, these financial support assets shall be shown within the composition of off-sale receipts as the outlays on acquisition of depreciable property are admitted.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Article 273 of this Code with Item 2.4. The Item shall **enter into force** from the date when the said Federal Law is officially

published and shall **extend** to legal relations arising from January 1, 2010

**2.4.** The assets received in the form of subsidies as the state support to the development of cooperation between Russian educational institutions of higher professional education and organizations implementing the complex projects involving the creation of high technology products shall be accounted within the composition of off-sale incomes in proportion to the expenses provided for by the terms of obtainment of the cited assets that have been actually made on account of this source but at most within three tax periods as from the date when the cited asset are received.

This procedure for accounting the cited assets shall not extend to acquisition (creation) of depreciable property on account of this source. In the event of acquisition (creation) of depreciable property on account of the cited assets, these assets shall be shown within the composition of income as the outlays on acquisition (creation) of the depreciable property are recognized.

Should the conditions for receiving the assets provided for by this item be violated, the received assets shall be shown in full within the composition of off-sale incomes of the tax period in which such violation took place. If upon the expiry of the third tax period the sum of the received assets cited in **Paragraph One** of this item exceeds the sum of the expenses accounted in compliance with this item which have been actually made on account of this source, the difference between the cited sums shall be shown in full within the composition of off-sale incomes of this tax period.

**3.** Recognised as taxpayers' outlays shall be expenditures made after they are actually paid for. For the purposes of this Chapter, seen as payment for commodities (works, services) and (or) for the rights of property shall be the termination of the reciprocal liability by tax paying acquirers of the said commodities (works, services) and of the rights of property to the seller, which are directly connected with the delivery of these commodities (with the performance of works and with rendering services, or with the transfer of the rights of property).

The outlays shall in this case be recorded in the composition of the outlays, taking into account the following specifics:

1) the material outlays, as well as the outlays on the remuneration of labour, shall be recorded in the composition of outlays as at the moment of repaying the indebtedness by way writing off the monetary funds from the taxpayer's settlement account or as at the moment of paying these out of the cashier's office, and if the other method for the repayment of the indebtedness is applied - as at the moment of such repayment. A similar order shall be applied with respect to the payment out of interest for the use of the borrowed funds (bank credits included) and in case of remuneration of the services of third persons. The outlays on the acquisition of raw and other materials shall in this case be recorded in the composition of the outlays as soon as the given raw materials and other materials are written off to production;

2) depreciation shall be recorded in the composition of the outlays in the sums calculated for the reporting (tax) period. It is admissible to record only the depreciation of the depreciated property paid for by the taxpayer which is used in production. A similar order shall be applied with respect to the capitalised outlays stipulated by **Articles 261** and **262** of this Code;

3) the outlays on the payment of taxes and fees shall be recorded in the composition of the outlays in the amount of their actual payment by the taxpayer. If there is indebtedness in the payment of taxes and fees, the outlays on its settlement shall be recorded in the composition of the outlays within the limits of the actually settled indebtedness and in those reporting (tax) periods when the taxpayer has been liquidating the said indebtedness.

**Federal Law** No. 336-FZ of November 28, 2011 amended Item 4 of Article 273 of this Code. The amendments shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not

earlier than the first day of the next **tax period** for tax on profits of organisations

**4.** If a taxpayer who has switched to defining the outlays and expenditures using the cash method has exceeded in the tax period the ultimate amount of the sum of earnings from the sale of commodities (works, services) fixed by **Item 1** of this Article, he shall be obliged to switch to defining the incomes and expenditures using the method of calculation as from the start of the tax period in the course of which such excess has taken place.

If a contract for trust administration of property or a contract of simple partnership and an agreement of investment partnership is concluded the parties thereto which recognise incomes and expenses according to the cash method shall switch over to recognition of incomes and expenses according to the accrual method from the beginning of the tax period in which the contract was concluded.

**5.** Taxpayers defining receipts and expenditures in compliance with this Article for the purposes of taxation shall not record in the composition of receipts and expenditures sum differences where under the terms and conditions of the transaction a claim (liability) is expressed in conventional monetary units.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 274 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 274.** Tax Base

**1.** Seen as the tax base for the purposes of this Chapter is the monetary expression of the profit, defined in conformity with **Article 247** of this Code, which is subject to taxation.

**2.** The tax base for profit taxed in accordance with a rate different from that indicated in **Item 1 of Article 284** of this Code shall be defined by the taxpayer separately. The taxpayer shall keep separate records of receipts and expenditures for the transactions in respect of which in compliance with this Chapter a different procedure for accounting receipts and expenditures is stipulated than the general one.

**3.** The taxpayer's incomes and expenditures shall be recorded for the purposes of this Chapter in monetary form.

**4.** The incomes received in kind as a result of the sale of commodities (works, services) and of the rights of property (including the commodity barter operations), shall be recorded, if not otherwise provided for by this Code, proceeding from the price of the transaction while taking into account the provisions of **Article 105.3** of this Code.

**5.** The extra-sale incomes received in kind shall be recorded when determining the tax base, proceeding from the price of the transaction, with account taken of the provisions of **Article 105.3** of this Code, unless otherwise stipulated by this Chapter.

**6.** For the purposes of this Article, the market prices shall be defined in accordance with a procedure similar to that for defining the market prices established by **Article 105.3** of this Code, as at the moment of sale or of the performance of extra-sale transactions (not including value added tax and excise).

**7.** When delineating the tax base, profit subject to taxation shall be defined by the progressive total as from the start of the tax period.

**8.** If in the reporting (tax) period the taxpayer has incurred a loss, that is, a negative difference between the receipts determined in accordance with Chapter, and the expenditures

recorded for the purposes of taxation in the procedure provided for by this Chapter in the given reporting period the tax base shall be recognised as equal to zero.

The losses incurred by the taxpayer in the reporting (tax) period shall be accepted for taxation purposes in accordance with the procedure and on the terms established by Article 283 of this Code.

**9.** When calculating the tax base, the incomes and outlays referred to the gambling business taxable in compliance with **Chapter 29** of this Code shall not be recorded in the composition of the taxpayers' incomes and expenditures.

Taxpayers who are organisations engaged in the gambling business, as well as organisations deriving incomes from an activity referred to the gambling business, shall be obliged to keep a separate record of the incomes and outlays derived from such activity.

If it is impossible to set apart the outlays of the organisations engaged in the gambling business, they shall be defined proportionately to the share of the organisation's incomes from an activity referred to the gambling business in the total income of the organisation derived from all its activities.

A similar procedure shall extend to organisations that have passed to paying the tax on imputed earnings.

**10.** Taxpayers applying special tax regimes in conformity with the present Code shall not take into account, when calculating the tax base, the incomes and outlays referred to such regimes.

**11.** The specifics of defining the tax base for banks shall be established with account taken of the provisions of **Articles 290-292** of this Code.

**12.** The specifics in delineating the tax base for insurers shall be established while taking into account the provisions of **Articles 293** and **294** of this Code.

**13.** The specifics in determining the tax base for non-state pension funds shall be established with account taken of the provisions of **Articles 295** and **296** of this Code.

**14.** The specifics of delineating the tax base for professional securities market traders shall be established with account taken of the provisions of **Articles 298** and **299** of this Code.

**15.** The specifics of determining the tax base for transactions with securities shall be established in **Article 280** with account taken of the provisions of **Articles 281** and **282** of this Code.

**16.** The specifics in defining the tax base for transactions with the financial instruments of futures transactions shall be established with account taken of the provisions of **Articles 301-305** of this Code.

**17.** The specifics of estimation of the tax base by clearing organisations shall be established subject to the provisions of **Articles 299.1** and **299.2** of this Code.

**18.** An organisation that has acquired the status of participant in the project involving scientific research works, developments and commercialization of their results in compliance with the **Federal Law** on the Skolkovo Innovation Centre (hereinafter referred to in this item as a project participant) and has stopped exercising the right to the relief from performing the duties of a tax payer on the ground provided for by **Paragraph Three of Item 2 of Article 246.1** of this Code shall estimate the aggregate amount of profit derived in the expired tax periods as a progressive total starting from the tax period in which the annual amount of proceeds received by the project participant exceeded a billion roubles.

The aggregate amount of profit cited in this item shall be estimated as the sums of profit (loss) estimated on the basis of the results of each previous tax period. For the purposes of this item, when estimating the aggregate amount of profit the profit (loss) received on the basis of



the results of the tax periods preceding the tax period in which the annual volume of proceeds received by a project participant exceeded a billion roubles shall not be taken into account.

The form for an estimation of the aggregate amount of profit shall be established by the Ministry of Finance of the Russian Federation.

**19.** The tax base for the profit received by participants in a consolidated group of taxpayers shall be estimated by the responsible participant in this group in the procedure established by this article, subject to the specifics established by **Articles 278.1** and **288** of this Code.

#### **Article 275.** Specifics in Defining the Tax Base on the Incomes Derived from the Share Participation in Other Organisations

The sum of tax on the incomes from the share participation in the activity of organisations (hereinafter, 'the dividends'), shall be defined with account taken of the following provisions.

**1.** If a foreign organisation is a source of the income of a taxpayer, the sum of the tax in relation to the received dividends shall be determined by the taxpayer independently, on the basis of the received dividends and the corresponding tax rate stipulated by **Item 3 of Article 284** of this Code.

Taxpayers receiving dividends from a foreign organisation, including through the permanent representation of a foreign organisation in the Russian Federation, shall have no right to reduce the sum of tax calculated in conformity with this Chapter by the sum calculated and paid up at the place of location of the source of the income, unless otherwise stipulated by an international treaty.

**2.** For the taxpayers not indicated in **Item 3** of this Article, for the incomes in the form of dividends, except for those indicated in **Item 1** of this Article, the tax base for the earnings received from the participating interest in other organisations shall be estimated by a tax agent with regard to the specific aspects established by the present Item.

If a Russian organisation is a source of the earnings of a taxpayer, this organisation shall be recognised as a tax agent and it shall determine the tax amount with due account of this Item.

The tax amount subject to withholding from the incomes of the taxpayer who received dividends shall be calculated by the tax agent according to the following formula:

$$N = K \times S \times (d - D),$$

n

where:

N is the tax amount subject to withholding;

K stands for the ratio of the sum of dividends liable to distribution in favour of the taxpayer who received dividends to the total sum of dividends subject to distribution by the tax agent;

S stands for the tax rate fixed by **Subitems 1** and **2** of **Item 3** in **Article 284** or **Item 4 in Article 224** of this Code;

d is the total sum of dividends to be distributed by a tax

agent

to the benefit of all recipients thereof;  
D is the total sum of dividends received by the tax agent in the current reporting (tax) period and in the previous reporting (tax) period (except for the dividends indicated in Subitem 1 of **Item 3 in Article 284** of this Code) by the time of the distribution of the dividends in favour of taxpayers, dividend recipients, provided that the given dividend amounts were not recorded earlier during the estimation of the tax base defined in respect of incomes received by the tax agent in the form of dividends.

If the value H is a negative magnitude, no duty of tax payment shall arise and no compensation from the budget is made.

**2.1.** When receiving incomes in the form of dividends on the property transferred for trust management, as the recipient of such income shall be deemed the settler (settlers) of the trust management (beneficiary). If the trust manager is a Russian organisation and the settler (settlers) of trust management (beneficiary) is a foreign person, when receiving such incomes, the trust manager shall be deemed a tax agent in respect of the incomes in the form of dividends from which tax was not deducted by a tax agent at source or tax was deducted in the amount which is lower than the one which is estimated on the income in the form of dividends for the cited foreign organisation.

**3.** If the Russian tax organisation pays out dividends to a foreign organisation and (or) to a natural person who is not a resident of the Russian Federation, the tax base for the tax paying receiver of the dividends in every such payment shall be defined as the sum of the paid out dividends, and the rate established by **Subitem 3 of Item 3 of Article 284** or by **Item 3 of Article 224** of this Code accordingly shall be applied to it.

#### **Article 275.1.** Specifics of Determining the Tax Base by Taxpayers Exercising the Activities Connected with the Use of Objects Belonging to Auxiliary Works and Services

The taxpayers which include subdivisions exercising the activities connected with the use of objects belonging to auxiliary works and services shall determine the tax base for the said activities apart from the tax base for other types of activities.

For the purposes of this Chapter, auxiliary works and services shall comprise truck farms, housing and communal units, socio-cultural objects, training centres and other similar units, works and services engaged in realisation of goods, works, services both for their own workers and for outside persons.

Housing and communal units shall include housing stock, hotels (except for tourist ones), houses and hostels for visitors, exterior improvement objects, artificial constructions, basins, beach constructions and equipment, as well as gas supply, heating and electric power supply units, sections, workshops, bases, repair shops, garages, special machines and equipment,

warehouses intended for maintenance and repair of housing and communal servicing units, of socio-cultural objects and of facilities for sports and physical training.

Socio-cultural establishments shall comprise health protection facilities, cultural establishments, pre-school establishments for children, rest camps for children, sanatoriums (preventoriums), recreation departments, pensions, facilities for sports and physical training (including tracks, race tracks, stables, tennis courts, fields for playing golf and badminton, rehabilitation centres), non-productive consumer servicing units (bath houses and saunas).

Where subdivisions of a taxpayer incur losses while exercising activities connected with the use of the establishments indicated in this Article, such losses shall be recognised for the purposes of taxation, when the following conditions are met:

if the value of goods, works or services sold by a taxpayer exercising activities connected with the use of the objects indicated in this Article corresponds to the cost of similar services rendered by specialised organisations exercising similar activities connected with the use of such objects;

if the outlays on the maintenance of housing and communal units, socio-cultural establishments, as well as truck farms, and other similar units, works and services do not exceed ordinary outlays on servicing similar objects by the specialised organisations for which these activities are basic;

if the terms for the provision of services or performance of works by the taxpayer do not significantly differ from those for the provision of services or performance of works by specialised organisations for which this activity is a basic activity.

If any one of the said conditions is not met, a taxpayer shall be entitled to extend the losses incurred by him while exercising the activities connected with the use of units of auxiliary works and services to the term of ten years at most and to direct for the recompense thereof only the profits gained while exercising the said types of activities.

Taxpayers, whose work force size amounts to at least 25 per cent of the employed population of an appropriate inhabited locality and which have within the composition thereof structural subdivisions engaged in operation of the housing stock, as well as the facilities cited in **Parts Three** and **Four**, are entitled to take actually made outlays on the maintenance of the cited facilities for taxation purposes.

Part eight is **abrogated** from January 1, 2011.

Part nine is **abrogated** from January 1, 2011.

*See the text of **part nine of Article 275.1***

#### **Article 276.** Specifics of Defining the Tax Base of Participants in an Agreement on the Trust Management of Property

**1.** The tax base of participants in an agreement on the trust management of property shall be determined:

in compliance with **Item 3** of this Article, if under the terms and conditions of the said agreement the founder of trust management is the beneficiary;

in compliance with **Item 4** of this Article, if under the terms and conditions of the said agreement the founder of trust management is not the beneficiary.

**2.** For the purposes of this Chapter, into the income of the trust manager shall not be included the property (property rights) handed over under a contract of trust management of property. The remuneration received by a trust manager within the term of validity of an agreement on the trust management of property shall be his income from sale and shall be taxable in the established procedure. With this, the outlays connected with trust management shall be recognised as outlays of a trust manager, if the agreement on the trust management of property does not provide for the reimbursement of the said outlays by the founder of trust management.

Every month the trustee shall calculate, as cumulative and accruing, the incomes and expenses relating to the trust administration of property and shall provide information to the trustor (beneficiary) on the incomes received and expenses incurred for the purpose of their being taken into account by the trustor (beneficiary) in tax base assessment in accordance with this Chapter. As for the trust administration of securities the trustee shall calculate incomes and expenses in the procedure envisaged by **Article 280** of this Code.

**3.** The incomes of the founder of trust management under a contract of trust management of property shall be included in the composition of his proceeds or extra-sale incomes depending on the type of income received.

The outlays connected with the implementation of an agreement of trust management (including property depreciation, as well as the remuneration of the trust manager) shall be recognised as expenses relating to the manufacture or as extra-sale outlays of the founder of trust management depending on the type of expense incurred.

**4.** The incomes of the beneficiary under an agreement of trust management shall be included into the composition of his extra-sale incomes and shall be taxable in the established procedure.

With this, the outlays connected with the execution of an agreement of trust management of property (except for remuneration of the trust manager, if the said agreement provides for paying the remuneration not at the expense of the decrease of the incomes gained within the framework of the execution of this agreement) shall not be taken into account by the founder of trust management while determining the tax base, but shall be taken into account for the purposes of taxation in the composition of the beneficiary's outlays.

Paragraph three is **abrogated** from January 1, 2011.

**4.1.** The losses incurred within the validity term of a trust management agreement as a result of using the property transferred under trust management shall not be deemed the losses incurred by the founder (beneficiary) which are accounted for for taxation purposes in compliance with this chapter.

**5.** In the event of termination of an agreement on trust management, the property (including the property rights) transferred under the trust management may be returned under the terms and conditions of the said agreement to the founder of trust management or transferred to another person.

In the event of the return of property, the founder of trust management shall not gain incomes (incur losses), regardless of the arising of a positive (negative) difference between the cost of the property transferred under trust management at the moment of entry into force of the agreement on the trust management of property and at the moment of termination thereof.

**6.** The provisions of this Article (except for the provisions of **Paragraph One of Item 2** of this Article) shall not extend to a management company or participants (founders) of an agreement on the trust management of property constituting an isolated property complex - a unit fund.

#### **Article 277.** Specifics in Defining the Tax Base on the Incomes Derived When Handing over Property to the Authorised (Pooled) Capital (Fund, Property of the Fund)

**1.** When placing the emitted shares (participation shares, partner's shares), the incomes and the outlays of the tax paying emitter, and the incomes and the outlays of the taxpayer acquiring such shares (participation shares, partner's shares) (hereinafter, the shareholder (participant, partner), shall be defined with account taken of the following:

- 1) for a taxpayer that is an issuer no profit (loss) emerges when a property item (property right) is received as payment for shares (stakes, participatory shares) floated by the taxpayer;
- 2) for a taxpayer that is a shareholder (stakeholder, a holder of a participatory share) no

profit (loss) emerges when property (property right) is transferred as payment for share (stakes, participatory shares) floated.

With this, the cost of the acquired shares (participation shares, partner's shares) for the purposes of this Chapter shall be recognised as equal to the cost (residual cost) of the contributed property (rights of property), defined subject to the data of tax registration, as on the date of the transfer of ownership with regard to the said property (property rights or non-property rights having a value in terms of money (hereinafter referred to in this Article as "property rights")) and with the account taken of additional outlays which for the purposes of taxation shall be recognised as incurred by the transmitting side in the event of such contribution.

In this case property items (property rights) received in the form of a contribution (deposit) to the charter (contributed) capital of an organisation shall be accepted for taxation purposes at the value (balance value) of the property items (property rights) received as contribution (deposit) to the charter (contributed) capital. The value (balance value) shall be assessed according to the transferring party's data of records kept for taxation purposes as of the date of transfer of the right of ownership to said property items (property rights) with account taken of the additional expenses incurred by the transferring party when such a contribution (deposit) is made, provided these expenses are earmarked as a contribution (deposit) to the charter (contributed) capital. If the receiving party cannot provide documentary proof of the value of the property items (property rights) or of a portion thereof then the value of these property items (property rights) or of the portion thereof shall be deemed equal to zero.

When property items (property rights) are contributed (deposited) by natural persons and by foreign organisations the value (balance value) thereof shall be deemed the documented expenses incurred towards the acquisition (creation) thereof with account taken of depreciation (accumulated depreciation) accrued for the purposes of profit (income) taxation in the state where the transferring party is a tax resident but not exceeding the market value of the property items (property rights) confirmed by an independent appraiser acting under the legislation of the said state.

The value of property items (property rights) received as a result of privatisation of state or municipal property as a contribution to the charter capitals of organisations shall be recognised for the purposes of this Chapter at the value (balance value) assessed as of the date of privatisation according to bookkeeping rules.

**2.** When an organisation is liquidated and the property of the liquidated organisation is distributed, the incomes of the tax paying shareholders (participants, partners) of the liquidated organisation shall be defined proceeding from the market price of the property (rights of property), received by them, as at the moment of the receipt of the given property minus the cost of the shares (participation shares, partner's shares), actually paid (regardless of the form of payment) for by the corresponding shareholders (participants, partners) of this organisation.

**2.1.** When liquidating a Russian organisation that is a market partner of the International Olympic Committee in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation and in whose incomes the share of incomes received in connection with the discharge of obligations of a market partner of the International Olympic Committee according to the results of each tax period amounts to at least 90 per cent of the sum of all incomes received within the cited period, a stockholder (participant) shall not have taxable incomes, if such organisation is liquidated within the period while the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi are organised, which is fixed by **Part 1 of Article 2** of the cited Federal Law.

**3.** No profit (loss) recorded for taxation purposes arises with tax paying shareholders (participants, partners) in cases of the reorganisation of the organisation, regardless of the form of this reorganisation.

**4.** Where a reorganisation takes place in the form of a merger, affiliation or transformation that envisages conversion of the shares of the organisation reorganised into the shares of the emerging organisations or into the shares of the organisation to which the affiliation is made the value of the shares of emerging organisations or of the organisation to which the affiliation is made received by the shareholders of the organisation reorganised shall be deemed equal to the value of the converted shares of the organisation reorganised according to the data of the shareholder's records for taxation purposes as of the date of completion of the reorganisation (as of the date when an entry is made in the Uniform State Register of Legal Entities on the termination of activity of each affiliated legal entity - if the reorganisation is in the form of an affiliation).

The similar procedure is applicable in the assessment of the value of stakes (participatory shares) received as a result of an exchange of stakes (participatory shares) of an organisation reorganised.

**5.** Where a reorganisation takes place in the form of separation or division that envisages conversion or distribution of the shares of the newly emerging organisations among the shareholders of the organisation reorganised the aggregate value of the shares of each formed organisation and of the organisation re-reorganised received by a shareholder as a result of the reorganisation shall be deemed equal to the value of the shares of the organisation reorganised that were held by the shareholder assessed according to the data of the shareholder's records for taxation purposes.

The value of the shares of each newly formed organisation and of the organisation reorganised received by a shareholder as a result of the reorganisation shall be assessed in the following procedure.

The value of shares of each newly formed organisation shall be deemed equal to the portion of value of the shares of the organisation reorganised held by the shareholder, pro rata to the ratio of the net asset value of the organisation formed to the net asset value of the organisation reorganised.

The value of the shares of the organisation reorganised (reorganised after the completion of the reorganisation) held by the shareholder shall be calculated as the difference between the value of acquisition, by the shareholder, of shares of the organisation reorganised and the value of the shares of all newly formed organisations held by this shareholder.

The value of net assets of the organisation reorganised and of the newly formed organisations shall be calculated according to the data of the separation balance sheet as of the date of approval thereof by shareholders in the established procedure.

A similar procedure shall be applicable in the assessment of value of the stakes (participatory shares) received as a result of an exchange of stakes (participatory shares) of an organisation reorganised.

Where a reorganisation takes place in the form of a separation that envisages the acquisition, by the organisation reorganised, of shares (a stake, participatory share) of the organisation separated the value of these shares (stake, participatory share) shall be deemed equal to the value of net assets of the organisation separated, as of the date of the state registration thereof.

If the value of net assets of one or several organisations formed (reorganised) with the participation of their shareholders is negative the value of acquisition of the shares of each formed (reorganised) organisations received by a shareholder as a result of the reorganisation shall be deemed equal to the portion of value of the shares of the organisation reorganised held by the shareholder pro rata to the ratio of the amount of the charter capital of each organisation

formed with the participation of shareholders to the value of the charter capital of the organisation reorganised, as of the last accounting date preceding the reorganisation.

**6.** Information on the net assets of organisations (reorganised and formed) according to the data of the separation balance sheet shall be published by the organisation reorganised within 45 calendar days after the date of the decision on the reorganisation in a printed publication intended for the publication of information on state registration of legal entities and it shall also be provided to taxpayers that are shareholders (stakeholders, holders of participatory shares) of the organisations reorganised on their applications in writing.

**Article 278.** Specifics in Defining the Tax Base for Incomes Received by Participants in a Contract of Simple Partnership

**1.** For the purposes of this Chapter, the taxpayer's handing over of the property, including of the rights of property, by way of contributions of the participants in simple partnerships (hereinafter "the partnership") shall not be recognised as the sale of commodities (works, services).

**2.** If any of the participants in the partnership is a Russian organisation or natural person who is a tax resident of the Russian Federation, the incomes and the outlays of such partnership shall be recorded by the Russian participant for the purposes of taxation regardless of the fact on whom the maintenance of the partnership's affairs is imposed in accordance with the agreement.

**3.** The participant in the partnership who is recording the incomes and outlays of this partnership for the purposes of taxation shall be obliged to define in accordance with the progressive total by the results of every reporting (tax) period the profit of every participant in the partnership proportionately to the share of the corresponding participant of the partnership, established by the agreements, in the profit of a partnership received over the reporting (tax) period from the activity of all the participants in the framework of the partnership. On the sums of the due (distributed) incomes, the participant in the partnership recording the incomes and outlays shall be obliged every quarter, before the 15th day of the month following the reporting (tax) period, to inform every participant of the partnership of the sums of incomes due (distributed) to every participant in the partnership.

**4.** The incomes received from participation in a partnership shall be included in the composition of the extra-sale incomes of tax paying participants in the partnership, and shall be subject to taxation in the order established by this Chapter. The losses of the partnership shall not be distributed among its participants and shall not be taken into account by them in taxation.

**5.** If the agreement of a simple partnership ceases to operate, its participants, when distributing the income from the partnership's activity, shall not correct the incomes they have earlier recorded in the taxation against the incomes they have actually derived when the income from the partnership's activity was distributed.

**6.** If the agreement of a simple partnership ceases to operate and the property is returned to the participants in this agreement, the negative difference between the evaluation of the returned property and the estimate in accordance with which this property was earlier handed over under the simple partnership agreement, shall not be recognised as a loss for the purposes of taxation.

**Article 278.1.** The Specifics of Estimating the Tax Base for the Incomes Received by Participants in a Consolidated Group of Taxpayers

**1.** The tax base for the incomes received by all the participants in a consolidated group of taxpayers (hereinafter referred to in this article as the consolidated tax base) shall be estimated

on the basis of the sum of all the incomes and the sum of all the outlays of the participants in the consolidated group of taxpayers accountable for the taxation purposes, subject to the specifics established by this article.

In so doing, the incomes of participants in a consolidated group of taxpayers which are subject to taxation at the source of this incomes payment shall not be included in the consolidated tax base.

**2.** The tax records of the operations made between participants in a consolidated group of taxpayers shall be kept in compliance with **Article 321.2** of this Code.

**3.** The participants in a consolidated group of taxpayers shall not form reserves against doubtful debts in compliance with **Article 266** of this Code, as regards debts of either participant in this group to another participant in it.

Participants in a consolidated group of taxpayers shall restore a reserve against doubtful debts to the amount of debts related to the other participants in this group. The appropriate amounts shall be included in the off-sale outlays in the tax period preceding the tax period in which a taxpayer became a participant in the consolidated group of taxpayers.

**4.** Participants in a consolidated group of taxpayers shall not form reserves for warranty repair and after-sales service in compliance with **Article 267** of this Code, as regards the sale of commodities (works) to the other participants in this group.

When a taxpayer enters a consolidated group of taxpayers, the reserve against warranty repair and after-sales service shall be restored in the part thereof related to the works (services) sold to the other participants in this group. In so doing, the limit amount of the reserve estimated in compliance with **Item 3 of Article 267** of this Code shall be corrected, this excluding operations between participants of the same consolidated group of taxpayers when estimating the indices of the outlays on warranty repair and after-sales service actually made by the taxpayer, in the amount of the proceeds from the sale of the cited commodities (works) for the previous three years, as well as of the proceeds from the sale of commodities (works) for the previous three years, and also of the proceeds from the sale of the cited commodities (works) for the accounting (tax) period.

The index showing the proceeds from the sale of commodities (works) for the previous three years before the start of the tax period in which a taxpayer joined a consolidated group of taxpayers shall not be corrected. In the tax periods in which a taxpayer is a participant in a consolidated group of taxpayers, this index shall not include proceeds from the sale of the cited commodities (works) to the other participants in such group.

The sums of restored reserves against a warranty repair and after-sales service, in particular as a result of reduction of the limit amount of a reserve, shall be included in off-sale incomes in the tax period preceding the tax period in which a taxpayer became a participant in a consolidated group of taxpayers.

**5.** Banks participating in a consolidated group of taxpayers shall not form reserves against probable loan losses resulting from loan debts and from those equated to them, including debts on interbank credits and deposits, in compliance with **Article 292** of this Code, as regards debts of participants in the consolidated group of taxpayers with respect to the other participants in this group.

Banks shall restore a reserve against probable loan losses resulting from loan debts and from those equated to them, including debts on interbank credits and deposits, to the sum of the debts related to other participants in this group. The appropriate amounts shall be included in the off-sale outlays in the period preceding the tax period in which a bank joined a consolidated group of taxpayers.

**6.** The participants in a consolidated group of taxpayers that have suffered losses estimated in compliance with this chapter in the tax periods preceding the tax period when they joined this group are not entitled to reduce the consolidated tax base by the total amount of the



losses suffered by them (by a part of this sum) (to carry it forward) in the procedure established by **Articles 275.1** and **283** of this Code, starting from the tax period in which they joined such group.

It is not allowed to add losses of the participants in a consolidated group of taxpayers (including the losses suffered from the use of service sector facilities in compliance with **Article 275.1** of this Code) sustained by them before joining this group to the consolidated tax base. The cited provision shall likewise extend to the losses suffered by the organisations that joined a consolidated group of taxpayers by way of affiliation to a participant in this group or merger with a participant in such group.

**7.** The normative standards of the taxable outlays provided for by **Items 16** and **24.1 of Part Two of Article 255**, **Subitem 6 of Item 2 of Article 262**, **Subitems 11** and **48.2 of Item 1**, **Items 2** and **4 of Article 264**, **Item 4 of Article 266**, **Subitem 4 of Item 2 of Article 296** of this Code shall be applied by each participant in a consolidated group of taxpayers.

**8.** The specifics of estimation of the tax base for operations in securities and financial instruments of forward transactions established by this Code for taxpayers which are not professional participants in the securities market, as regards separate estimation of the tax base, and also as regards the reduction of the tax base by the sum of suffered losses and carry-forward of losses, shall apply when estimating the consolidated tax base.

**9.** The rules established by this article shall extend solely to the estimation of the tax base in respect of which the tax rate established by **Item 1 of Article 284** of this Code is applied.

Participants in a consolidated group of taxpayers shall independently estimate in compliance with this chapter the tax base to which other tax rates are applied. The tax base cited in this paragraph shall not be taken into account when estimating tax in respect of a consolidated group of taxpayers.

**Federal Law** No. 336-FZ of November 28, 2011 supplemented this Code with Article 278.2. The Article shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law

**Article 278.2.** The Specifics of Estimating the Tax Base for the Incomes Derived by the Parties to an Agreement of Investment Partnership

**1.** Records of incomes and outlays of an investment partnership must be kept for the taxation purposes by the organisation which is a party to the agreement of investment partnership and a tax resident of the Russian Federation in compliance with this chapter.

Records of incomes and outlays of an investment partnership may be only kept by a foreign organisation if the activities thereof create its permanent representation in the Russian Federation.

**2.** The party to an agreement of investment partnership which is the managing partner responsible for keeping tax records (hereinafter referred to in this article as the managing partner responsible for keeping tax records) shall estimate for the accounting (tax) period the profit (loss) resulting from the activities within the framework of the investment partnership as a progressive total on the basis of the results of each accounting (tax) period. In so doing, the profit (loss) of each party to an agreement of investment partnership shall be estimated in proportion to the participatory share of each such party in the investment partnership's profit fixed by such agreement of investment partnership.

When estimating the profit (loss) resulting from the activities within the framework of an investment partnership, the managing partner responsible for keeping tax records shall not take into account the incomes paid to the parties to the agreement of investment partnership in the form of dividends on securities and participatory shares in the authorized capital of organisations acquired within the framework of the investment partnership. The cited incomes

shall be included in the incomes of the parties to the investment partnership resulting from share participation in the activities of organisations.

**3.** As the income of a foreign organisation resulting from participation in an investment partnership shall be deemed the amount of income of the investment partnership corresponding to the participatory share of this organisation in the incomes of the investment partnership established by the agreement of investment partnership. In so doing, the incomes of the investment partnership shall be estimated in compliance with this article.

**4.** The tax base for the incomes derived by the parties to an agreement of investment partnership shall be estimated separately in respect of the following operations within the framework of the investment partnership:

- 1) in the securities circulating in the organised securities market;
- 2) in the securities that do not circulate in the organised securities market;
- 3) in financial instruments of forward transactions that do not circulate in the organised market;
- 4) in participatory shares in the authorised capital of organisations;
- 5) other operations of the investment partnership.

**5.** The tax base for incomes derived from participation in an investment partnership shall be estimated apart from the tax base for incomes derived from other taxpayer's operations, if not otherwise established by this article.

**6.** The sums corresponding to the taxpayer's share in the outlays made by a managing partner in the interests of all the partners for running the partners' common business shall reduce incomes derived from the operations cited in **Item 4** of this article in proportion to the sums of incomes derived from appropriate operations.

The taxpayer's share in the cited outlays shall be estimated in compliance with the shares of participation thereof in the profits of the investment partnership established by the agreement of investment partnership.

If the cited outlays are made out of the assets kept on the account of an investment partnership, the sum of the appropriate outlays of a taxpayer shall be estimated by him on the basis of the data provided by the managing partner responsible for keeping tax records.

The outlays of a managing partner in the interests of all the partners for running the partners' common business, in particular those made out of the assets kept on an investment partnership's account, shall not be accounted by the managing partner responsible for keeping tax records when estimating the tax base in compliance with **Item 2** of this article.

The sums paid by the parties to an agreement of investment partnership to reimburse the outlays made by a managing partner in the interests of all the partners for running the partners' common business shall not be recognized as the managing partner's incomes.

**7.** The taxpayer's outlays on paying remuneration to the parties to an agreement of investment partnership which are managing partners for running the partners' common business shall reduce incomes derived from the operations cited in **Item 4** of this article in proportion to the amounts of income derived from appropriate operations.

If remuneration is paid to the parties to an agreement of investment partnership which are managing partners out of the assets kept on the account of the investment partnership, the sum of the appropriate taxpayer's outlays shall be estimated on the basis of the data presented by the managing partner responsible for keeping tax records.

The outlays on paying remuneration to the parties to an agreement of investment partnership which are managing partners, including those made out of the assets kept on the investment partnership's account, shall not be accounted by the managing partner responsible for keeping tax records when estimating the tax base in compliance with **Item 2** of this article.

**8.** The incomes of the taxpayers which are managing partners in the form of remuneration for running the partners' common business shall be included in the composition of

their sales incomes estimated in compliance with **Article 249** of this Code.

**9.** The tax base for the incomes derived from participation in an investment partnership shall be estimated as the sum of incomes derived from the operations cited in **Item 4** of this article reduced by the amounts of outlays cited in **Items 6** and **7** of this article and the losses (including those of the previous tax periods accounted in compliance with **Article 283** of this Code) resulting from appropriate operations, unless otherwise provided for by this article.

If the value obtained in such a way is negative, it shall be deemed a taxpayer's loss resulting from participation in an investment partnership in respect of appropriate operations, while the tax base for appropriate operations shall be deemed equal to zero.

**10.** If a taxpayer participates in several investment partnerships, the tax base for the incomes derived from participation in investment partnerships shall be estimated by him in total in respect of all the investment partnerships where he participates, subject to the provisions of **Item 4** of this article.

The provisions of this item shall also extend to the sums of losses of the previous tax periods accounted in compliance with **Article 283** of this Code.

**11.** An investment partnership's losses resulting from the operations cited in **Item 4** of this article shall be distributed to the parties to an agreement of investment partnership in proportion to the share of participation of each of them in the profits of the investment partnership established by the agreement of investment partnership and shall be accounted by them for taxation purposes in compliance with this article and **Article 283** of this Code.

**12.** In the event of a taxpayer's withdrawal from an investment partnership as a result of the cession of rights and duties under the agreement of investment partnership, as well as of the apportionment of a share from the partners' common property, the tax base shall be estimated as the incomes derived by the taxpayer when withdrawing from the investment partnership reduced by the value of the taxpayer's contribution to the investment partnership paid by him by the time of withdrawal from the investment partnership and/or of the sums paid by the taxpayer for acquisition of the rights and duties under the agreement of investment partnership.

If when withdrawing from an investment partnership a taxpayer receives incomes in the form of property and/or property rights which are under the partners' common ownership, the amount of the appropriate incomes shall be estimated on the basis of the tax registration data of the investment partnership. In so doing, when returning property and/or property rights to the parties to an agreement of investment partnership, the negative difference between the estimate of the property and/or property rights to be returned and the estimate at which this property and/or property rights have been previously transferred under an agreement of investment partnership shall not be deemed a loss for the taxation purposes.

Where the value estimated in compliance with this item is negative, it shall be deemed a taxpayer's loss suffered when withdrawing from an investment partnership, while the tax base shall be deemed equal to zero.

The taxpayer's loss suffered when withdrawing from an investment partnership shall be accounted in estimation of the tax base for operations in the securities that do not circulate in the organised securities market.

**13.** When dissolving or terminating an agreement of investment partnership, in the tax base shall be included the incomes derived from the operations of the investment partnership in the accounting (tax) period in which the agreement of investment partnership became invalid and shall not be included the incomes derived by the taxpayer when dissolving or terminating this agreement.

When estimating the tax base in case of dissolving or terminating an agreement of investment partnership, the incomes derived from the operations cited in **Item 4** of this article shall be reduced by the sum of the outlays cited in **Items 6** and **7** of this article and shall not be

reduced by the amount of a taxpayer's contribution to the partner's common business.

If the value estimated in compliance with this item in respect of one or several kinds of incomes cited in **Item 4** of this article is negative, the appropriate amounts shall be deemed the taxpayer's loss suffered when dissolving or terminating the agreement of investment partnership while the tax base shall be deemed equal to zero.

The taxpayer's losses suffered when dissolving or terminating an agreement of investment partnership shall be accounted by him in estimation of the tax base in compliance with **Item 10** of this article and/or shall be carried forward in compliance with **Article 283** of this Code.

As a taxpayer's loss shall not be deemed the negative difference between the estimate of the property and/or property rights transferred thereto when dissolving or terminating an agreement of investment partnership and the estimate at which this property and/or these property rights have been earlier transferred under the agreement of investment partnership.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 279 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**

**Article 279.** Specifics in Defining the Tax Base in Cases of Cession (Transfer) of the Right of Claim

**1.** If the tax paying seller of the commodity (works, services) who calculates the incomes (outlays) using the method of calculation cedes the right of claim for a debt to a third person before the term of payment fixed in the agreement on the realisation of commodities (works, services) sets in, the negative difference between the income from the realisation of the right of claim for the debt and the cost of the realised commodity (works, services) shall be recognised as the taxpayer's loss. In this case, the amount of the loss shall not exceed for the purposes of taxation the sum of interest which the taxpayer would have paid, taking into account the demands of **Article 269** of this Code on the debt liability, equal to the income from the cession of the right of claim, over the period from the date of cession to the date of payment provided for by a contract of sale of goods (works, services). The provisions of this Item shall likewise apply to a taxpaying creditor for passive debts.

**2.** If the tax paying seller of commodities (works, services) calculating the incomes (the outlays) by the method of calculation cedes the right of claim for debt to a third person after the term of payment fixed by the agreement on the sale of commodities (works, services) sets in, the negative difference between the income from the sale of the right of claim for the debt and the cost of the sold commodity (works, services) shall be recognised as a loss under the transaction on the cession of the right of claim which shall be included in the composition of the taxpayer's extra-sale outlays. The loss shall in this case be accepted for the purposes of taxation in the following way:

- 50 per cent of the sum of the loss shall be included in the composition of the extra-sale outlays as on the date of cession of the right of claim;

- 50 per cent of the sum of the loss shall be included in the composition of the extra-sale outlays after 45 calendar days from the day of cession of the right of claim.

The provisions of this Item shall likewise apply to a taxpaying creditor for passive debts.

**3.** If a taxpayer who has bought the right of claim for the debt subsequently realises the right of claim, the said transaction shall be considered as sale of financial services. The income (earnings) derived from the sale of financial services shall be defined as the cost of the property

due to this taxpayer when he subsequently cedes the right of claim or when the corresponding liability ends. In this case, when defining the tax base, the taxpayer shall have the right to reduce the income he has derived from the sale of the right of claim by the sum of the outlays made on the acquisition of the said right of claim for the debt.

#### **Article 280.** Specifics in Defining the Tax Base on Transactions with Securities

**1.** The procedure for referring the objects of civil rights to securities shall be established by the **civil legislation** of the Russian Federation and by the applicable legislation of foreign states.

The procedure for referring securities to emission ones shall be established by the national legislation.

If transactions with securities can also be qualified as a transaction with the financial instruments of futures transactions, the taxpayer shall on his own choose the procedure for the taxation of such transaction.

For transactions with mortgage deeds, the tax base shall be determined in compliance with **Items 1 and 3 of Article 279** of this Code.

**2.** The taxpayer's incomes from transactions involved in the sale or in some other form of the withdrawal of securities (redemption included) shall be defined proceeding from the sale price or of the other form of withdrawal of a security, as well as from the sum of the accumulated (coupon) income, paid by the purchaser to the taxpayer, and from the sum of the interest (coupon) income paid out to the taxpayer by the issuer (by the bill giver). In this case, into the taxpayer's income from the sale or from another form of the withdrawal of securities shall not be included the sums of interest (coupon) income earlier recorded in the taxation.

Incomes of a taxpayer from transactions of sale or other disposal of foreign-currency denominated securities (including, as a result of redemption) shall be assessed at the exchange rate of the Central Bank of the Russian Federation effective as of the date of transfer of the right of ownership or as of the date of redemption.

**Abrogated** from January 1, 2010.

The outlays made on the sale (or on another form of the withdrawal) of securities, including investment shares of a unit fund, shall be defined proceeding from the price of acquisition of the security (including the outlays on the acquisition thereof), from the expenditures on the sale thereof, from the amount of discounts on the estimated cost of investment shares and from the sums of the accumulated interest (coupon) income paid up by the taxpayer to the seller of the security. In this case, into the outlays shall not be included the sums of the accumulated interest (coupon) income earlier recorded in taxation.

In the assessment of sales expenses (in the event of other disposal) of securities the acquisition price of a foreign-currency denominated security (including the expenses towards the acquisition thereof) shall be assessed at the exchange rate of the Central Bank of the Russian Federation effective as of the time when the security was recorded on the books. No ongoing re-valuation shall be carried out in respect of foreign-currency denominated securities.

In the event of a sale of shares received by shareholders when organisations were reorganised the acquisition price of such shares shall be deemed the value of the shares assessed in accordance with **Items 4 - 6 of Article 277** of this Chapter.

For the purposes of this Chapter, securities shall be likewise deemed sold (acquired) in case of termination of a taxpayer's obligations to transfer (accept) appropriate securities by way of setting off homogeneous counterclaims, in particular when terminating such obligations in the course of making clearing in compliance with the legislation of the Russian Federation.

**3.** For the purposes of this Chapter, securities shall be recognised as circulated on the organised securities market only if the following conditions are simultaneously observed:

1) if they are admitted into circulation by any one of the trade organisers who has the right to do so in accordance with national legislation;

2) if information on their prices (quotations) is published in the mass media (including electronic), or if it may be supplied by the trade organiser or by another authorised person to any interested person in the course of three years after the date of the performance of transactions with the securities;

3) if within the last three months preceding the date when a taxpayer made a transaction in these securities the market quotation of them was calculated where its is provided for by the applicable legislation.

For the purposes of this Item, the applicable legislation means the legislation of the state in whose territory securities are circulated (making by a taxpayer of civil law transactions entailing the transfer of securities ownership). Where it is impossible to determine unambiguously in whose state's territory transactions in securities have been made outside the organised securities market, including those made through electronic trading systems, a taxpayer shall be entitled to choose independently such state in compliance with the accounting policy adopted by him for the taxation purposes, depending on the location of the securities' seller or purchaser.

**4.** For the purposes of this Chapter, the market quotation of a security means the average weighted price of the security in the transactions made within a trading day through a Russian trade promoter in the securities market, including a stock exchange - in respect of the securities admitted to trading arranged by such trade promoter in the securities market or by such stock exchange, or the closing price of a security estimated by a foreign stock exchange with respect to the transactions made within a trading day through such stock exchange - for the securities admitted to trading arranged by such stock exchange. If the transactions with one and the same security were made through two or more trade organisers, the taxpayer shall have the right to choose the market quotation formed by one of the trade organisers, on his own. If the trade organiser does not calculate the average weighted price the average weighted price accepted for the purposes of this Chapter shall be half of the sum of the maximum and minimum price of the transactions performed in the course of the trading day through this trade organiser.

Seen as interest (coupon) income shall be the part of the interest (coupon) income the payment of which is envisaged by the terms of the issue of such security, calculated in proportion to the number of calendar days which have passed from the date of issue of the security or from the date of payment of the previous coupon income to the day of making the transaction (to the date of handing over the security).

**5.** The market price of securities for the purposes of taxation circulated on the organised securities market shall be recognised the actual price of sale or of another form of the withdrawal of securities, if this price lies in the interval between the minimum and the maximum price of the transactions (price interval) with the said security, registered by the trade organiser on the securities market as on the date of carrying out the corresponding transaction. Where a transaction is concluded through a trading organiser the "date of conclusion" of the transaction means the date of the public sale at which the transaction in the security was concluded. Where a security is sold outside of the organised securities market the "date of conclusion" of the transaction shall be deemed the date when all the significant terms and conditions for the transfer of the security are defined, i.e. the date of signing of the contract.

If transactions with one and the same security have been carried out on the said date

through two or more trade organisers on the securities market, the taxpayer shall have the right to choose on his own the trade organiser, the values of whose price interval will be used by the taxpayer for the purposes of taxation.

If on the date of performing the transaction there is no information on the trade organisers' price intervals, the taxpayer shall accept the price interval in the sale of these securities in accordance with the data supplied by the trade organisers on the securities market for the date of the closest auction which has taken place before the day of carrying out the corresponding transaction, even if the auction on these securities was held by the trade organiser only once in the course of the last three months.

If the trade organiser observes the above procedure, the actual price of the sale or of another form of the withdrawal of the securities in the corresponding price interval shall be accepted for the purposes of taxation as the market price.

In the event of sale (acquisition) of securities circulating on the organised securities market at a price lower than the minimum (higher than the maximum) price of transactions on the organised securities market the minimum (maximum) price of the transaction shall be taken for determining the financial result.

In respect of investment shares of open unit investment funds which circulate in the organised securities market, in particular in the event of their acquisition (redemption) from the management company engaged in trust management of the property constituting this unit's investment fund, for the taxation purposes the actual price of a transaction shall be taken, if it corresponds to the estimated value of an investment share determined in the procedure established by the **legislation** of the Russian Federation on investment funds.

**6.** As concerns the securities which do not circulate in the organised securities market, for the taxation purposes the actual price of a transaction shall be taken, if such price is within the interval between the minimum and maximum prices fixed on the basis of the estimated price of a security and the extreme prices deviation, if not otherwise established by this Item.

For the purposes of this Article, the extreme price deviation for securities which do not circulate in the organised securities market shall be established at the rate of 20 per cent of the estimated price's rise or reduction.

In the event of sale (acquisition) of securities which do not circulate in the organised securities market at the price which is lower than the minimum (higher than the maximum) price determined on the basis of the estimated value of a security and the extreme prices' deviation, when defining the financial result for the taxation purposes shall be taken the minimum (maximum) price of a security determined on the basis of the estimated price thereof and the extreme prices' deviation.

***Federal Law No. 281-FZ of November 25, 2009 suspended the provisions of Paragraph 4 of Item 6 of Article 280 of this Code from January 1 up to December 31, 2010 inclusive***

***On the pricing of securities not circulating in the organised securities market within the period of suspension of the provisions of the said Paragraph, see **Item 2 of Article 15** of the said Federal Law***

~~**A procedure for fixing the estimated price of securities which do not circulate in the organised securities market shall be established for the purposes of this Chapter by the federal executive power body responsible for the securities market by approbation of the Ministry of Finance of the Russian Federation.**~~

As concerns operations in investment shares of unit investment funds which do not circulate in the organised securities market, in particular in the event of their acquisition from the management company engaged in trust management of the property constituting this open unit

investment fund, for the taxation purposes shall be taken the actual price of a transaction, if it corresponds to the estimated cost of an investment share determined in the procedure established by the **legislation** of the Russian Federation on investment funds.

As concerns operations in investment shares of closed and interval unit investment funds which do not circulate in the organised securities market, in the event of their acquisition from the management company engaged in trust management of the property constituting an appropriate unit investment fund, for the taxation purposes shall be taken the actual price of a transaction, if it corresponds to the **estimated value** of an investment share fixed in the procedure established by the legislation of the Russian Federation on investment funds.

If under the **legislation** of the Russian Federation on investment funds investment shares of unit investment funds whose circulation is restricted are not issued on the basis of the estimated value of an investment share, for the taxation purposes shall be taken the actual price of a transaction, if it corresponds to the sum of monetary assets for which one investment share is issued and which is fixed in compliance with the rules for trust management of a unit investment fund without taking into account the extreme deviation limits.

**7.** The tax paying share holder selling the shares he has received when the authorised capital of the joint-stock company was augmented, shall define the income as the difference between the sale price and the originally remunerated cost of the share, corrected with account taken of the change in the number of shares as a result of the increase of authorised capital.

**8.** The tax base on transactions with securities shall be defined by the taxpayer separately, with the exception of the tax base on the transactions with securities, which shall be defined by professional securities market traders. Taxpayers (with the exception of professional market traders carrying out transactioner's activity) shall define the tax base on transactions with the securities circulated on the organised securities market, apart from the tax base on transactions with securities which are not circulated on the organised securities market.

Professional participants of the securities market (including banks) which are not engaged in transactioner's activities, for the purposes of taxation shall determine in their accounting policy a procedure for forming the tax base with regard to transactions in the securities circulating on the organised securities market and the tax base with regard to transactions in the securities not circulating on the organised securities market.

With this, a taxpayer shall independently choose the types of securities (both those circulating on the organised securities market and those not circulating on the securities market) in respect of which other receipts and expenditures related to operation in them, which are determined in compliance with this Chapter, shall be included in the composition of receipts and expenditures when forming the tax base.

**9.** In the event of sale or any other withdrawal of securities, a taxpayer shall independently choose one of the following methods of writing off as outlays the cost of withdrawn securities in compliance with the accounting policy accepted for the purposes of taxation:

- 1) in accordance with the prime cost of the acquisitions (FIFO);
- 2) **abrogated** from January 1, 2010;
- 3) in accordance with the cost of one unit.

**10.** Taxpayers who have incurred a loss (losses) from transactions in securities in the previous tax period or in the previous tax periods shall have the right to reduce the tax base received on the transactions in securities in the reporting (tax) period (to put off the said losses onto the future), in the order and on the terms established by **Article 283** of this Code.

With this, losses from transactions in the securities not circulating on the organised securities market which were incurred in the previous tax period (previous tax periods) may be referred to the decrease of the tax base caused by transactions in such securities which is determined in the reporting (tax) period.



With this, losses from transactions in the securities circulating on the organised securities market incurred in the previous tax period (previous tax periods) may be referred to the decrease of the tax base caused by transactions in the sale of the given category of securities.

During a tax period the transfer for the future of the losses incurred in an appropriate reporting period as a result of transactions in the securities circulating on the organised securities market and in the securities not circulating on the organised securities market shall be effected separately for the said categories of securities within the limits of the incomes gained from transactions in such securities accordingly.

The incomes derived from transactions in the securities circulated on the organised securities market cannot be reduced by the outlays or the losses from transactions in the securities not circulated on the organised securities market.

The incomes derived from transactions in the securities not circulated on the organised securities market cannot be reduced by the outlays or the losses from transactions in the securities circulated on the organised securities market.

The provisions of the Paragraphs from Two to Six of this Item shall not be spread to the professional securities market traders engaged in transactioner's activity.

**11.** The taxpayers (including banks) engaged in transactioner's activities on the securities market, when determining the tax base and transferring losses for the future in the procedure and on the conditions established by **Article 283** of this Code, shall form the tax base and shall determine the amount of the losses to be transferred for the future with the account taken of all incomes (outlays) and the sums of losses resulting from business activities.

During the tax period the carry-forward of damages incurred by the aforesaid taxpayers in a specific accounting period of the current tax period may be effected within the limits of the profit amount resulting from the pursuance of entrepreneurial activity.

#### **Article 281.** Specifics in Defining the Tax Base for Transactions in State and Municipal Securities

When placing state securities of member states of the Union State, state securities of the subjects of the Russian Federation and municipal state securities (hereinafter referred to as state and municipal securities), the incomes declared (established) by the issuer in the form of the rate of interest on the nominal cost of the said securities shall be recognised as interest yields, and as regards the securities in respect of which the rate of interest is established, the interest yields on them shall be incomes in the form of the difference between the nominal cost of a security and the cost of its primary distribution calculated as the weighted average price, as on the date when an issue of the securities in compliance with the established procedure was recognised as distributed.

In the taxation of the transactions involved in the sale or other form of the withdrawal of securities, the price of the issue and of the municipal securities shall be recorded without interest (coupon) income that is taxable at a rate other than the one envisaged by **Item 1 of Article 284** of this Code, falling on the time of the taxpayer's possession of these securities, the payment of which is envisaged by the terms of the issue of such security.

The taxation of an interest calculated over the time when the state and municipal security was kept on the taxpayer's balance, shall be effected on the terms established by this Chapter. The earnings from the state and municipal securities included in the price of the transaction in whose circulation is included a part of the accumulated coupon interest shall be reduced by the income in the amount of the accumulated coupon income due for the time of the taxpayer's possession of the said security.

#### **Article 282.** Details of Tax Base Assessment for REPO Transactions in Securities

**1.** As a REPO transaction shall be deemed the agreement satisfying the requirements for

REPO agreements contained in the **Federal Law** on the Securities Market. With this, as the first and second parts of a REPO transaction shall be deemed the first and second parts of the REPO agreement accordingly. As the purchaser under the first part of a REPO transaction and the seller under the first part of a REPO transaction shall be deemed the purchaser under the REPO agreement and the seller under the REPO agreement accordingly. For the purposes of this Article, obligations under the second part of a REPO transaction shall rise on condition that the first part of the REPO transaction is executed.

Where the terms of a REPO transaction provide for the right of the seller under the first part of the REPO transaction prior to the date of execution of the second part of the REPO transaction to transfer to the purchaser under the first part of the REPO transaction in exchange for the securities transferred under the first part of the REPO transaction or for the securities, which they are converted into, some other securities and/or for the right of the purchaser under the first part of a REPO transaction to demand such transfer of the seller under the first part of the REPO transaction, the initial terms of the first part of the REPO transaction shall not apply in case of such transfer for the taxation purposes.

For the purposes of this Article, the second part of a REPO transaction, in particular as regards a REPO transaction under which execution of the second part thereof is determined by the time of claim, must be executed at the latest in one year after the time of execution of the first part of the REPO transaction fixed by the agreement.

The rules of this Article shall apply to REPO transactions of a taxpayer made on account thereof by commission agents, proxies, agents or trust managers (in particular of a trade promoter in the securities market and in trading arranged by a stock exchange) on the basis of appropriate civil law contracts.

For the purposes of this Article, as the dates of execution of the first or second part of a REPO transaction shall be deemed the time stipulated by the REPO agreement for the discharge by the REPO transaction's participants of their obligations in respect of an appropriate part of the REPO transaction. In the event of discharging the obligations involving the securities' supply and payment for them under the first and second parts of a REPO transaction on different dates, as the date of the first part and the date of the second part of the REPO transaction accordingly shall be deemed the latest date when obligations involving payment for or supply of securities are discharged.

Where the date of execution of the first or of the second part of a REPO transaction fixed by the agreement falls on a day off and/or an non-working holiday in compliance with the legislation of the Russian Federation, as the date of execution of the first and second parts of a REPO transaction shall be deemed the working days following it. With this, the actual selling (acquisition) price of a security under both the first and second parts of a REPO transaction shall apply, regardless of the market (estimated) cost of such securities. Such selling (acquisition) price under both parts of a REPO transaction shall be estimated subject to the accumulated interest (coupon) income as of the date of actual execution of each part of the REPO transaction.

The date of discharging obligations under the second part of a REPO transaction may be changed both for a decrease of the term of the REPO transaction and for an increase thereof. The transactions for which the date of execution of the second part thereof is determined by the time of claiming shall be deemed REPO transactions, if the REPO agreement establishes a procedure for fixing the price for the second part of the REPO transaction and if the second part of the REPO transaction is executed within one year after the date when the parties thereto discharge obligations in respect of the first part of the REPO transaction.

With respect to the REPO transactions to be made through a trade promoter in the securities market (a stock exchange) or to be executed through a clearing organisation, any alteration of the date for execution of the second part of a REPO transaction made in

compliance with the rules of a trade promoter in the securities market (a stock exchange) or of the clearing organisation shall be deemed for the purposes of this article an alteration of the term of the REPO transaction.

For the purposes of this Article, the REPO rate shall be determined when making a REPO transaction and may be fixed or estimated one. The REPO rate must enable to estimate the rate of interest as of the end of an accounting (tax) period and may be changed as agreed by the parties to the REPO agreement.

If on the date of execution of the second part of a REPO transaction the obligation to sell (acquire) securities under the second part of the REPO transaction is not discharged in full or in part (hereinafter referred to in this Chapter as improper execution of the second part of a REPO transaction) but a procedure for settling counterclaims have been followed in compliance with the requirements provided for by **Item 6** of this Article, the provisions established by Item 6 of this Article shall apply.

In other instances when the second part of a REPO transaction is improperly discharged, the parties to the REPO transaction shall recognise the sale (acquisition) of the securities which have not been transferred according to the second part of the REPO transaction subject to the provisions which are established by **Article 280** of this Code. The incomes derived from selling securities in compliance with the first part of a REPO transaction shall be estimated by the seller for the first part of the REPO transaction as of the date of execution of the second part of the REPO transaction, if the procedure for settling counterclaims is not provided for by the REPO agreement or as of the end day of the time period provided for by the REPO agreement for carrying out by the parties thereto the procedure for settling counterclaims, if the settlement procedure has not been carried out in a proper way, or as of the date of early termination of the REPO agreement with the consent of the parties thereto. In so doing, incomes shall be estimated on the basis of the market prices effective on the date of transfer of securities' ownership when executing the first part of the REPO transaction or, if other securities have been transferred to the purchaser in compliance with the first part of the REPO transaction in exchange for the securities transferred in compliance with the first part of the REPO transaction or for the securities, which they have been converted into, on the date when they are transferred to the purchaser in compliance with the first part of the REPO transaction.

The outlays on acquisition of the securities which have not been transferred in compliance with the second part of a REPO transaction shall be recognised by the purchaser in the first part of the REPO transaction according to **Subitem 7 of Item 7 of Article 272** of this Code as of the date of execution of the second part of the REPO transaction, if a procedure for settling counterclaims is not provided for by the REPO agreement, or on the end date of the time period provided for by the REPO agreement for carrying out by the parties to the REPO agreement a procedure for settling counterclaims, if the settlement procedure has not been carried out in a proper way, or as of the date of an early termination of the REPO transaction by agreement of the parties thereto and shall be estimated on the basis of the market prices effective on the date of transfer of securities' ownership when executing the first part of the REPO transaction or, if other securities have been transferred to the purchaser in compliance with the first part of the REPO transaction in exchange for the securities transferred in compliance with the first part of the REPO transaction or for the securities, which they have been converted into, on the date when they are transferred to the purchaser in compliance with the first part of the REPO transaction.

When selling securities in compliance with the first part of a REPO transaction and the second part of a REPO transaction, the financial result for the taxation purposes shall not be estimated in compliance with **Article 280** of this Code. The outlays on acquisition of securities registered in the tax records before the date of execution of the first part of a REPO transaction shall be accounted in case of sale (retirement) of securities in compliance with **Articles 280,**

**302** and **303** of this Code. In so doing, a taxpayer shall determine independently in compliance with the accounting policy adopted by him for the taxation purposes a procedure for registration of the securities which are retired (returned) in the course of REPO transactions.

When discharging (terminating) obligations in compliance with the first and/or second part of a REPO transaction by way of setting off homogeneous counterclaims (except for setting off homogeneous counterclaims in respect of the first and second parts thereof within the same REPO transaction), the taxation procedure established by this article shall remain unchanged. As homogeneous shall be deemed the claims for transfer of securities of the same issuer which provide for the same extent of rights, are of the same kind, category (type) or pertain to the same unit investment fund (as regards investment shares of unit investment funds), as well as claims for paying monetary assets in the same currency.

If within the time period between the dates of execution of the first and second parts of a REPO transaction the securities which constitute the object of the REPO transaction are converted, in particular in connection with the splitting, consolidation or alteration of their nominal value, or the individual number (code) of an additional issue of such securities is cancelled, or the individual state registration number of an issue (the individual number (code) of an additional issue), the individual identification number (the individual identification number (individual number (code) of an additional issue) of such securities have been changed, the cited actions shall not change the taxation procedure for the given REPO transaction.

**2.** In respect of a REPO transaction payments concerning the securities the right to which was obtained by the purchaser under the first part of the REPO transaction within the period between the dates of execution of the first and second parts of the REPO transaction may be charged to the reduction of the amount of the monetary assets to be paid by the seller under the first part of the REPO transaction with the subsequent acquisition of securities under the second part of the REPO transaction or may be remitted by the purchaser under the first part of the REPO transaction to the seller under the first part of the REPO transaction in compliance with the REPO agreement. On the cited occasions, such payments shall not be deemed the purchaser's income under the first part of the REPO transaction and shall be included into incomes of the seller under the first part of the REPO transaction in the procedure established by this Chapter.

The interest (coupon) income derived from the securities constituting the object of a REPO transaction shall be accounted in estimation of the tax base of the seller under the first part of the REPO transaction in the procedure established by **Articles 271, 273** and **328** of this Code and shall not be accounted in estimation of the tax base for interest (coupon) income derived from the securities constituting the object of the REPO transaction by the purchaser under the first part of the REPO transaction subject to the specifics established by **Paragraph One** of this Item.

The incomes estimated in compliance with this Item shall be taxed at the tax rates established by **Article 284** of this Code. In so doing, the cited tax rates shall apply depending on the kind of securities (debt instruments), unless otherwise provided for by this Article.

In respect of incomes in the form of dividends paid to the purchaser under the first part of a REPO transaction, the issuer shall act as a tax agent in the procedure established by this Chapter.

If a REPO transaction is made by a foreign organisation (the seller under the first part of the REPO transaction) and a Russian organisation (the purchaser under the first part of the REPO transaction) and in the period between the dates of execution of the first and second parts of the REPO transaction dividends were paid on the stocks (depository receipts giving the right to receive dividends) which constitute the object of the REPO transaction, the Russian organisation shall be deemed a tax agent with respect to the incomes in the form of dividends from which tax has not been deducted at source by a tax agent or was deducted at a lower rate

that the amount of tax computed with respect to the incomes in the form of dividends for the cited foreign organisation.

Where the purchaser under the first part of REPO transaction is the Central Bank of the Russian Federation or the management company of a unit investment trust acting in the interests of this trust, the duty of paying tax on dividends shall be imposed on the seller under the first part of the REPO transaction which shall be deemed the recipient of such incomes in compliance with this Item, except when tax was deducted by the issuer.

The incomes defined by this Item shall be taxed at the tax rates established by **Article 284** of this Code for appropriate categories of taxpayers.

The provisions of this Item shall not extend to the seller under the first part of a REPO transaction, if the sold securities have been received by him in connection with another REPO transaction or an operation of securities' loaning.

**3.** For the purposes of this Code for a seller in the first part of a REPO agreement the difference between the purchase price in the second part of the REPO agreement and the selling price in the first part of the REPO agreement shall be deemed:

1) expenses towards the disbursement of interest on raised funds which are included in expenses in the procedure envisaged by **Articles 265, 269 and 272** of this Code, provided this difference is positive;

2) incomes in the form of interest on a loan extended in securities which are included in incomes in accordance with **Articles 250 and 271** of this Code (in accordance with **Article 290** of this Code for banks), provided this difference is negative.

**4.** For the purposes of this Code for a buyer in the first part of a REPO agreement the difference between the selling price in the second part of the REPO agreement and the purchasing price in the first part of the REPO agreement shall be deemed:

1) incomes in the form of interest on placed funds that are included in incomes in accordance with **Articles 250 and 271** of this Code (in accordance with **Article 290** of this Code for banks), provided that this difference is positive. Such incomes received by a foreign organisation which are not connected with its business activities in the territory of the Russian Federation shall be classified as incomes of a foreign organisation from sources in the Russian Federation and shall be taxable at source on the basis of **Subitem 3 of Item 1 of Article 309** of this Code as of the date of execution of the second part of a REPO transaction;

2) expenses in the form of interest on a loan received in securities that are included in expenses in accordance with **Articles 265, 269 and 272** of this Code, provided this difference is negative.

**5.** For the purposes of this Article the date of recognition of incomes (expenses) in a REPO transaction is the date of performance (discharge) of obligations of the parties in the second part of the REPO agreement with due regard to the details established by **Items 3 and 4** of this Article.

The outlays connected with contracting and executing REPO transactions shall be classified as off-sale outlays and shall be accounted in compliance with **Article 265, 272 and 273** of this Code.

**6.** In the event of the improper execution of the second part of a REPO transaction and implementation of the procedure for settling counterclaims established by the REPO agreement which satisfies the requirements of **Paragraph Four** of this Item, the tax base for the REPO transaction shall be estimated in the following order:

the seller in the first part of the REPO agreement recognises for taxation purposes the performance of the second part of the REPO agreement and simultaneously the sale of the securities that have not been repurchased in the second part of the REPO agreement, at the market price of the security deemed the object of the REPO transaction, or if there is no market price, at the rated price of the security assessed in accordance with **Item 5 or 6 of Article 280**

of this Code as of the date of discharging obligations in compliance with the second part of the REPO transaction in the amount coordinated with the REPO transaction's participants. When incomes (expenses) from the sale of the securities are recognised for taxation purposes the provisions established by **Article 280** of this Code shall apply;

the buyer in the first part of the REPO agreement shall recognise for taxation purposes the performance of the second part of the REPO agreement and simultaneously the purchase of the securities that have not been sold in the second part of the REPO agreement, at the market value of the security deemed the object of the REPO transaction, or if there is no market price, at the rated price of the security assessed in accordance with **Item 5 or 6 of Article 280** of this Code as of the date of discharging obligations in compliance with the second part of the REPO transaction in the amount coordinated with the REPO transaction's participants.

The procedure for settling counterclaims in the event of the improper execution of the second part of a REPO transaction shall provide for the parties' duty to complete mutual settlements of accounts under the REPO agreement within 30 calendar days after execution of the second part of the REPO transaction.

The cited procedure may likewise provide for the right of the seller (purchaser) under the first part of a REPO transaction to sell (acquire) within the cited time period the securities not transferred under the second part of the REPO transaction, setting off the actual proceeds from the sale (actual outlays on acquisition) with non-discharged pecuniary obligations in respect of REPO transactions and/or to provide for the rights of the purchaser (seller) under the first part of the REPO transaction to deny the transfer (acceptance) of the securities which were not transferred under the second part of the REPO transaction setting off their market value with non-discharged pecuniary obligations under the REPO transaction. When effecting such set-off, the market (estimated) cost of securities shall be determined as of the date of securities' sale (acquisition) or as of the date when the transfer (acceptance) of securities under the second part of a REPO transaction was denied.

With this, the parties to a REPO agreement shall be obliged to make mutual settlements concerning the sums of residual obligations estimated as the difference between the non-discharged pecuniary obligations under the second part of a REPO transaction and the market price of the securities which have not been transferred under to the second part of the REPO transaction or, where there is no market price thereof, the estimated price of the securities fixed in compliance with **Item 5 or Item 6 of Article 280** of this Code as of the date of their acquisition (sale), or between the non-discharged pecuniary obligations under the second part of the REPO transaction and actual proceeds from selling (actual outlays on acquisition) of the securities which have not been transferred under the second part of the REPO transaction. The amounts of monetary assets remitted on the basis of the results of implementation of the procedure for settling counterclaims in the form of residual obligations shall not be deemed the incomes (outlays) of the seller (purchaser) under the first part of the REPO transaction.

If as a result of settling counterclaims the securities constituting the object of a REPO transaction are returned by the purchaser under the first part of the REPO transaction to the seller under the first part of the REPO transaction, the sale of the securities by the seller under the first part of the REPO transaction and acquisition of the securities by the purchaser under the first part of the REPO transaction shall not be recognised in the procedure provided for by this Item.

**7.** If during the period of time between the dates of discharge of the first and second parts of a REPO transaction the purchaser under the first part of the REPO transaction becomes obliged to transfer to the seller under the first part of the REPO transaction payments (coupon payment, partial redemption of the nominal value of securities) concerning the securities which constitute the object of the REPO transaction and if the REPO agreement provides for the reduction by the amounts of appropriate payments the seller's liabilities under the first part of

the REPO transaction as to payment of monetary assets in the course of the subsequent acquisition of securities under the second part of the REPO transaction (of the selling (acquisition) price under second part of the REPO transaction) instead of making such payments, the sums to be paid shall be included into the selling (acquisition) price under the second part of the REPO transaction when estimating incomes (outlays) in the procedure defined by **Items 3** and **4** of this Article.

If under a REPO agreement such payments are not accounted in assessing obligations under the second part of the REPO transaction, such payments shall not be included in the selling (acquisition) price under the second part of the REPO transaction when estimating the incomes (outlays) in compliance with **Items 3** and **4** of this Article.

**8.** If a REPO agreement contains a provision for settlements of accounts (remittance of funds and/or transfer of securities) between the parties to the REPO transaction during the period of time between the dates of discharge of the first and second parts of the REPO transaction in the event of alteration of the price of the securities constituting the object of the REPO transaction or in other instances provided for by the cited agreement and this agreement stipulates while making such settlements the reduction of the liabilities of the seller under the first part of the REPO agreement in respect of paying monetary assets by the remitted sums in the course of subsequent acquisition of securities under the second part of the REPO transaction, such remitted amounts shall be included into the selling (acquisition) price under the second part of the REPO transaction when estimating the incomes (outlays) in compliance with **Items 3** and **4** of this Article.

Where such obtaining (transfer) of monetary assets and/or securities is not taken into account in estimating obligations under the second part of a REPO transaction, such remitted amounts shall not be included into the selling (acquisition) price under the second part of the REPO transaction when estimating the incomes (outlays) in compliance with **Items 3** and **4** of this Article.

**9.** For the purposes of this Article, the opening of a short position for a security (hereinafter referred to in this Article as a short position) shall mean the sale (retirement) of the security where there is the taxpayer's obligation to return the security obtained under the first part of a REPO transaction or under a contract of loan. A short position shall be opened if the taxpayer does not hold securities pertaining to the same issue (additional issue) or investment shares of the same unit investment fund in respect of which in the tax records the acquisition price estimated in compliance with **Article 280** of this Code is formed but not recognised as outlays.

The following shall not be deemed the opening of a short position:

sale of a security under the first (second) part of a REPO transaction;

transfer of a security to the borrower (return thereof to the creditor) under a contract of securities' loaning;

transfer of a security on a returnable basis in compliance with the terms defined by **Item 8** of this Article;

conversion of the securities constituting the object of a REPO transaction, in particular in connection with splitting, consolidation or alteration of their nominal value, or if the individual number (code) of an additional issue of such securities is cancelled, or the individual state registration number of an issue (the individual number (code) of an additional issue), the individual identification number (the individual identification number (individual number (code) of an additional issue) of such securities is changed;

cancellation of a depository receipt when receiving presented securities;

other retirement of a security in respect of which income on it is not included into the tax base.

A short position shall be opened in the number of securities which does not exceed the

number of the securities received by a taxpayer under the second part of a REPO transaction and/or under agreements of loan in the capacity of the borrower.

As the opening date of a short position shall be deemed the date when the ownership of securities transfers from the seller opening the short position to the purchaser in the transaction involving the sale (retirement) of a security.

A closed position shall be closed by way of acquiring (receiving for ownership for other reasons, except for obtaining for ownership according to a REPO transaction, under a contract of loan, obtaining on a returnable basis under the terms defined by **Item 8** of this Article) of securities of the same issue (additional issue) or of investment shares of the same unit investment fund for which the short position has been opened.

If within the same day the transactions involving acquisition and sale (retirement) of securities are concurrently made, a short position shall be closed on the basis of the results of this day solely if the number of acquired securities exceeds the number of sold ones. A taxpayer shall be entitled to provide in the accounting policy adopted by him for taxation purposes for closing a short position within a single day subject to the order of transactions involving the acquisition and sale (retirement) of securities,

The date of closing a short position shall be deemed the date of transfer to a taxpayer of ownership of the securities whose obtaining leads to the short position's closure in the procedure provided for by this Item.

The re-qualification of a REPO transaction for the purposes of this item's application means that the parties to the REPO transaction become obliged to account the outlays on acquisition (incomes derived from sale) of securities under the first part of the REPO transaction subject to the provisions established by **Article 280** of this Code.

The order of closing short positions for securities pertaining to the same issue (additional issue) or investment shares of the same unit investment fund shall be independently established by a taxpayer in compliance with the accounting policy adopted by him for the taxation purpose by using one of the following methods:

first shall be closed the short position that was opened first;

a short position shall be closed by a taxpayer on the basis of the cost of securities in a specific open short position.

A taxpayer's incomes (outlays) from selling (acquiring) a security when opening (closing) a short position shall be estimated in compliance with **Article 280, 302, 303, 305, 326** and **329** of this Code (as regards incomes derived from supplying the base asset and outlays in the form of the base asset's cost ) subject to the specifics established by this article with respect to the interest (coupon) income and shall be accounted in estimation of the tax base as of the closing date of the short position for this security.

In the event of closing a short position in respect of the securities for which charging of interest (coupon) income is provided for, the taxpayer that has opened such short position shall charge the interest spending to be estimated as the difference between the amount of the accumulated interest (coupon) income as of the date of closing the short position (including the sums of interest (coupon) income paid by the issuer within the period between the date of opening and the date of closing the short position) and the amount of accumulated interest (coupon) income as of the date when the short position is opened). The interest (coupon) income shall be charged while opening a short position, recognising the sums of accumulated outlays as of the date of closing this short position or as of the last date of an accounting (tax) period, if the short position was not closed in the accounting (tax) period. If the interest (coupon) income is taxed at the tax rates provided for by **Item 4 of Article 284** of this Code, the sums of charged interest (coupon) income cited above shall be referred to the reduction of the amount of the interest (coupon) income taxable at the appropriate tax rate.

If within the period between the date of opening and the date of closing a short position



the nominal value of a security was partially redeemed, the amount paid (to be paid or to be charged to the reduction of the sum of the monetary assets which must be paid by the seller under the first part of a REPO transaction when subsequently acquiring securities under the second part of the REPO transaction) to the seller under the first part of the REPO transaction (to the creditor in respect of a loan granted in securities) within the limits of the sum of partial redemption of the nominal value of securities in compliance with the terms of issuance thereof.

Analytical accounts of short positions for taxation purposes shall be kept by a taxpayer in respect of each open short position.

**10. Abrogated** from January 1, 2010.

**Article 282.1.** The Specifics of Taxation When Making Operations of Granting Loans in the Form of Securities

**1.** Securities shall be loaned on the basis of an agreement of loan made under the legislation of the Russian Federation or the **legislation** of foreign states satisfying the terms defined by this Item (hereinafter also referred to as an agreement of loan).

The rules of this Article shall apply to operations of granting loans in the form of securities held by a taxpayer which are made on account thereof by commission agents, proxies, agents or trust managers on the basis of corresponding civil law contracts.

For the purposes of this Chapter, a contract of loan granted (received) in the form of securities must provide for paying interest in monetary terms.

The interest rate or a procedure for its estimation shall be established by the terms and conditions of a contract of loan. For the purpose of estimating interest under a contract of loan the cost of the securities transferred under the contract of loan shall be deemed equal to the market price of corresponding securities as of the date of making the agreement or, if there is no market price thereof, to the estimated price thereof. In so doing the market and estimated prices of securities shall be fixed in compliance with **Items 5 and 6 of Article 280** of this Code respectively.

Where it is provided for by a contract of loan, the cost of the securities transferred by a commission agent, proxy or agent to a client under the agreement of loan shall be likewise estimated according to the rules for assessing the client's supply in respect of the granted loans which are established by the federal executive power body responsible for the securities market. With this, the cost of securities shall be fixed on the basis of the last price of a security estimated according to the cited rules on the trading day determined in compliance with the documents of a stock exchange.

As the starting date of a loan shall be deemed the date of transfer of securities' ownership when they are transferred by the creditor to the borrower, while the date of transfer of securities ownership when they are transferred by the borrower to the creditor shall be deemed the end date of the loan.

For the purposes of this Chapter, the validity term of a contract of loan granted in the form of securities shall be at most one year.

**2.** Where a contract of loan does not fix the deadline for return of securities or the cited deadline is determined by the time of claiming for them (a contract of loan with a blind date) and within a year from the starting date of a loan securities were not returned by the borrower to the creditor, upon the expiry of a year from the starting date of a loan for the taxation purposes shall be recognised:

for the creditor - incomes derived from selling the securities transferred under a contract of loan which are estimated on the basis of the market price (estimated price) of securities fixed in compliance with **Article 280** of this Code, as of the starting date of the loan. On such occasion, the creditor's outlays shall be estimated in the procedure established by **Item 2 of Article 280** of this Code;

for the borrower - off-sale incomes estimated on the basis of the market (estimated)

value of securities fixed in compliance with **Article 280** of this Code as of the starting date of a loan. In the course of subsequent sale of the securities obtained under a contract of loan outlays on acquisition thereof shall be deemed equal to the sum of the income included into the tax base in compliance with **Article 250** of this Code.

The provisions of this Item shall likewise apply in the following instances:

if a contract of loan has fixed the time for the loan's return but upon the expiry of one year as of the starting date of the loan the securities were not returned by the borrower to the creditor;

if the obligation to return securities was terminated by the creditor's payment of monetary assets or by transfer of property, other than securities.

**3.** In the event of failure to discharge or incomplete discharge of obligations as to the return of securities in respect of operations of loan granted in the form of securities, the taxation procedure established by **Item 1 of Article 282** of this Code for a REPO transaction in respect of which obligations have been improperly discharged and the procedure for settling counterclaims have not been carried out shall apply.

**4.** When loaning securities and returning them thereafter, the financial result for taxation purposes in compliance with **Article 280** of this Code shall not be assessed by the creditor, except as established by this Article. In so doing, the outlays on acquisition of the securities transferred a contract of loan shall be accounted by the creditor in the course of the subsequent (after the loan's return) sale (retirement) of the cited securities subject to the provisions of Article 280 of this Code.

**5.** Under a contract of loan, payments concerning securities the right to which originated within the validity term of the contract of loan shall not be deemed the borrower's incomes and shall be included into the creditor's incomes.

The interest (coupon) income shall be accounted in estimation of the tax base in the procedure established by **Articles 250, 271, 273 and 328** of this Code and shall not be accounted in the borrower's tax base for the interest (coupon) income on the securities constituting the loan's object.

The incomes defined by this Item shall be taxed at the tax rates established by **Article 284** of this Code. In so doing, the cited tax rates shall apply depending on the kind of securities (instrument of debt).

The provisions of this Item shall not extend to the creditor, if securities have been obtained under another contract of loan and/or under the first part of a REPO transaction.

**6.** Where an agreement of loan is made by a foreign organisation (creditor) and a Russian organisation (borrower) and within the validity period of the agreement of loan an interest (discount) income on the securities was paid or dividends were paid on the stocks (depository receipts giving the right to receive dividends) constituting the object of the loan, the Russian organisation shall be deemed a tax agent with respect to the incomes in the form of the dividends or the interest (discount) income from which tax was not deducted at the source of payment or tax was deducted in the amount which was less than the sum of the tax estimated for the cited foreign organisation.

**7.** The interest to be received by the creditor under a contract of loan shall be deemed the creditor's off-sale income accountable in compliance with **Articles 250, 271 and 290** of this Code.

The interest to be paid by the borrower under a contract of loan shall be deemed the off-sale outlays accountable in estimation of the tax base subject to **Articles 265, 269 and 272** of this Code.

**8.** In the event of sale (retirement) of the securities obtained under an agreement of loan, the provisions of **Item 9 of Article 282** of this Code shall apply.

**9.** If between the starting date and end date of a loan the securities constituting the

object of the loan are converted, in particular in connection with the splitting, consolidation thereof or alteration of their nominal value, or the individual number (code) of an additional issue of such securities is cancelled, or the individual state registration number of an issue (the individual number (code) of an additional issue), the individual identification number (the individual identification number (individual number (code) of an additional issue) of such securities have been changed, such actions shall not change the taxation procedure established by this Article.

**10.** Taxpayers shall keep separate records in respect of the securities transferred (received) within the framework of loans granted in the form of securities. Analytical accounts in respect of loans granted in form of securities shall be kept for each granted (received) loan.

**11.** Obligations (claims ) to return a loan granted in the form of securities whose object are securities nominated in foreign currency, which the borrower (lender) has, shall not be re-assessed in connection with alteration of official exchange rates of foreign currencies with respect to the rouble of the Russian Federation fixed by the Central Bank of the Russian Federation.

### **Article 283.** Transfer of Losses to the Future

**Federal Law** No. 336-FZ of November 28, 2011 reworded Item 1 of Article 283 of this Code. The new wording shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for tax on profits of organisations

**1.** Taxpayers who have suffered a loss (losses) calculated in conformity with this Chapter in the previous tax period or in the previous tax periods shall have the right to reduce the tax base of the current tax period by the entire sum of the loss they have suffered, or by a part of this sum (to carry the loss forward). With this, the tax base of the current tax period shall be estimated taking into account the specifics envisaged by this Article, by **Articles 264.1, 268.1, 275.1, 278.1, 278.2, 280** and **304** of this Code.

The provision of this item shall not extend to the losses incurred by a taxpayer within the period while the income thereof is taxed at the 0 per cent rate.

The provision of this item shall not also extend to the losses from participation in an investment partnership suffered within the tax period in which a taxpayer joined an agreement of investment partnership earlier made by other parties thereto, in particular as a result the cession of rights and duties under the agreement by some other person.

**Federal Law** No. 336-FZ of November 28, 2011 supplemented Article 283 of this Code with Item 1.1. The Item shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for tax on profits of organisations

**1.1.** Losses suffered by a taxpayer as a result of operations within the framework of an investment partnership shall be carried forward subject to the provisions of **Item 4 of Article 278.2** of this Code.

**2.** Taxpayers shall have the right to transfer the loss to the future for the ten years following the tax period in which this loss was incurred.

Taxpayers shall have the right to transfer onto the current tax period the sum of the loss incurred in the previous tax period.

The loss which has not been transferred to the closest next year may in a similar order be transferred, either wholly or in part, to the closest next year of the subsequent ten years, while taking into account the provisions of the second paragraph of this Item.

The limitation established by the **second paragraph** in this Item shall not apply to the taxpayers - the organisations having the status of a resident of the industrial production special economic zone or a special tourism-recreation economic zone.

**3.** If the taxpayer has incurred losses in more than one tax period, such losses shall be transferred to the future in the order of priority in which they have been incurred.

**4.** Taxpayers shall be obliged to keep the documents confirming the volume of the incurred loss in the course of the entire term when he reduces the tax base of the current tax period by the sums of the earlier incurred losses.

**5.** If taxpayers stop their activity because of reorganisation, the tax paying legal successor shall have the right to reduce the tax base in the order and on the terms envisaged by this Article by the sum of the losses incurred by the organisations put under reorganisation, prior to the moment of reorganisation.

**6.** If a consolidated group of taxpayers has suffered a loss (losses) in the previous tax period or in the previous tax periods, the responsible participant in such group is entitled to reduce the consolidated tax base of the current tax period by the total sum of the loss or by a part of this sum.

An organisation which a participant in a consolidated group of taxpayers after withdrawal from this group (termination of this group's operation):

1) is not entitled to reduce the tax base of the current tax period by the amount of the loss suffered by the cited group within the period of its operation (by a part of this sum);

2) is entitled to reduce the tax base of the current tax period by the sum of the loss suffered by the cited organisation according to the results of the tax periods (by a part of this sum) in which it was not a participant in the consolidated group of taxpayers in the procedure and under the terms which are provided for by this article. In so doing, the time period provided for by **Item 2** of this article in which a taxpayer is entitled to carry a loss forward shall be prolonged by the number of years within which such taxpayer was a participant in the consolidated group of taxpayers.

If an organisation which is a participant in a consolidated group of taxpayers was re-organised in the form of merger or affiliation within the period of its participation in the cited group, this organisation after withdrawal from the cited group (termination of operation of the cited group) is also entitled to reduce the tax base of the current tax period by the sum of the loss suffered by the organisations (by a part of this sum) for which the organisation that has withdrawn from the group is the legal successor according to the results of the tax periods in which such re-organised organisations were not participants in the consolidated group of taxpayers in the procedure and under the conditions which are provided for by this article.

If an organisation, which is a participant in a consolidated group of taxpayers. within the period of its participation in the cited group was newly established by way of division of an organisation, this organisation after withdrawal from the cited group (termination of operation of this group) is also entitled to reduce the tax base of the current tax period by the amount of the loss suffered by the organisation (by a part of this sum) for which the organisation that has withdrawn from this group is the legal successor according to the results of the tax periods in which such re-organised organisation was not a participant in the consolidated group of taxpayers in the procedure and under the conditions which are provided for by this article, subject to **Article 50** of this Code.

## **Article 284.** Tax Rates

*Federal Law No. 110-FZ of August 6, 2001 (in the wording of Federal Law No. 158-FZ of July*

*22, 2008) established the tax rate for agricultural commodity producers that have not cut over to the taxation system for agricultural commodity producers (uniform agricultural tax) in respect of activity connected with the sale of agricultural products made by them, as well as with the sale of their own agricultural products produced and processed by these organisations: in 2004 - 2012 - 0 per cent; in 2013 - 2015 - 18 per cent; starting from 2016 - in accordance with Item 1 of Article 284 of this Code*

**1.** The tax rate shall be established in the amount of 20 per cent, except for the instances provided for by **Items from 1.1 to 5.1** of this Article. In this case:

- the tax amount calculated at a two per cent tax rate shall be entered to the federal budget;

- the tax amount calculated at an 18 per cent tax rate shall be entered to the budgets of the entities of the Russian Federation.

The laws of the subjects of the Russian Federation may reduce the rate of the tax to be entered into the budgets of the subjects of the Russian Federation for individual categories of taxpayers. With this, the said tax rate may not be less than 13.5 per cent, if not otherwise provided for by this item.

For organisations deemed residents of a special economic zone laws of a subjects of the Russian Federation may establish a lowered rate of the profit tax that is subject to entry in the budgets of the subjects of the Russian Federation from an activity pursued on the territory of the special economic zone, provided separate record is kept of the incomes (expenses) received (incurred) from an activity pursued on the territory of the special economic zone, and the incomes (expenses) received (incurred) in the pursuance of an activity outside of the territory of the special economic zone. In this case, the said tax rate shall not be exceed 13.5 per cent.

**1.1.** With respect to the tax base estimated by the organisations engaged in educational and/or medical activities (except for the tax base for which tax rates are fixed by **Items 3 and 4** of this article) shall apply the 0 per cent tax rate subject to the specifics established by **Article 284.1** of this Code.

**1.2.** For the resident organisations of a techno-promotional special economic zone, as well as for the resident organisations of tourist-recreational special economic zone united by decision of the Government of the Russian Federation into a cluster, the tax rate for tax which is subject to entering to the federal budget shall be established in the amount of 0 per cent.

The cited tax rate shall apply to the following:

the profits derived from the activities exercised in a techno-promotional special economic zone, provided that the incomes (expenses) derived (made) as a result of the activities exercised in the techno-promotional special economic zone and the incomes (expenses) derived (made) while exercising activities outside the techno-promotional special economic zone are separately accounted;

the profits derived from the activities exercised in tourist-recreational special economic zones united by decision of the Government of the Russian Federation into a cluster, provided that the incomes (expenses) derived (made) as a result of the activities exercised in tourist-recreational special economic zones and the incomes (expenses) derived (made) while exercising activities outside such tourist-recreational zones are separately accounted.

The organisations cited in this item are entitled to apply the 0 per cent rate of tax which is subject to entering to the federal budget from the first day of the tax period following the accounting (tax) period in which an organisation in compliance with the **legislation** of the Russian Federation acquired the status of a resident of a techno-promotional special economic zone or the status of a resident of tourist-recreational special economic zones united by

decision of the Government of the Russian Federation into a cluster. The right of application of the cited tax rate shall be lost from the first day of the accounting (tax) period in which an organisation in compliance with the legislation of the Russian Federation lost the status of a resident of a techno-promotional special economic zone or the status of a resident of the tourist-recreational special economic zones united by decision of the Government of the Russian Federation into a cluster.

**2.** The rates of tax on the incomes of foreign organisations not connected with activity in the Russian Federation through their permanent representation, shall be established in the following amounts:

1) 20 per cent - from any kind of incomes, except for those indicated in Subitem 2 of this Item and in **Items 3 and 4** of this Article subject to the provisions of **Article 310** of this Code;

2) 10 per cent - from the use, maintenance or letting out (freighting) of ships, aircraft and other mobile transportation facilities or containers (including trailers and auxiliary equipment necessary for transportation) in connection with the performance of international shipments.

**3.** The following tax rates shall apply to the tax base estimated from incomes received in the form of dividends:

1) zero per cent - for incomes received by Russian organisations in the form of dividends, provided that on the day of the adoption of a decision on the payment of dividends the organisation that receives dividends possesses continuously for no less than calendar 365 days by right of ownership no less than 50 per cent deposit (stake) in the statutory (pooled) capital or fund of the organisation that pays out dividends or of the depository receipts entitling the recipients to receive dividends in the amount that corresponds to no less than 50 per cent of the total sum of the dividends paid by the organisation.

If the organisation that pays out dividends is foreign, the tax rate fixed by this Subitem shall apply to the organisations whose State's permanent location is not included in the list (approved by the Ministry of Finance of the Russian Federation) of the states and the territories which grant a preferential tax treatment and/or which do not provide for the disclosure and the submission of information during financial operations (off-shore zones);

2) nine per cent - for incomes received in the form of dividends from Russian and foreign organisations by Russian organisations not indicated in **Subitem 1** of this Item.

3) fifteen per cent - for incomes received in the form of dividends from Russian organisations by foreign organisations.

The tax shall be counted with reference to the specific features stipulated by **Article 275** of this Code.

To confirm the right to use the tax rate, fixed by **Subitem 1** of the present Item, the taxpayers shall be obliged to submit to tax bodies the documents containing information about the date (dates) of the acquisition (reception) of the right of ownership of the deposit (stake) in the authorised (pooled) capital (fund) of the organisation that pays dividends or of the depository receipts which entitle recipients to receive dividends.

Such documents may include contracts of purchase and sale (barter) decisions on the placement of underwriting securities, contracts of reorganisation merger or incorporation, decisions on reorganisation, division, separation or transformation, liquidation (dividing) balances, assignment deeds, certificates of the state registration of an organisation, privatisation plans, decisions on the issue of securities, reports on the results of the issue of securities, issue prospectuses, judicial rulings, charters, constituent instruments (decisions on foundations) or their analogs, receipts from personal accounts in the system of keeping a register of shareholders (participants), receipts from depo accounts. They may include

containing information about dates of acquiring or receiving of the right of property of a deposit or a stake in the authorised (pooled) capital or fund paying out the organisation's dividends or of depositary receipts giving the right to receive dividends. The said documents or their copies, if they are written out in a foreign language shall be legalised in the established order and translated into the Russian language.

**4.** The following tax rates shall apply to the tax base defined according to operations in particular types of debt liabilities:

1) 15 per cent - on income in the form of interest on governmental securities of member states of the Union State, governmental securities of constituent entities of the Russian Federation and municipal securities (except for securities indicated in Subitems 2 and 3 in the present Item, and an interest income received by Russian organisations on state and municipal securities floated outside the Russian Federation, except for an interest income received by the primary holders of the state securities of the Russian Federation they have received in exchange for state short-term non-coupon bonds in the procedure established by the Government of the Russian Federation), the terms of whose issue and trading provide for the receipt of income in the form of interest, and also on incomes in the form of interest from the bonds with mortgage cover, issued after January 1, 2007 and on incomes of the founders of the trust management of mortgage cover, which were received on the basis of the acquisition of mortgage certificates of participation, issued by the manager of mortgage cover after January 1, 2007;

2) 9 per cent - on incomes in the form of interest on municipal securities issued for a period of not less than three years, up to January 1, 2007, and also on incomes in the form of interest on the bonds with mortgage cover, issued before January 1, 2007, and also on incomes in the form of interest on the bonds with mortgage cover, issued before January 1, 2007, and on the incomes of the founders of trust management of mortgage cover, received on the basis of the acquisition of the mortgage certificates of participation, issued by the manager of mortgage cover before January 1, 2007;

3) zero per cent - on income in the form of interest on government and municipal bonds issued before January 20, 1997 inclusive, and also on income in the form of interest on the bonds of the 1999 government foreign currency funded loan issued during the novation of the bonds of the internal government foreign currency loan of series III, issued for the purpose of securing the conditions necessary for the settlement of the internal foreign currency debt of the ex-USSR and the internal and external foreign currency debt of the Russian Federation.

**4.1.** With respect to the tax base determined for the incomes derived from the transactions of sale or other retirement (in particular redemption) of shareholdings in the authorised capital of Russian organisations, as well as of stocks of Russian organisations, shall apply the 0 per cent tax rate subject to the specifics established by **Article 284.2** of this Code.

**5.** The profit derived by the Central Bank of the Russian Federation from the performance of an activity involved in its discharge of the functions stipulated by the **Federal Law** on the Central Bank of the Russian Federation (the Bank of Russia), shall be levied with tax at a tax rate of 0 (zero) per cent.

The profit derived by the Central Bank of the Russian Federation from the performance of an activity not involved in its discharge of the functions envisaged by the Federal Law on the Central Bank of the Russian Federation (the Bank of Russia), shall be levied with tax in accordance at the tax rate envisaged by **Item 1** of this Article.

**5.1.** The profit derived by an organisation that has obtained the status of participant in the project involving scientific research works, development and commercialisation of their results in

compliance with the Federal Law on the Skolkovo Innovation Centre (hereinafter referred to in this item as a project participant) shall be taxed at the 0 % rate in respect of the profit received after termination of the exercise by the project participant of the right to relief from performing the duties of a taxpayer in compliance with Paragraph Three of Item 2 of **Article 246.1** of this Code.

In the tax period in which the aggregate amount of profit received by a project participant as progressive total starting from the first day of the year in which the project participant stopped exercising the right to relief from performing a taxpayer's duties in compliance with **Paragraph Three of Item 2 of Article 246.1** of this Code exceeded 300 million roubles and/or in which the project participant lost the status of project participant, the profit received by such project participant is subject to taxation at the tax rate fixed by **Item 1** of this article, with penalties for untimely payment of tax and advance payments thereof to be charged.

The form for estimation of the tax base for paying tax by a taxpayer and the procedure for completing it shall be endorsed by the Ministry of Finance of the Russian Federation.

Project participants shall keep tax records in the procedure established by **Article 346.24** of this Code, if they have used the right to keep an income and cost ledger in compliance with **Item 4 of Article 4** of Federal Law No. 129-FZ of November 21, 1996 on Bookkeeping.

**6.** The sum of tax calculated in accordance with the tax rates established by **Items 2-4** of this Article shall be entered into the federal budget.

#### **Article 284.1.** The Specifics of Applying the 0 Per Cent Tax Rate by Organisations Engaged in Educational and/or Medical Activities

**1.** The organisations engaged in educational and/or medical activities in compliance with the legislation of the Russian Federation are entitled to apply the 0 per cent tax rate, provided that the conditions established by this article are met.

For the purposes of this article, educational and medical activities mean the activities included in the List of Kinds of Educational and Medical Activities established by the Government of the Russian Federation. With this, the activities connected with sanatorium-and-spa treatment do not pertain to medical activities.

**2.** The 0 per cent tax rate shall be applied in compliance with this article by the organisations engaged in educational and/or medical activities to the total tax base estimated by such taxpayers (except for the tax base for which tax rates are fixed by **Items 3 and 4 of Article 284** of this Code) within the whole tax period.

**3.** The organisations cited in **Item 1** of this article are entitled to apply the 0 per cent tax rate if they meet the following conditions:

1) if an organisation holds the licence (licences) for exercising educational and/or medical activities issued in compliance with the **legislation** of the Russian Federation;

2) if an organisation's incomes for the tax period derived from educational and/or medical activities, as well as from carrying out scientific research and/or development works, accounted while estimating the tax base in compliance with this chapter constitute at least 90 per cent of its incomes accounted in estimation of the tax base in compliance with this chapter, or if an organisation has no incomes in the tax period which are accounted in estimation of the tax base in compliance with this chapter;

3) if the medical personnel holding the certificates of specialists constitutes in the total number of employees of an organisation engaged in medical activities at least 50 per cent on a permanent basis within the whole tax period;

4) if an organisation has on the staff thereof on a permanent basis within the whole tax period at least 15 employees;

5) if an organisation does not make operations in bills of exchange and financial instruments of time transactions within the tax period.



4. If the organisations cited in **Item 1** of this article that have passed over to the application of the 0 per cent tax rate in compliance with this article fails to meet at least one of the conditions established by **Item 3** of this article, from the start of the tax period in which the cited conditions were not met the tax rate fixed by **Item 1 of Article 284** of this Code shall apply. In so doing, the amount of tax is subject to restoration and payment to the budget in the established procedure with the appropriate penalties, charged from the date following the day of tax payment (of advance tax payment) fixed by **Article 287** of this Code, to be paid.

5. Organisations wishing to apply the 0 per cent tax rate in compliance with this article at the latest a month before the start of the tax period starting from which the 0 per cent rate is to be applied shall file with the tax authorities at the place of their location an application and copies of the licence (licences) for exercising educational and/or medical activities issued in compliance with the **legislation** of the Russian Federation.

An organisation is entitled to specify the data cited in Paragraph One of this item and to present them to the tax authority jointly with the data cited in **Item 6** of this article upon termination of the first tax period within which it applies the 0 per cent tax rate in compliance with this article.

6. Organisations applying the 0 per cent tax rate in compliance with this article upon termination of every tax period within which they apply the 0 per cent tax rate shall file the following data with the tax authority at the place of their location at the time fixed by this chapter for presentation of the tax return:

on the share of an organisation's incomes derived from educational and/or medical activities accounted in estimation of the tax base in compliance with this chapter in the total sum of the organisation's incomes accounted in determination of the tax base in compliance with this chapter;

on the number of employees on the staff of an organisation.

Organisations engaged in medical activities shall additionally present data on the number of the medical workers holding certificates of specialists on the staff of an organisation.

In the event of failure to present in due time the data cited in this item to the tax authority at the taxpayer's location, starting from the tax period for which data have not be presented in the established procedure shall be applied the tax rate established by **Item 1 of Article 284** of this Code. With this, the amount of tax is subject to restoration and payment to the budget in the established procedure, with the appropriate sums of penalties, charged from the date following the day of tax payment (of advance tax payment) fixed by **Article 287** of this Code, to be recovered.

The form of presenting the data cited in this item shall be endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

7. Organisations applying the 0 per cent tax rate in compliance with this chapter are entitled to transfer to application of the tax rate fixed by **Item 1 of Article 284** of this Code by forwarding to the tax authority at the place of location thereof an appropriate application. With this, if the cited transfer does not commence from the start of a new tax period, the sum of tax for an appropriate tax period is subject to restoration and payment to the budget in the established procedure, with the sums of penalties, charged from the date following the day of tax payment (of advance tax payment) fixed by **Article 287** of this Code, to be paid.

8. Organisations applying the 0 per cent tax rate in compliance with this article that have transferred to application of the 0 per cent tax rate fixed by **Item 1 of Article 284** of this Code, in particular in connection with failure to meet the conditions established by **Item 3** of this Article, are not entitled to repeatedly transfer to application of the 0 per cent tax rate within five years starting from the tax period in which they transferred to application of the tax rate fixed by **Item 1** of Article 284 of this Code.

**Article 284.2.** The Specifics of Applying the 0 Per Cent Tax Rate in Respect of the Tax Base Rate Estimated for Transactions in Stocks (Shares of Participation in the Authorised Capital) of Russian Organisations

1. The 0 per cent tax rate provided for by **Item 4.1 of Article 284** of this Code shall apply in respect of the tax base estimated for incomes derived from the transactions of sale of other retirement (in particular redemption) of stocks of Russian organisations (shares of participation in the authorised capital of Russian organisations), provided that as of the date of sale or other retirement (in particular redemption) of such stocks (shares of participation in the authorised capital) they have been permanently possessed by a taxpayer on the basis of the right of ownership or other real right for over five years.

2. Subject to the requirement provided for by **Item 1** of this article, the 0 per cent tax rate stipulated by **Item 4.1 of Article 284** of this Code, shall apply to the tax base determined for the incomes derived from transactions of sale or other retirement (in particular redemption) of Russian organisations' stocks, if one of the following conditions in respect of the cited stocks is met:

1) if the stocks of Russian organisations pertain to securities which do not circulate in the organised securities market for the whole time period while a taxpayer possesses such stocks;

2) if the stocks of Russian organisations pertain to securities circulating in the organised securities market and are stocks of the high-technology (innovative) economy sector for the whole time period while a taxpayer has such stocks in possession thereof;

3) if the stocks of Russian organisations as of the date of their acquisition by a taxpayer pertain to securities which do not circulate in the organised securities market and as of the date of their sale by the cited taxpayer or of other retirement therefrom (in particular redemption) pertain to the securities circulating in the organised securities market and represent stocks of the high-technology (innovative) economy sector.

3. A procedure for classifying stocks of Russian organisations circulating in the organised securities market as stocks of the high-technology (innovative) economy sector shall be established by the Government of the Russian Federation.

**Article 285.** Tax Period and Reporting Period

1. Recognised as the tax period for tax shall be the calendar year.

2. Recognised as reporting periods for tax shall be the first quarter, the half-year and nine months of the calendar year.

As reporting periods for the taxpayers calculating monthly advance payments reasoning from the actually gained profits shall be recognised as one month, two months, three months and so on up to the end of a calendar year.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 286 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 286.** Procedure for the Calculation of Tax and Advance Payments

*On the Procedure for the Charge of the Monthly Advance Payments of the Tax on Profit in the First Quarter of 2004, see Letter of the Ministry of Taxation of the Russian Federation No. VG-6-02/1372 of December 26, 2003*

1. Tax shall be defined as the percentages part of the tax base corresponding to the tax rate, which shall be defined in conformity with **Article 274** of this Code.

2. Unless otherwise established by **Items 4, 5 and 7** of this Article, the taxpayer shall define the sum of tax by the results of the tax period on his own.

On the basis of the results of each **reporting (tax) period**, if not otherwise provided for by this Article, taxpayers shall calculate the sum of the advance payment reasoning from the tax rate and taxable profits calculated as a progressive total from the start of the tax period to the end of the reporting (tax) period. During a report period taxpayers shall calculate the sum of the monthly advance payment in the procedure established by this Article.

The sum of the monthly advance payment to be made in the first quarter of the current tax period shall be regarded as equal to the sum of the monthly advance payment to be paid by the taxpayer in the last quarter of the previous tax period. The sum of the monthly advance payment to be made in the second quarter of the current tax period shall be regarded as equal to one third of the sum of the advance payment calculated for the first reporting period of the current year. The sum of the monthly advance payment to be made in the third quarter of the current tax period shall be regarded as equal to one third of the difference between the sum of the advance payment calculated on the basis of the results of half a year and the sum of the advance payment calculated on the basis of the results of the first quarter.

The sum of the monthly advance payment to be made in the fourth quarter of the current tax period shall be regarded as equal to one third of the difference between the sum of the advance payment calculated on the basis of the results of nine months and the sum of the advance payment calculated on the basis of the results of half a year.

If the sum of a monthly advance payment calculated in such a way is negative or is equal to zero, the said payments in the corresponding quarter shall not be made.

The taxpayers shall have the right to switch to the calculation of monthly advance payments proceeding from the actually derived profit subject to the calculation. In this case, the sums of the advance payments shall be calculated by taxpayers proceeding from the tax rate and from the actually derived profit calculated by progressive total as from the start of the tax period and to the end of the corresponding month.

With this, the sum of the advance payments subject to entry into the budget shall be defined with account taken of the earlier calculated sums of advance payments. The taxpayer shall have the right to switch to making monthly advance payments, proceeding from the actual profit, having notified to this effect the tax body not later than December 31 of the year preceding the tax period in which the transfer to this system of making advance payments is taking place. The system for making advance payments cannot be changed by the taxpayer in the course of the tax period.

In a consolidated group of taxpayers the sum of an advance payment in respect of this group shall be estimated and paid by the responsible participant in this group in compliance with the rules established by this article.

**Federal Law** No. 336-FZ of November 28, 2011 amended Item 3 of Article 286 of this Code. The amendments shall **enter into force** from January 1, 2012, but at the earliest upon the expiry of a month from the day of the official publication of the said Federal Law and not earlier than the first day of the next **tax period** for tax on profits of organisations

3. Organisations whose incomes from sales defined in compliance with **Article 249** of this Code have not exceeded on average ten million roubles in every quarter over the preceding four quarters, as well as budgetary institutions, autonomous institutions, foreign organisations carrying out activity in the Russian Federation through their permanent representation, non-profit organisations deriving no income from the sale of commodities (works, services), the

participants in simple partnerships and investment partnerships with respect to the incomes they derive from taking part in simple partnerships, the investors in production sharing agreements in the part of incomes derived from the implementation of the said agreements and beneficiaries on the trust management agreements, shall make only quarterly advance payments by the results of the reporting period.

4. If the taxpayer is a foreign organisation deriving incomes from sources in the Russian Federation not connected with permanent representation in the Russian Federation, the duty to define the sum of the tax, to withhold this sum from the taxpayer's income and to transfer the tax to the budget shall be imposed upon Russian organisations or upon foreign organisations performing an activity in the Russian Federation through permanent representation (upon tax agents), which (who) shall pay out the said income to the taxpayer.

The tax agent shall define the sum of tax for every payment (transfer) of the monetary funds or for other receipt of the income.

5. Russian organisations paying out incomes to taxpayers in the form of dividends, as well as in the form of interest on state or municipal securities, subject to taxation in conformity with this Chapter, shall define the sum of tax separately for every one of such taxpayers as applied to every payment of the said incomes:

1) if the source of the taxpayer's incomes is a Russian organisation, the duty to withhold the tax from the taxpayer's incomes and to transfer it to the budget shall be imposed upon this source of incomes.

In this case, the tax in the form of advance payments shall be withheld from the taxpayer's incomes in every payment of such income;

2) when selling the state and municipal securities whose circulation provides for the recognition as income gained by the seller in the form of interest, the sums of accumulated interest yields (accumulated coupon yields), the taxpaying recipient of the yields shall independently calculate and pay the tax on such yields.

Information on the kinds of securities to which the procedure established by this Item is applied shall be brought to the taxpayers' attention by the federal executive power body authorised by the Government of the Russian Federation.

*See the **List of State and Municipal Securities Whose Circulation Provides for the Recognition as Income Received by a Seller in the Form of Interest approved by Order of the Ministry of Finance of the Russian Federation No. 80n of August 5, 2002***

In the event of a sale (disposal) of state and municipal securities whose circulation is not subject to the provision that the amounts of accumulated interest income (accumulated coupon income) are recognised as an income received by a seller in the form of interest the taxpayer being the beneficiary of the income accrues and pays on his own the tax on such incomes taxable at the tax rate established by **Item 1 of Article 284** of this Code, except as otherwise established by this Code.

6. Organisations established after the entry of this Chapter into force shall start paying monthly advance payments on the expiry of a complete quarter, as of the date of their state registration.

7. In a consolidated group of taxpayers the sum of tax in respect of this group according to the results of a tax period shall be estimated by the responsible participant in this group.

8. The sum of a monthly advance payment of tax to be paid by the responsible participant in a consolidated group of taxpayers in the first quarter of the tax period in which this

group started its operation shall be estimated as the sum of monthly advance payments of all the participants in this group to be paid in the third quarter of the tax period that comes before this group's forming.

**9.** If in compliance with the legislation on taxes and fees an agreement on forming a consolidated group of taxpayers is registered by an authorized tax agency after the start of a tax period, the advance payments made by the participants in the consolidated group of taxpayers on the basis of the results of the accounting periods that have expired since the start of the tax period are subject to set-off (repayment) to an appropriate participant in the consolidated group of taxpayers.

In so doing, the penalties on the amount of arrears that has resulted from estimation of the consolidated tax base by the responsible participant in a consolidated group of taxpayers on the basis of the results of the accounting periods that have expired since the start of the tax period shall be charged for each calendar day of a delay in the discharge by the responsible participant in the consolidated group of taxpayers of the duty of paying tax (of making advance payments) following the date of paying tax (making advance payments), established by this article on the basis of the results of the accounting (tax) period, in which the consolidated group was registered.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 287 of this Code*

*The amendments shall enter into force from June 1, 2002*

*See the previous text of the Article*

#### **Article 287.** Time Terms and Procedure for the Payment of Tax, and of Tax in the Form of Advance Payments

**1.** Tax subject to payment after the expiry of the tax period, shall be paid not later than the deadline fixed for submitting tax declarations for the corresponding tax period by **Article 289** of this Code.

The advance payments on the basis of the results of the reporting period shall be made not later than the deadline, fixed for submitting tax declarations for the corresponding reporting period.

The monthly advance payments subject to payment in the course of the **reporting period** shall be made before the deadline of the 28th of every month of this reporting period.

Taxpayers calculating their monthly advance payments in accordance with actually derived profit shall make the advance payments not later than the 28th of the month next following the month on the basis of whose results the calculation of the tax is made.

The sums of monthly advance payments paid in the course of the reporting (tax) period by the results of the **reporting (tax)** period shall be set off when making the advance payments on the basis of the results of the report period. The advance payments on the basis of the results of the reporting period shall be set off against the payment of the tax by the results of the next reporting (tax) period.

**2.** The Russian organisation or the foreign organisation performing activity in the Russian Federation through its permanent representation (tax agents) paying out income to a foreign organisation shall withhold the sum of tax from the incomes of this foreign organisation, except for incomes in the form of dividends and interest on state and municipal securities (in respect of which the procedure established by **Item 4** of this Article shall apply), in every payment (transfer) to it of monetary funds or in another receipt of incomes by the foreign organisation, unless otherwise stipulated by this Code.

The tax agent shall be obliged to transfer the corresponding sum of tax at the latest on the day following the date of payment (transfer) of the monetary funds to the foreign organisation or of another receipt of incomes by the foreign organisation.

**3.** The specifics in the payment of tax by taxpayers having set apart subdivisions, shall be established by **Article 288** of this Code.

**4.** Tax on incomes paid out to taxpayers in the form of dividends, as well as of interest on state and municipal securities, which is withheld in the payment of the income, shall be transferred to the budget by the tax agent who has effected the payment at latest on the day following the date of payment.

Tax on the incomes from the state and municipal securities in circulation there is a provision for recognising the amounts of accumulated interest income (accumulated coupon income) as an income received by a seller in the form of interest subject to taxation in conformity with **Item 4 of Article 284** of this Code in the receiver of incomes shall be paid to the budget by the tax paying receiver of the income in the course of ten days after the end of the relevant month of the accounting (tax) period in which the income is received on the basis of the dates deemed the dates of receipt of income in accordance with **Articles 271** and **273** of this Code.

**5.** The newly created organisations shall make advance payments for the corresponding reporting period on the condition that the earnings from sales have not exceeded one million roubles per month or three million roubles per quarter. If the above restrictions have been exceeded, beginning with the month following the month in which such an excess has taken place, the taxpayer shall make advance payments in accordance with the order stipulated by **Item 1** of this Article subject to the requirements of **Item 6 of Article 286** of this Code.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 288 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 288.** Specifics in the Calculation and Payment of Tax by Taxpayers Who Have Set Apart Subdivisions

**1.** Taxpaying Russian organisations which have set apart subdivisions shall calculate and pay to the federal budget the sums of advance payments, as well as the sums of tax calculated by the results of the tax period at the place of their location without distributing the said sum among the set apart subdivisions.

**2.** The advance payments and the sums of tax subject to entry to the revenue part of the budgets of the subjects of the Russian Federation and of the budgets of the municipal entities, shall be paid by taxpaying Russian organisations at the place of location of the organisation, as well as at the place of location of each of its set apart subdivisions, proceeding from the share of the profit falling on these set apart subdivisions which shall be defined as the average arithmetical value of the specific weight of an average listed number of workers (of outlays on wage payments) and of the specific weight of the residual cost of the depreciated property of this set apart subdivision, respectively, in the average listed number of workers (in outlays on wage payments) and in the residual cost of the depreciated property defined in conformity with **Item 1 of Article 257** of this Code for the taxpayer as a whole.

If the taxpayer has several detached units in the territory of one subject of the Russian Federation there is no need for profit distribution for each of such units. In this case the tax

amount payable to the budget of the subject of the Russian Federation shall be calculated on the basis of the share of profit calculated from the aggregate of data of the detached units located on the territory of the subject of the Russian Federation. While doing this, the taxpayer shall choose at his own discretion the detached unit through which tax payment is going to be made to the budget of the constituent entity of the Russian Federation, having notified of the decision taken by him before December 31 of the year preceding the tax period the tax bodies with which the taxpayer was registered for taxation purposes at the location of his detached units. The notice shall be presented to the tax authority if the taxpayer has changed the procedure for paying tax, the number of structural units in the territory of a constituent entity of the Russian Federation has changed or other changes affecting the procedure for paying tax have taken place.

The specific weight of an average listed number of workers and the specific weight of the residual cost of depreciated property, indicated in this Item, shall be defined reasoning from the actual indices of an average listed number of workers (of outlays on wage payments) and the residual cost of the fixed assets of the said organisations and their separate subdivisions, for the accounting (tax) period.

Taxpayers shall determine on their own which of the indices shall be applied - the average listed number of workers or the sum of the outlays on wage payments. The index chosen by the taxpayer shall remain unchangeable in the course of the tax period.

Instead of the index of the average listed number of workers, taxpayers with a seasonal cycle of work or with other specifics in the activity stipulating the seasonal character of attracting workers, may apply, by agreement with the tax body at the place of its location, the index of the specific weight of the outlays on the remuneration of labour, defined in conformity with **Article 255** of this Code. In this case shall be defined the specific weight of the outlays on the remuneration of labour of every set apart subdivision in the total taxpayer's outlays on the remuneration of labour.

The sum of the advance payments, as well as the sums of tax subject to entry into the revenue part of the budgets of the subjects of the Russian Federation and of the budgets of the municipal entities, shall be calculated in accordance with the tax rates operating on the territories where the organisation and its set apart subdivisions are situated.

In the event of establishing new detached units or liquidating detached units in the current tax period, the taxpayer within 10 days after termination of the accounting period is obliged to notify the tax authorities in the territory of the constituent entity of the Russian Federation where new detached units are established or liquidated of the selected detached unit through which tax will be paid to the budget of this constituent entity of the Russian Federation.

Tax shall be paid at the time fixed by this Code starting from the accounting (tax) period following the accounting (tax) period when such detached unit was established or liquidated.

For the purposes of this Article, organisations that have switched over to charging depreciation by the nonlinear method within depreciation groups are entitled to determine the residual value of depreciable property on the basis of accounting data.

**3.** Taxpayers shall calculate the advance payments on the tax, as well as the sums of tax to be entered to the budgets of the subjects of the Russian Federation and to the budgets of the municipal entities at the place of location of the set-apart subdivisions, on his own.

Taxpayers shall supply information on the sums of the advance payments on the tax, as well as on the sums of tax calculated by the results of the tax period, to his set apart subdivisions, as well as to the tax bodies at the place of location of the set apart subdivisions, not later than the deadline fixed by this Article for submitting tax declarations for the corresponding reporting or tax period.

**4.** Taxpayers shall pay the sums of advance payments and the sums of tax calculated by

the results of the tax period to the budgets of the subjects of the Russian Federation and to the local budgets at the place of location of the set apart subdivisions not later than the deadline fixed by Article 289 of this Code for submitting tax declarations for the corresponding reporting or tax period.

5. If the taxpayer has a set apart subdivision outside the Russian Federation, the tax shall be subject to payment to the budget with account taken of the specifics established by **Article 311** of this Code.

6. The provisions of this article shall apply when paying tax (making advance payments) by the responsible participant in a consolidated group of taxpayers for this group, subject to the specifics established by this item and, when tax is paid (advance payments are made) by the responsible participant in a consolidated group of taxpayers comprising organisations which are owners of the Unified Gas Supply System facilities, also subject to the specifics established by **Item 7** of this article.

The share of profit of each participant in a consolidated group of taxpayers and of each of their separate units in the aggregate profit of this group shall be estimated by the responsible participant in the consolidated group of taxpayers as the arithmetic average of the share of the staff on the payroll (of the outlays on wages) and the share of the residual value of the depreciable property of this participant or a separate unit respectively in the in the staff of the payroll (in the outlays on wages) and in the residual value of the depreciable property estimated in compliance with **Item 1 of Article 257** of this Code, in total for the consolidated group of taxpayers.

The consolidated group of taxpayers shall estimate the value of profit falling on each of the participant in the consolidated group of taxpayers and on each of their separate units by way of multiplying the share of profit of each of the participants in the consolidated group or of each separate unit of a participant in the consolidated group of taxpayers estimated in compliance with Paragraph Two of this item by the aggregate profit of this group.

The responsible participant in a consolidated group of taxpayers shall estimate and pay to the federal budget the sums of advance payments, as well as the sums of tax estimated on the basis of the results of a tax period, at the place of location thereof without distributing the cited sums to the participants in this group and to their separate units.

The sums of tax (of advance payments) to be entered to the budgets of constituent entities of the Russian Federation falling on each of the participants in a consolidated group of taxpayers and on each of separate units thereof shall be estimated at the tax rates which are in effect in the areas where the appropriate participants in the consolidated group of taxpayers and/or their separate units are located.

7. The responsible participant in a consolidated group of taxpayers comprising organisations which are owners of the Unified Gas Supply System facilities, when paying tax (making advance payments) in respect of this group shall define the following:

1) the indices  $d$  and  $p$  in respect of each constituent entity of the Russian Federation estimated on the basis of the following formulas:

$$d = \frac{d^*}{D}, \quad p = \frac{p^*}{P},$$

where  $d^*$  stands for the amount of profit estimated in compliance with **Item 6** of this article that falls on each of the participants of the consolidated group of taxpayers and on each of their separate units;



D stands for the aggregate profit of the consolidated group of taxpayers;

$P^*$  stands for the amount of tax estimated in respect of each of the organizations that has entered the consolidated group of taxpayers and in respect of each of the separate units thereof for 2011 which is subject to remittance to the budget of an appropriate constituent entity of the Russian Federation and declared in the tax declaration filed with tax authorities at latest on March 28, 2012 (regardless of the amendments made in the tax declaration after the cited date);

P stands for the aggregate sum of tax of all the participants in a consolidated group of taxpayers estimated for 2011 at the rates established in compliance with **Paragraphs Three and Four of Item 1** of Article 284 of this Code and determined on the basis of the data cited in the tax declarations filed by the organizations, that have joined the consolidated group of taxpayers, with tax authorities at latest on March 28, 2012 (without taking into account the amendments made in the tax declarations after the cited date);

2) the share of each participant in the consolidated group of taxpayers and of each the separate units thereof in the aggregate profit of this group as the index g estimated on the basis of the following formulas:

in 2012:  $g = 0.2 \times d + 0.8 \times p$ ;

in 2013:  $g = 0.4 \times d + 0.6 \times p$ ;

in 2014:  $g = 0.6 \times d + 0.4 \times p$ ;

in 2015:  $g = 0.8 \times d + 0.2 \times p$ ;

3) the amount of profit falling on each of the participants in the consolidated group of taxpayers and on each of their separate units by way of multiplying the index g estimated in compliance with **Subitem 2** of this Item by the aggregate profit of the group;

4) the amount of tax (advance payments) falling on each of the participants in the consolidated group of taxpayers and on each of their separate units in respect of which tax (advance payments) are paid to the budget of the appropriate constituent entity of the Russian Federation which is estimated on the basis of the amount of profit calculated in compliance with **Subitem 3** of this item and the tax rate which is in effect in the territory where a participant in the consolidated group of taxpayers or a separate unit thereof are located.

#### **Article 288.1.** Specifics of Estimation and Payment of Tax on Profits of Organisations by Residents of the Special Economic Zone in the Kaliningrad Region

1. Residents of the Special Economic Zone in the Kaliningrad Region (hereinafter also referred to as residents) shall pay tax on profits of organisations in compliance with this Chapter, except for the instances established by this Article.

2. Residents shall apply the special procedure for payment of tax on profits of organisations established by this Article in respect of the profits derived from implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region, provided that residents keep separate records of the incomes (outlays) received (made), when implementing the investment project, and of the incomes (outlays) received (made) when exercising other types of economic activities.

3. Where separate records of the incomes (outlays), received (made), when implementing an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region, and the incomes (outlays) received (made), when exercising other types of economic activities, are not kept, the profits derived from implementation of this investment project shall be taxed in compliance with this Chapter starting from the quarter when keeping of such separate records is terminated.

4. For the purposes of this Chapter, as the tax base for tax on the profits derived from implementation of an investment project in compliance with the **Federal Law** on the Special

Economic Zone in the Kaliningrad Region shall be deemed the profit in monetary terms derived from implementation of this investment project and assessed on the basis of data obtained as a result of keeping separate records of the incomes (outlays) received (made) in the course of implementation of this investment project and the incomes (outlays) received (made) in the course of exercising other types of economic activity, which the provisions of this Chapter apply to.

5. For the purposes of this Article, as incomes derived from implementation of an investment project in compliance with the **federal law** on the Special Economic Zone in the Kaliningrad Region shall be deemed the incomes derived from selling commodities (carrying out works or rendering services) produced as a result of implementation of this investment project, except for production of the commodities (carrying out the works or rendering services) that are not be the aim of the investment project.

6. Within six calendar years as of the date of inclusion of a legal entity into the uniform register of residents of the Special Economic Zone in the Kaliningrad Region, tax on the profits derived from selling commodities (carrying out works or rendering services), derived from implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone and determined in compliance with this Chapter and the Federal Law of the Special Economic Zone in the Kaliningrad Region, shall be collected at the 0 rate in respect of tax on profits of organisations.

7. Within the period from the seventh to twelfth calendar year inclusive, as of the date of including a legal entity into the uniform register of residents of the Special Economic Zone in the Kaliningrad Region, the rate of tax on profits of organisations with respect to the tax base for tax on the profits derived from implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region shall constitute the amount established by **Item 1 of Article 284** of this Code and reduced by fifty percent. For this:

1) tax on profits of organisations with respect to the tax base for tax on the profits derived from implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region estimated on the basis of the tax rate reduced by fifty per cent in the amount established by **Paragraph Two of Item 1 of Article 284** of this Code shall be entered into the federal budget;

2) tax on profits of organisations with respect to the tax base for tax on the profits derived from implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region estimated on the basis of the tax rate, reduced by fifty per cent, in the amount established by **Paragraph Three of Item 1 of Article 284** of this Code shall be entered into the budget of the Kaliningrad Region.

8. If a law of the Kaliningrad Region establishes in compliance with **Paragraph Four of Item 1 of Article 284** of this Code a reduced rate of tax on profits of organisations for individual categories of taxpayers, that include residents, in respect of the taxes to be entered into the budget of the Kaliningrad Region residents shall apply in the instances, provided for by this Article, this tax rate reduced by fifty per cent.

9. The difference between the amount of tax on profits of organisations with respect to the tax base for tax on the profit derived from implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region, that would be computed by a resident, if he did not apply the special order of paying tax on profits of organisations, established by this Article, and the amount of tax on profits of organisations computed by a resident in compliance with this Article in respect of the profits, derived from implementation of an investment project in compliance with the Federal Law on the Special Economic Zone in the Kaliningrad Region, shall not be included into the tax base for tax on profits of organisations for residents.

**10.** In the event of removal of a resident from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region until he obtains a certificate on the fulfilment of the conditions of the investment declaration, the resident shall be deemed to have lost the right to apply the special procedure for paying the tax on the profit of organisations established by this Article from the beginning of the quarter in which he was removed from the said Register.

In this case the resident must calculate the tax amount with respect to the profit gained from the realisation of the investment project in accordance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region at the tax rate established by **Item 1 of Article 284** of this Code.

The calculation of the tax amount shall be made on the basis of separate accounting of the incomes (expenses) gained (borne) in the realisation of the given investment project and also the incomes (expenses) gained (borne) in the carrying out of other economic activity for the period of the application of the special procedure of taxation.

The calculated tax amount shall be payable by the resident upon the expiry of the **reporting** or **tax period** in which he was removed from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region within the time periods established for making advance payments on the tax for the **reporting period** or for paying the tax for the tax period in accordance with **paragraphs one and two of Item 1 of Article 287** of this Code.

In the conduct of a field tax check of a resident removed from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region concerning the correctness of the calculation and fullness of payment of the tax amount with respect to profit gained from the realisation of an investment project, the restrictions established by **paragraph two of Item 4** and **Item 5 of Article 89** of this Code shall not be effective on condition that the decision on assigning such a check was rendered within three months from the moment of payment of the said tax amount by the resident.

***Federal Law No. 57-FZ of May 29, 2002 amended Article 289 of this Code**  
**The amendments shall enter into force from June 1, 2002**  
**See the previous text of the Article***

#### **Article 289.** Tax Declaration

**1.** Regardless of their duty to pay tax and (or) to make advance payments on the tax, as well as of the specifics in the calculation and payment of the tax, taxpayers shall be obliged, after the expiry of every reporting and tax period, to submit to the tax bodies at the place of their location and at the place of location of every one of the set apart subdivisions, unless otherwise stipulated in this Item, the corresponding tax declarations in the order established by this Article.

Tax agents shall be obliged, after the expiry of every reporting (tax) period in which they effected payments to the taxpayer, to submit to the tax bodies at the place of their location the **tax calculations** in accordance with the procedure defined by this Article.

The taxpayers, referred to the category of major taxpayers in conformity with **Article 83** of this Code, shall submit tax declarations (computations) to the tax body at the place of their recording as major taxpayers.

**2.** By the results of the **reporting period** taxpayers shall submit tax declarations made out in **simplified form**. Non-profit organisations with which no liabilities arise on the payment of tax shall submit the tax declaration of simplified form upon the expiry of the tax period.

**3.** Taxpayers (tax agents) shall submit tax declarations (tax calculations) in 28 calendar days at the latest, as of the date of the end of the corresponding tax period. The taxpayers

calculating the sums of monthly advance payments on the basis of actually received profits shall submit tax declarations within the terms established for making advance payments.

4. The tax declarations (tax calculations) by the results of the tax period shall be submitted by taxpayers (tax agents) not later than March 28 of the year following the expired tax period.

5. The organisation whose composition includes set apart subdivisions shall submit after the end of every reporting and tax period to the tax bodies at the place of its location the tax declaration for the organisation as a whole, with distribution by the set apart subdivisions.

6. Organisations that have received the status of participants in the project involving scientific research works, development and commercialization of their results in compliance with the **Federal Law** on the Skolkovo Innovation Centre and estimating the aggregate amount of profit in compliance with **Item 18 of Article 274** of this Code shall present, together with the tax return, an estimation of the aggregate amount of profit.

7. The participants in a consolidated group of taxpayers, except for the responsible participant in this group, shall not file tax declarations with the tax authorities at the place of registration thereof, if they do not derive incomes which are not includable in the consolidated tax base of this group.

If the participants in a consolidated group of taxpayers derive incomes which are not includable in the consolidated tax base of this group, they shall only file tax declarations at the place of registration thereof in respect of estimation of tax on such incomes.

8. The tax declaration for organisations profit tax in respect of a consolidated group of taxpayers based on the results of the accounting (tax) period shall be drawn up by the responsible participant in the this group on the basis of tax registration data and of the consolidated tax base in total for the consolidated group of taxpayers solely in respect of estimation of tax in respect of the consolidated tax base.

The responsible participant in a consolidated group of taxpayers is bound to file tax declarations for organisations profit tax in respect of the consolidated group of taxpayers with the tax authority at the place of registration of the agreement on forming such group in the procedure and at the time which are established by this article for the tax declaration on tax.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 290 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**

#### **Article 290. Specifics in Defining Banks' Incomes**

1. To banks' incomes, in addition to the incomes envisaged by **Articles 249** and **250** of this Code, shall also be referred incomes from the banking activity stipulated by this Article. The incomes envisaged by Articles 249 and 250 of this Code shall be defined with account taken of the specifics indicated in this Article.

2. For the purposes of this Chapter, to the banks' incomes shall be referred, in particular, the following incomes derived from the performance of banking activity:

1) in the form of interest derived from the bank's placement on its own behalf and at its own expense of monetary funds, as well as from granting credits and loans;

2) in the form of the payment for opening and keeping the bank accounts of clients, including of correspondent banks (including foreign correspondent banks), and for making

settlements on their orders, including commission and other forms of remuneration for transfers, encashment, credit letters and other transactions, for formalising and servicing payment cards and other special means intended for the performance of banking transactions, for giving out excerpts and the other documents, and for the search of assets;

3) from the encashment of monetary funds, promissory notes, payment and settlement documents and from the cash servicing of clients;

4) from carrying out transactions in foreign currency, in cash and cashless forms, among them commission fees (awards) in the transactions involved in the purchase or sale of foreign currency, including at the expense and on the orders of the client, and from operations with currency values.

To define the incomes of banks from sale (purchase) transactions in foreign currency in a reporting (tax) period there shall be accepted the positive difference between the incomes determined in compliance with **Item 2 of Article 250** of this Code and the outlays determined in compliance with **Subitem 6 of Item 1 of Article 265** of this Code.

5) from transactions involved in the purchase and sale of noble metals and precious stones in the form of the difference between the price of sale and the cost of discounting;

6) from transactions involved in granting the bank's guarantees and sureties for third persons, envisaging execution in the monetary form;

7) in the form of the positive difference between the sum of funds received from the termination or sale (from subsequent cession) of the right of claim (including that which was earlier acquired) and the cost of discounting of the given right of claim;

8) from the depositary servicing of clients;

9) from leasing especially equipped premises or safes for keeping documents and valuables;

10) in the form of payment for the delivery and shipment of monetary funds, securities and other valuables, as well as the bank's documents (except for encashment);

11) in the form of payment for shipment and storage of noble metals and precious stones;

12) in the form of the remuneration received by the bank from exporters and importers for the discharge of the functions of currency control agents;

13) from transactions involved in the purchase and sale of collection coins in the form of the difference between the price of sale and the price of acquisition;

14) in the form of the sums the bank received from returned credits (loans), the losses from whose writing off were earlier recorded in the composition of the outlays which have reduced the tax base, or which were written off at the expense of created reserves, the deductions on whose setting up previously reduced the tax base.

15) in the form of the compensation the bank received for making the outlays on remunerating the services of outside organisations involved in the exertion of control over the correspondence of the bars of noble metals received by the bank from natural persons and legal entities, to the standards;

16) from the performance of forfeiting and factoring transactions;

17) from rendering services connected with the installation and operation of electronic systems of documents circulation between a bank and clients, including systems "client-bank";

18) in the form of commission fees (remuneration), when making transactions in currency values;

19) in the form of the positive difference resulting from the excess of positive revaluation of precious metals over the negative revaluation thereof;

20) in the form of the sums of a reestablished reserve against possible losses in respect of loans where the outlays for forming it were included in the composition of outlays in the procedure and on the conditions which are established by **Article 292** of this Code;

21) in the form of the sums of re-established reserves against depreciation of securities where the outlays for forming them were included in the composition of outlays in the procedure and on the conditions which are established by **Article 300** of this Code;

22) the incomes connected with banking activity.

**3.** The sums of positive revaluation of funds in foreign currency received as payment for the banks' authorised capitals and also the insurance payments received under contracts of insurance against the death or disability of a borrower of a bank, within the sum of the borrower's indebtedness in the form of borrowed (credit) funds and accrued interest repaid (forgiven) by the bank with said insurance payments shall not be included into the bank's incomes.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 291 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 291.** Specifics in Defining Banks' Outlays

**1.** To banks' outlays, in addition to the outlays envisaged by **Articles 254-269** of this Code, shall also be referred those made in the performance of banking activity which are envisaged in this Article. The outlays envisaged in Articles 254-269 of this Code shall be defined taking into account the specifics described by the present Article.

**2.** For the purposes of this Chapter, to the banks' outlays shall be referred the outlays made when carrying out banking activity, in particular the following kinds:

1) interest on:

- contracts on the banks' contribution (deposit) and on other attracted monetary funds of natural persons and legal entities (including of correspondent banks), and likewise foreign ones, including for the use of the monetary funds kept on the banks' accounts;

- own debt liabilities (on bonds, deposits and savings certificates, promissory notes, loans or other liabilities);

- inter-bank credits, including overdrafts;

- the acquired refunding credits, including those acquired on an auction basis, in the order established by the Central Bank of the Russian Federation;

- loans and contributions (deposits) in the form of noble metals.

- other liabilities of banks with regard to clients, and likewise in respect of the assets deposited by client for settlements relating to letters of credit.

Interest calculated in conformity with this Item on inter-bank credits (deposits) with a term of up to seven days (inclusive) shall be recorded when defining the tax base, not taking into account the provisions of **Item 1 of Article 269** of this Code, proceeding from the actual time term of operation of the contracts;

2) the sums of deductions into the reserve against probable losses on loans subject to reservation in the order established by **Article 292** of this Code;

3) commission fees for the services on correspondent relations, including outlays on the cash-settlement servicing of the clients, on opening for them accounts in other banks, on the payment to other banks (including foreign ones) for the cash-settlement servicing of these accounts, on the settlement services of the Central Bank of the Russian Federation, on the encashment of the monetary funds, securities, payment documents, and other similar expenditures;

4) the outlays (losses) on (from) operations in foreign currency, made (incurred) in cash

and in non-cash forms, including commission fees (awards) in transactions involved in the purchase or sale of foreign currency, including at the expense and on the orders of the client, from transactions in currency values, and the expenditures on management and on protection against currency risks.

To determine the outlays of banks on transactions of sale (purchase) of foreign currency in a reporting (tax) period there shall be accepted the negative difference between the incomes determined in compliance with **Item 2 of Article 250** of this Code and the outlays determined in compliance with **Subitem 6 of Item 1 of Article 256** of this Code;

5) the losses on transactions involved in the purchase and sale of noble metals and precious stones in the form of the difference between the price of sale and the cost of discounting;

6) the bank's outlays on the storage, transportation and control over the correspondence of noble metals in bars and coins to quality standards, outlays on refining noble metals, and the other outlays involved in the performance of transactions with the bars of noble metals and with coins containing noble metals;

7) outlays on the transfer of pensions and allowances, as well as the outlays on the transfer of the monetary funds without opening accounts to natural persons;

8) outlays on the manufacture and introduction of the payment and settlement means (plastic cards, travellers' cheques and other payment and settlement means);

9) sums paid for the encashment of banknotes, coins, cheques and other payment and settlement documents, as well as outlays on packing (including making complete sets of cash), shipment and (or) the delivery of valuables belonging to the credit institution or to its clients;

10) outlays on the repairs and (or) restoration of collectors' bags, sacks and other equipment connected with the encashment of money, with the transportation and the storage of valuables, as well as with the acquisition of new and replacement of old bags and sacks which have become unfit for use;

11) outlays involved in the payment of the fee for state registration of the mortgage and in the introduction of amendments and addenda to the registration entry on the mortgage, as well as in the notary's certification of the contract of mortgage;

12) outlays on renting motor transport facilities for the encashment of earnings and on transportation of banks' documents and goods;

13) outlays on renting broker's places;

14) outlays on the remuneration of services rendered by cash-settlement and by computer centres;

15) outlays connected with the performance of forfeiting and factoring transactions;

16) outlays on the guarantees, sureties and acceptances granted to the bank by other organisations;

17) commission fees (remuneration) for making transactions in currency valuables, and likewise at the expense and on behalf of clients;

18) the positive difference resulting from the excess of negative revaluation of precious metals over positive one;

19) sums of allocations to the reserve against possible losses on loans indebtedness, where the outlays on forming it are accounted in the composition of outlays in the procedure and on the conditions which are established by **Article 292** of this Code;

20) sums of allocations to the reserves against depreciation of securities, where the outlays for forming them are accounted in the composition of outlays in the procedure and on the conditions which are established by **Article 300** of this Code;

**Federal Law No. 178-FZ of December 23, 2003 supplemented Item 2 of Article 291 of this Code with Subitem 20.1. The Subitem shall enter into force upon the expiry of one month**

*from the day of the **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for tax on profit of organisations*

20.1) the sums of bank insurance contributions, fixed in accordance with the **federal law** on the insurance deposits of natural persons in the banks of the Russian Federation;

20.2) the amounts of insurance premiums under contracts of insurance against the death or disability of a borrower of a bank under which the bank is a beneficiary, provided these expenses are compensated by borrowers;

21) other outlays involved in banking activity.

**3.** The sums of the negative revaluation of funds in foreign currency received by way of payment for the authorised capitals of credit institutions shall not be included in the bank's outlays.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 292 of this Code**

*The amendments **shall enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

**See the previous text of the Article**

#### **Article 292.** Outlays on Forming Banks' Reserves

**1.** For the purposes of this Chapter, the banks shall have the right, in addition to the reserves against risky debts envisaged by **Article 266** of this Code, to set up a reserve against probable losses on loan indebtedness and on the other kinds of indebtedness equated to it (including indebtedness on inter-bank credits and deposits (hereinafter referred to as reserves against possible losses on loan indebtedness) stipulated by this Article.

The sums of deductions to the reserves against probable losses on the loans, formed in accordance with the **procedure** established by the Central Bank of the Russian Federation in conformity with the **Federal Law** on the Central Bank of the Russian Federation (the Bank of Russia), shall be recognised as outlays, while taking into account the restrictions stipulated by this Article.

When defining the tax base, not taken into account shall be outlays in the form of deductions to the reserves against possible losses on loan indebtedness set up by banks against the indebtedness referred to standard one in accordance with the procedure established by the Central Bank of Russia, as well as the reserves against possible losses on loan indebtedness, created against promissory notes, with the exception of promissory notes of third persons, discounted by banks, on which a protest against non-payment is filed.

**2.** Sums of deductions to a reserve against probable losses on loans, set up subject to the provisions of Item 1 of this Article shall be included in the composition of extra-realisation outlays in the course of the reporting (tax) period.

The amounts of reserves for possible losses on loans classified as outlays of a bank shall be used by the bank when writing off the balance sheet of a credit organisation uncollectible debts on loans in the procedure established by the Central Bank of the Russian Federation.

When a bank adopts a decision to write off the balance sheet of a credit organisation uncollectible debts on loans, charging of interest on these loan debts shall be terminated, if charging of such interest has not been terminated before in compliance with a contract.

**3.** The sums of reserves against probable losses on the loans referred to the bank's outlays and not fully used by the banks in the reporting (tax) period for coverage of the losses



incurred on account of the hopeless indebtedness on loans and on the indebtedness equated to loan indebtedness may be put off to the next reporting (tax) period. In this case, the sum of the newly created reserve shall be corrected by the sum of the residual of the reserve of the previous reporting (tax) period. If the sum of the reserve newly created in the reporting (tax) period is less than the sum of the residual of the previous reporting (tax) period, the difference shall be included in the composition of the bank's extra-sale incomes on the last day of the reporting (tax) period. If the sum of the newly created reserve is larger than the sum of the residual of the previous reporting (tax) period, the difference shall be included into the extra-sale outlays of banks on the last date of a reporting (tax) period.

**Article 293.** Specifics in Defining the Incomes of Insurance Institutions (Insurers)

**1.** To the incomes of an insurance institution, in addition to the incomes stipulated in **Articles 249** and **250** of this Code, which are defined taking into account the specifics stipulated by this Article, shall also be referred the incomes derived from insurance activity.

*Federal Law No. 57-FZ of May 29, 2002 amended Item 2 of Article 293 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Item*

**2.** To the incomes of insurance institutions shall be referred, for the purposes of this Chapter, the following incomes from the performance of insurance activities:

1) insurance premiums (contributions) on the contracts of insurance, co-insurance and re-insurance. The insurance premiums (contributions) on the contracts of co-insurance shall be included in the composition of the incomes of the insurer (co-insurer) only in the amount of his share in the insurance premium (contribution) fixed in the contract of co-insurance;

2) the sums of the reduction (return) of the insurance reserves formed in the previous reporting periods, taking account for changes in the share of the re-insurers in the insurance reserves;

3) remunerations and bonuses (the form of the insurer's remuneration on the part of the re-insurer) on contracts of re-insurance;

4) remunerations from the insurers on contracts of co-insurance;

5) the sums of re-insurers' compensation of the share of the insurance payments on risks handed over into re-insurance;

6) the sums of interest on the premium deposits on the risks accepted into re-insurance;

7) incomes from the exercise of the right of claim of the insurer (beneficiary) against the persons responsible for inflicted damage which has passed to the insurer in conformity with the currently operating legislation;

8) the sums received in the form of sanctions for non-fulfilment of the terms of insurance contracts recognised by a debtor voluntarily or on the basis of a court decision;

9) remunerations for rendering the services of an insurance agent or broker;

10) remunerations received by the insurer for rendering the services of a surveyor (for examination of the property accepted into insurance and for the issue of conclusions on the evaluation of the insurance risk) and of those of an average commissioner (for identifying the reasons for, the character and the amount of the losses in case an insurance accident takes place);

11) the sums of insurance premiums (fees) under contracts of reinsurance partially returned in the event of their early termination;

*The amount of the positive difference stipulated by Subitem 11.1 of Item 2 of Article 293 of this Code (in the wording of **Federal Law** No. 300-FZ of November 15, 2010) arising before the day of **entry into force** of the said Federal Law, shall be **deemed** as income as on the day of entry into force of the said Federal Law, taking into account the provisions of **Article 330** of this Code (in the wording of Federal Law No. 300-FZ of November 15, 2010)*

11.1) the amount of the positive difference which has arisen with the insurer which has directly compensated for the losses as a result of the excess of the average amount of the insurance payment received from the insurer that has insured the civil liability of the person who has caused the harm over the amount of the payment to the victim as direct compensation for the losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil liability of owners of transport means;

*The amount of the positive difference stipulated by Subitem 11.2 of Item 2 of Article 293 of this Code (in the wording of **Federal Law** No. 300-FZ of November 15, 2010) arising before the day of **entry into force** of the said Federal Law, shall be **deemed** as income as on the day of entry into force of the said Federal Law, taking into account the provisions of **Article 330** of this Code (in the wording of Federal Law No. 300-FZ of November 15, 2010)*

11.2) the amount of the positive difference which has arisen with the insurer that has insured the civil liability of the person who has caused the harm as a result of the excess of the insurance of the insurance payment under an agreement of obligatory insurance of the civil liability of owners of transport means as direct compensation for the losses over the average amount of the insurance payment compensated to the insurer that has directly compensated for the losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil liability of owners of transport means;

12) other incomes derived in the performance of insurance activity.

#### **Article 294.** Specifics in Defining the Outlays of Insurance Institutions (Insurers)

**1.** In addition to the outlays envisaged by **Articles 254-269** of the present Code, to the outlays of an insurance institution shall also be referred those made in the performance of insurance activity which are envisaged by this Article. The outlays envisaged by Articles 254-269 of this Code shall be defined taking account of the specifics envisaged by this Article.

**2.** For the purposes of this Chapter, to the outlays of insurance institutions shall be referred the following outlays made in the performance of insurance activity:

1) the sums of deductions to the insurance reserves (taking into account changes in the share of re-insurers in the insurance reserves) formed on the grounds of the legislation on insurance in the order approved by the Ministry of Finance of the Russian Federation;

1.1) the amounts of allocations to the reserve of guarantees and the reserve of current compensation payments formed in compliance with the **laws** of the Russian Federation on obligatory insurance against civil liability of owners of transport vehicles in the amount established in compliance with the structure of insurance tariffs;

1.2) the amounts of allocations to the reserves (funds) established in compliance with the requirements of international systems of compulsory insurance against civil liability of owners of transport vehicles which the Russian Federation has joined to;

2) insurance payments on contracts of insurance, co-insurance and re-insurance. For the purposes of this Chapter, to insurance payments shall be referred payments of rent, annuities, pensions and other payments envisaged by the terms of the contract of insurance;

3) the sums of insurance premiums (contributions) on the risks handed over into re-insurance. The provisions of this Subitem shall be applied to the re-insurance contracts concluded by Russian insurance institutions with Russian and foreign re-insurers and brokers;

4) remunerations and bonuses out under the contract of re-insurance;

5) the sums of interest on the premium deposits on the risks handed over into re-insurance;

6) remunerations to the co-insurer on contracts of co-insurance;

7) the return of part of the insurance premiums (contributions), as well as of the redemption sums under a contract of insurance, co-insurance and re-insurance in the cases stipulated by legislation and (or) the terms of the contract;

8) remunerations for rendering services of an insurance agent and (or) insurance broker;

9) outlays involved in the payment to organisations or to individual natural persons for services involved in the insurance activity which they have rendered, including:

- for actuaries' services;

- for medical examination when concluding life and health insurance contracts, if payment for such medical examinations is to be effected by the insurer in accordance with the contracts;

- for detective services carried out by organisations which have licences for performing the said activity involved in establishing the justification of the insurance payments;

- for services of specialists (including experts, appraisers, surveyors, average commissars, lawyers) attracted for assessing an insurance risk, determining the insured cost of property and the size of an insurance payment, assessing the consequences of insured accidents, regulating insurance payments, and also in carrying out direct compensation of victims for losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil responsibility of owners of transport vehicles;

- for services involved in manufacturing insurance certificates (policies), strict accounting forms, receipt slips and other such documents;

- for the services of organisations involved in carrying out the workers' written orders, involved in the transfer of insurance contributions from wages by way of non-cash settlements;

- for the services of public health institutions and of other organisations connected with the issue of references, statistical data, conclusions and other similar documents;

- for collector's services;

*The amount of the negative difference stipulated by Subitem 9.1 of Item 2 of Article 294 of this Code (in the wording of **Federal Law** No. 300-FZ of November 15, 2010) arising before the day of **entry into force** of the said Federal Law, shall be **deemed** as expense as on the day of entry into force of the said Federal Law, taking into account the provisions of **Article 330** of this Code Federation (in the wording of Federal Law No. 300-FZ of November 15, 2010)*

9.1) the amount of the negative difference which has arisen with the insurer that has directly compensated for the losses as a result of the excess of the payment to the victim as direct compensation for the losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of the civil liability of owners of transport means over the average amount of the insurance payment received from the insurer that has insured the civil liability of the person who has caused the harm;

*The amount of the negative difference stipulated by Subitem 9.2 of Item 2 of Article 294 of this Code (in the wording of **Federal Law** No. 300-FZ of November 15, 2010) arising before the day of **entry into force** of the said Federal Law, shall be **deemed** as expense as on the day of entry into force of the said Federal Law, taking into account the provisions of **Article 330** of*

*this Code Federation (in the wording of Federal Law No. 300-FZ of November 15, 2010)*

9.2) the amount of the negative difference which has arisen with the insurer that has insured the civil liability of the person who has caused the harm as a result of the excess of the average amount of the insurance payment compensated to the insurer that has directly compensated for the losses over the insurance payment under an agreement of obligatory insurance of civil liability of owners of transport means directly compensated for the losses in accordance with the **legislation** of the Russian Federation on obligatory insurance of civil liability of owners of transport means;

10) other outlays directly involved in insurance activity.

**Article 294.1.** Specifics of Assessing Receipts and Expenditures of Insurance Medical Organisations Engaged in Compulsory Medical Insurance

1. To receipts of insurance medical organisations participating in compulsory medical insurance which are engaged in compulsory medical insurance, in addition to the receipts provided for by **Articles 249** and **250** of this Code, shall likewise pertain the funds remitted by regional compulsory medical insurance funds in compliance with an agreement of financial support to compulsory medical insurance and intended for covering the outlays on carrying out compulsory medical insurance, as well as assets which constitute a remuneration for making the actions provided for by the cited agreement.

2. To receipts of insurance medical organisations participating in compulsory medical insurance which are engaged in compulsory medical insurance, in addition to the receipts provided for by **Articles 254 - 269** of this Code, shall likewise pertain the outlays borne by the said organisations, when exercising the insurance activities involved in compulsory medical insurance.

**Article 295.** Specifics in Determining the Incomes of Non-State Pension Funds

1. The incomes of non-state pension funds shall be assessed separately as concerns the incomes derived from the placement of the pension reserves, the incomes derived from investing pension savings and those derived from the constituent activities of the said funds.

2. To the incomes derived from the placement of the pension reserves of the non-state pension funds in addition to the incomes envisaged by **Articles 249** and **250** of this Code, shall be referred, in particular, the incomes from the placement of the pension reserves funds into securities, from making investments and other deposits stipulated by legislation on non-state pension funds which shall be defined in accordance with the procedure established by this Code for the corresponding kinds of incomes.

For the purposes of taxation, income derived from the placement of pension reserves shall be defined as the positive difference between the income received from the placement of pension reserves and the income calculated proceeding from the **refunding rate** of the Central Bank of the Russian Federation and from the sum of the placed reserve, while taking into account the actual placement, except for the income placed onto joint pension accounts, and on the basis of the results of a tax period.

**Federal Law** No. 359-FZ of November 30, 2011 amended Item 3 of Article 295 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

3. To the incomes derived from the funds' constituent activities shall be referred, in particular, in addition to the incomes stipulated by Articles 249 and 250 of this Code:

- deductions from income derived from the placement of the pension reserves directed towards the formation of the property intended for providing for the fund's constituent activity,

which are made in conformity with legislation on non-state pension funds;

- incomes from the placement of property intended for providing for the constituent activities of the funds into securities, and also from making investments and other deposits which shall be defined in accordance with the procedure established by this Code for the corresponding kinds of incomes;

- deductions from the income derived from investing the pension savings intended for financing the accumulative part of the labour pension that are directed for forming the property intended for ensuring the constituent activities of a non-state pension fund and are made in compliance with the **laws** of the Russian Federation on non-state pension funds;

- a part of the amount of a pension premium directed on the basis of a contract of non-state provision of pensions in compliance with the pension rules of a fund for forming the property intended for ensuring the authorised activities and for covering administrative expenses in compliance with the **laws** of the Russian Federation on non-state pension funds.

### **Article 296.** Specifics in Defining the Outlays of Non-State Pension Funds

**1.** For non-state pension funds shall be separately assessed the incomes involved in deriving income from the placement of pension reserves, the incomes involved in deriving income from investing pension savings and the outlays involved in providing for the constituent activities of these funds.

**2.** To the outlays involved in deriving income from the placement of the pension reserves of the non-state pension funds, in addition to the incomes indicated in **Articles 254-269** of this Code (taking into account the restrictions envisaged by the legislation of the Russian Federation on non-state pension security) shall be referred:

- 1) outlays involved in deriving income from the placement of the pension reserves, including the remunerations to the management company, the depository and professional securities market traders;

- 2) obligatory expenditures involved in storage, maintenance in the working order and evaluation in conformity with the legislation of the Russian Federation of the property into which pension reserves are placed;

- 3) deductions for the formation of the property intended for providing for the performance of these funds' constituent activities in conformity with the legislation of the Russian Federation, recorded in the composition of the outlays.

- 4) deductions for forming the insurance reserve to be made in compliance with the **laws** of the Russian Federation on non-state pensions funds and in the procedure established by the Government of the Russian Federation till the amount of the insurance reserve established by the board of the fund for non-state provision of pensions, but at the most 50 per cent of the amount of reserves for covering pension liabilities, is reached.

**3.** To the outlays involved in providing for the constituent activity of the non-state pension funds, in addition to the outlays indicated in **Articles 254-269** of this Code (taking account of the restrictions stipulated by the legislation of the Russian Federation on non-state pension security) shall be referred:

- 1) remunerations for rendering services involved in concluding contracts of non-state pension provision and contracts of obligatory pension insurance in compliance with the **laws** of the Russian Federation on non-state pension funds;

- 2) payments for actuaries' services;

- 3) payment for services involved in manufacturing pension certificates (policies), strict accounting forms, receipt slips and other such documents;

- 3.1) remuneration for the services related to administration of pension accounts in compliance with the **laws** of the Russian Federation on non-state pension funds;

- 4) other outlays directly connected with the activities involved in non-state pension

security.

**Federal Law** No. 359-FZ of November 30, 2011 amended Item 4 of Article 296 of this Code. The amendments shall **enter into force** from the date when the said Federal Law is **officially published** and shall **apply** from July 1, 2012

4. To the outlays connected with deriving income from investing pension savings intended for financing the accumulative part of the labour pension, except for the expenses indicated in **Articles from 254 to 269** of this Code (subject to the restrictions provided for by the laws of the Russian Federation on non-state provision of pensions) shall pertain:

1) the outlays connected with deriving income from investing pensions savings intended for financing the accumulative part of the labor pension, including the remuneration paid to the management company, specialised depository and other professional participants of the securities market;

2) the obligatory outlays connected with the storage, keeping in the working order and appraisal in compliance with the laws of the Russian Federation of the property which pension savings are invested into;

3) deductions from the income derived from investing the pension savings intended for forming the accumulative part of the labour pension that are directed for forming the property intended for ensuring the constituent activity of the fund and that are made in compliance with the **laws** of the Russian Federation on non-state pension funds.

**Article 297. Abolished** from January 1, 2005.

**Article 298.** Specifics in Defining the Incomes of Professional Securities Market Traders

To the incomes of taxpayers who are recognised in conformity with the legislation of the Russian Federation on the securities market as professional securities market traders (hereinafter 'professional securities market traders') shall also be referred, in addition to the incomes stipulated by **Articles 249** and **250** of this Code, incomes derived in the performance of professional activity on the securities market.

To such incomes, in particular, shall be referred:

1) incomes from rendering intermediary and other services on the securities market;

2) part of the income arising from the use of clients' funds before the moment of return thereof to the clients in conformity with the contractual terms;

3) incomes from rendering services involved in the storage of securities certificates and (or) in recording the rights to securities;

4) incomes from rendering depository services, including the services involved in the supply of information on securities and on keeping a deposit account;

5) incomes from rendering services involved in keeping a register of the owners of securities;

6) incomes from rendering services directly facilitating the conclusion of civil-legal transactions in securities by third persons;

7) incomes from rendering consulting services on the securities market;

8) incomes in the form of sums of replenished reserves against the devaluation of securities which were earlier accepted as outlays in accordance with **Article 300** of this Code;

9) other incomes derived by professional securities market traders from their professional activities.

**Article 299.** Specifics in Defining the Outlays of Professional Securities Market Traders

To the outlays of professional securities market traders, in addition to those pointed out in **Articles 254-269** of this Code (taking account for restrictions stipulated by the legislation of the Russian Federation on securities) shall be referred, in particular:

- 1) outlays in the form of contributions to trade organisers and other organisations (including those made in conformity with the legislation of the Russian Federation to non-profit organisations) possessing the corresponding licence;
- 2) outlays made on the maintenance and servicing of trading places of different regimes arising in connection with the performance of professional activity;
- 3) outlays on carrying out an expert examination of the authenticity of the submitted documents, including the forms (certificates) of the securities;
- 4) outlays involved in revealing information on the activity of professional securities market traders;
- 5) outlays on creating and bringing up to a proper sum reserves against the devaluation of securities in keeping with **Article 300** of the present Code;
- 6) outlays on participation in the meetings of shareholders held by the issuers of securities or on their orders;
- 7) other outlays directly involved in the activity of professional securities market traders.

#### **Article 299.1.** The Specifics of Estimating Incomes of Clearing Organisations

**1.** As incomes of taxpaying clearing organisations shall be deemed the incomes provided for by **Articles 249** and **250** of this Code which are to be estimated subject to the specifics provided for by this Article.

**2.** When estimating the tax base for clearing organisations, the following incomes shall not be taken into account:

1) the monetary assets and other property obtained by a clearing organisation for the purpose of securing the discharge of obligations by clearing participants and also derived from selling the property constituting such security;

2) monetary assets and other property received by a clearing organisation for the purpose of making settlements with respect to obligations of clearing participants, in particular under the contracts to which a clearing organisation is a party (except for the monetary assets and other property obtained by a clearing organisation as payment for the services rendered by it), as well as under contracts providing for the sale of property made by a clearing organisation for the purpose of discharging obligations of clearing participants;

3) monetary assets and other property derived by a clearing organisation from the use of the assets formed by this clearing organisation for the purpose of securing the discharge of obligations under civil law contract.

#### **Article 299.2.** The Specifics of Estimating Outlays of Clearing Organisations

**1.** The outlays provided for by **Articles 254-269** of this Code which are estimated subject to the specifics provided for by this Article shall pertain to outlays of taxpaying clearing organisations.

**2.** When estimating the tax base of clearing organisations, the following outlays shall not be taken into account:

1) the monetary assets and other property which secure the discharge of clearing participants' obligations and have been transferred by a clearing organisation on account of the discharge of such obligations;

2) the monetary assets and other property which have been transferred by a clearing organisation to clearing participants on the basis of the clearing (settlement) results, in particular under which a clearing organisation is a party, as well as under contracts providing for property acquisition made by a clearing organisation for the purpose of discharging obligations of clearing participants;

3) the monetary assets and other property which are transferred to clearing participants and which are derived by a clearing organisation from the use of the assets formed by the

clearing organisation on account of contributions of clearing participants for the purpose of securing the discharge of obligations under civil law contracts.

**Article 300.** Outlays Made on Creating Reserves Against Devaluation of Securities by Professional Securities Market Traders Engaged in Transactioner's Activity

Professional securities market traders shall be recognised as performing transactioner's activity, if the transactioner's activity is stipulated by the corresponding licence issued in the established order to the participant on the securities market.

The professional securities market traders engaged in transactioner's activity, shall have the right to refer to the outlays for taxation purposes deductions to the reserves against the devaluation of securities, if such taxpayers define the incomes and outlays using the method of calculation. In this case, the sums of the replenished reserves against the devaluation of securities, the deductions on whose creation (correction) were earlier taken into account when delineating the tax base, shall be recognised as an income of the said taxpayers.

The said reserves against the devaluation of securities shall be created (corrected) as in the state at the end of the reporting (tax) period, in the amount of an excess of the prices of acquisition of emission securities circulated on the organised securities market over their market quotation (the design amount of the reserve). Into the price of acquisition of the security for the purposes of this Chapter shall also be included the outlays on its acquisition.

The reserves shall be created (corrected) in respect of each security of the same issue (additional issue) of securities satisfying the cited requirements, regardless of alteration of the cost of securities of other issues (additional issues).

In the sale or in another form of withdrawal of the securities with respect to which the reserve was earlier set up, the deductions on whose creation (correction) were earlier taken into account when delineating the tax base, the sum of such reserve shall be included in the taxpayer's incomes as on the date of sale or of withdrawal of the security in any other form.

If after the end of the reporting (tax) period the sum of the reserve, taking account of the market quotations of the securities as at the end of this period, proves to be insufficient, the taxpayer shall increase the sum of the reserve in the above order, and the deductions for the augmentation of the reserve shall be recorded in the composition of the outlays for the purposes of taxation. If at the end of the reporting (tax) period the sum of the earlier set up reserve taking account of the replenished sums exceeds the design sum, the reserve shall be reduced by the taxpayer (restored) down to the design size with an inclusion of the sum of such restoration into the incomes.

The reserves against the devaluation of securities shall be created in the currency of the Russian Federation, regardless of the currency of the face value of the security. For the securities nominated in foreign currency, the price of acquisition shall be recalculated into roubles in accordance with the official exchange rate of the Central Bank of the Russian Federation as on the date of acquisition of a security, while their market quotation shall be recalculated at the official exchange rate of the Central Bank of the Russian Federation as of the date when the reserve is created (corrected).

For the securities whose terms of issuance provide for a partial redemption of their nominal value the acquisition price shall be corrected subject to the share of the partial redemption of a security when forming (correcting) the reserve as of the end of an accounting (tax) period.

The taxpayer acting as the seller under the first part of a REPO transaction or the creditor in an operation of securities' loaning shall not be entitled to form reserves against securities' devaluation in respect of the securities transferred within the framework of a REPO transaction (under a contract of loan).

The taxpayer acting as the purchaser under the first part of a REPO transaction or the



borrower in the operation of securities' loaning shall be entitled to form reserves against securities' devaluation in respect of the securities obtained within the framework of the REPO transaction (under the contract of loan).

#### **Article 301.** Futures Transactions. Specifics in Taxation

**1.** As the financial instrument of a time transaction shall be deemed an agreement which is a derivative financial instrument in compliance with the **Federal Law** on the Securities Market. A list of the kinds of derivative financial instruments (in particular forward contracts, futures contracts, option contracts, swap contracts) shall be established by the federal executive power body responsible for the securities market in compliance with the Federal Law on the Securities Market.

For the purposes of this Chapter, as the financial instrument of time transactions shall not be deemed a contract which is a derivative financial instrument in compliance with the **Federal Law** on the Securities Market which provides for the duty of the parties or a party to the contract to pay sums of money on a periodical or one-time basis, in particular in the event of raising claims by the other party, depending on changes in the values constituting official statistical information, in physical, biological and/or chemical indices of environmental conditions or changes in the values estimated on the basis of one index or an aggregate of several indices cited in this paragraph.

For the purposes of this Chapter, as the financial instrument of time transactions shall not be deemed an agreement in respect of which claims are not subject to judicial defence in compliance with the **civil legislation** of the Russian Federation. The losses resulting from the cited contracts shall not be accounted when estimating the tax base.

The base asset of financial instruments of time transactions means the object of a time transaction (in particular foreign currency, securities, other property and property rights, credit resources, indices of prices or interest rates and other financial instruments of time transactions).

The parties to time transactions mean organisations making operations in financial instruments of time transactions.

**2.** Considered as the exercise of the rights and duties on a transaction with the financial instruments of futures transactions shall be the execution of the financial instrument of futures transactions by way of either the delivery of the basic assets, or of making the final mutual settlement on the financial instrument of futures transactions, or by way of the performance by the participant in the futures transaction of an operation opposite to the earlier performed transaction with the financial instrument of futures transactions. For transactions with the financial instruments of futures transactions aimed at the purchase of a basic asset, recognised as a transaction of the opposite direction shall be a transaction aimed at the sale of the basic asset, and for a transaction aimed at the sale of the basic asset - a transaction aimed at the purchase of the basic asset. The taxation of transactions involved in the delivery of the basic asset shall in this case be effected in accordance with the order envisaged by **Articles 301-305** of this Code.

The taxpayer shall have the right to qualify on his own, subject to the requirements of this Article, the transaction whose terms provide for the supply of the base asset, recognising it as a transaction with the financial instrument of time transactions or as a transaction on the delivery of the object of the transaction with the postponement of execution. The criteria for referring the transactions, providing for the delivery of the subject of a transaction (except for hedging), to the category of operations with financial instruments of futures transactions should be determined by a taxpayer in his accounting policy for the purposes of taxation.

Seen as the date of completing a transaction with the financial instrument of futures transactions shall be the date of the exercise of the rights and liabilities on the transaction with

the financial instrument of futures transactions.

Obligations in respect of transactions with financial instruments of time transactions may be terminated without re-qualification thereof by way of a set-off (cross-cancellation) of homogeneous claims and obligations. As homogeneous shall be deemed, in particular, claims to transfer securities of the same issuer with the same extent of rights, of the same kind, of the same category (type) or of the same unit investment fund (for investment shares of unit investment funds), as well as claims to pay monetary assets in the same currency.

Transactions qualified as transactions on the delivery of the object of a transaction with the postponement of its execution shall be taxed in the procedure provided for by this Code for corresponding base assets of such transactions.

**3.** For the purposes of this Chapter, the financial instruments of futures transactions shall be subdivided into financial instruments of futures transactions circulated on the organised market, and the financial instruments of future transactions not circulated on the organised market. The financial instruments of futures transactions shall be recognised as circulated on the organised market if the following conditions are observed:

1) the procedure for their conclusion, circulation and execution shall be established by the trade organiser endowed with this right in conformity with the legislation of the Russian Federation or with the legislation of foreign states;

2) information on the prices of the financial instruments of futures transactions shall be published in the mass media (including electronic), or may be supplied by the trade organiser or by another authorised person to any interested person in the course of three years after the date of making a transaction with the financial instrument of a futures transaction.

**3.1.** A transaction which is not made in the organised market and whose terms provide for supplying the base asset (in particular, security, foreign currency, commodities) may be qualified as a financial instrument of time transactions, provided that the base asset shall be supplied under the terms of such transaction at earliest on the third days after making it.

A transaction which is not made in the organised market and whose terms do not provide for supplying the base asset may be only qualified as a financial instrument of time transactions.

**3.2.** For the purposes of this Article, the financial instruments of time transactions whose terms provide for the supply of the base asset or making another financial instrument of time transactions whose terms provide for the supply of the base asset shall be deemed time transactions of sale and delivery, while the financial instruments, whose terms do not provide for the supply of the base asset or for making another financial instrument of time transactions whose terms provide for the supply of the base asset, settlement time transactions.

Transactions qualified as time transactions of sale and delivery, as well as transactions on the delivery of the object of the transaction with the postponement of execution, for the purposes of this Chapter shall not be subject to re-qualification into settlement time transactions in case of termination of obligations in the ways, other than proper discharge thereof.

**4.** For the purposes of this Chapter, seen as the variation margin shall be the sum of monetary funds calculated by the trade organiser or clearing organisation and paid up (received) by the participants in futures transactions in conformity with the rules laid down by the trade organisers and/or clearing organisations.

**5.** For the purposes of this Chapter, seen as hedging operations shall be transactions (an aggregate of transactions) with the financial instruments of time transactions (in particular, of various kinds thereof) performed for the purposes of the reduction of (compensation for) the effects which are unfavourable for the taxpayer (in full or in part) caused by a loss, profit gap, reduction of proceeds, reduction of the market value of property, including property rights (rights of claim), increase of the taxpayer's liabilities resulting from alteration of the price, interest rate, currency exchange rate, in particular the rate of foreign currency towards the currency of the Russian Federation, or of any other index (an aggregate of indices) of the hedging object

(objects).

As hedging objects shall be deemed the taxpayer's property, property rights, its obligations, including the rights of claims and obligations of pecuniary nature which are not yet mature on the date when a hedging operation is made, in particular the rights of claim and duties whose exercise (discharge) is determined by raising a claim by a party to an agreement and in respect of which the taxpayer has adopted the decision on their hedging.

For hedging purposes, it shall be allowed to make more than one financial instrument of a time transaction of various kinds, including the conclusion of several financial instruments of time transactions within the framework of a single hedging operation.

To prove the reasonableness of classifying an operation (an aggregate of operations) in financial instruments of time transactions as hedging operations, a taxpayer shall draw up a reference note as of the date of making these transactions (the first transaction, when several transactions are made within the framework of a single hedging operation) concerning the hedging operation which proves that on the basis of the taxpayer's predictions, the given operation (the aggregate of operations), if made, makes possible to reduce the negative effects connected with alteration of the price (in particular of the market quotation, rate) or other index of the hedging object.

**6.** When making by a taxpaying participant of futures transactions operations within the framework of the forward contracts providing for the delivery to a foreign organisation of a basic asset under the customs procedure of export, the tax bases shall be determined subject to the provisions of **Article 105.3** of this Code.

**Article 302.** Specifics in the Formation of the Taxpayer's Incomes and Outlays on Transactions with the Financial Instruments of Futures Transactions Circulated on the Organised Market

**1.** For the purposes of this Chapter, recognised as the taxpayer's incomes from transactions with the financial instruments of futures transactions circulated on the organised market which are received in the tax (reporting) period, shall be:

1) the sum of the variation margin due to receipt by the taxpayer in the course of the reporting (tax) period;

2) the other sums due to receipt in the course of the reporting (tax) period from transactions with the financial instruments of futures transactions circulated on the organised market, including by way of settlements on transactions with the financial instruments of futures transactions envisaging the delivery of the basic asset.

**2.** For the purposes of this Chapter, recognised as the taxpayer's outlays on the financial instruments of futures transactions circulated on the organised market which were made in the tax (reporting) period shall be:

1) the sum of the variation margin subject to payment by the taxpayer in the course of the tax (reporting) period;

2) the other sums subject to payment in the course of the tax (reporting) period on transactions with the financial instruments of futures transactions circulated on the organised market, as well as the cost of the basic asset handed over under the transactions envisaging the delivery of the basic asset;

3) the other outlays involved in carrying out operations with the financial instruments of futures transactions circulated on the organised market.

**Article 303.** Specifics in the Formation of the Taxpayer's Incomes and Outlays on Operations with the Financial Instruments of Futures Transactions Not Circulated on the Organised Market

1. For the purposes of this Chapter, recognised as the taxpayer's incomes from transactions with the financial instruments of futures transactions not circulated on the organised market shall be:

1) the sums of monetary funds due to receipt in the reporting (tax) period by one of the participants in the transaction with the financial instrument of a time transaction when it is executed (completed);

2) the other sums due to receipt in the course of the tax (reporting) period on transactions with the financial instruments of futures transactions not circulated on the organised market, including by way of settlements on transactions with the financial instruments of futures transactions envisaging the delivery of the basic asset.

2. Recognised as outlays on transactions with the financial instruments of futures transactions not circulated on the organised market which were made in the tax (reporting) period shall be:

1) the sums of monetary funds subject to payment in the reporting (tax) period by one of the participants in the transaction with the financial instrument of a time transaction when it is executed (completed);

2) other sums subject to payment in the course of the tax (reporting) period on transactions with the financial instruments of futures transactions not circulated on the organised market, as well as the cost of the basic asset handed over in the transactions envisaging the delivery of the basic asset;

3) other outlays involved in performing transactions with the financial instruments of futures transactions.

#### **Article 304.** Specifics in Defining the Tax Base on Operations with the Financial Instruments of Futures Transactions

1. The tax base on transactions with the financial instruments of futures transactions circulated on the organised market, and the tax base of transactions with the financial instruments of futures transactions not circulated on the organised market shall be computed separately.

2. The tax base on transactions with the financial instruments of futures transactions circulated on the organised market shall be defined as the difference between the sums of the incomes from the said transactions with all the basic asset due to receipt for the reporting (tax) period, and the sums of the outlays on the said transactions with all the basic assets for the reporting (tax) period. The negative difference shall be recognised, respectively, as the loss from such operations.

The loss from transactions with the financial instruments of futures transactions circulated on the organised market shall reduce the tax base calculated in conformity with **Article 274** of this Code.

3. The tax base on transactions with the financial instruments of futures transactions not circulated on the organised market shall be defined as the difference between the incomes from the said operations with all the basic assets and the outlays on the said transactions with all the basic assets for the reporting (tax) period. The negative difference shall be, respectively, recognised as the losses from such transactions.

The loss from operations with the financial instruments of futures transactions not circulated on the organised market, shall not reduce the tax base defined in conformity with Article 274 of this Code (with the exception of the cases mentioned in Item 5 of this Article).

4. The losses on transactions with the financial instruments of futures transactions not circulated on the organised market may be referred to the reduction of the tax base, which is formed on transactions with the financial instruments of futures transactions not circulated on the organised market, in the subsequent tax periods, in the order established in this Chapter

(with the exception of the cases envisaged by Item 5 of this Article).

**5.** When making hedging operations subject to the demands of **Item 5 of Article 301** of this Code, incomes (outlays) shall be accounted in determining the tax base in whose estimation the incomes and outlays connected with the hedging object are accounted in compliance with the provisions of **Article 274** of this Code.

Banks shall have the right to reduce the tax base, defined in conformity with **Article 274** of this Code, by the sum of the losses resulting from operations in time transactions of sale and delivery which do not circulate in the organised market and whose base asset is foreign currency.

Professional participants of the securities market engaged in transactioner's activity, including banks, shall have the right to reduce the tax base estimated in compliance with **Article 274** of this Code by the sum of losses resulting from operations in financial instruments of time transactions which do not circulate in the organised market.

For the purposes of this Chapter, professional participants of the securities market mean, in particular, credit institutions holding the corresponding licence issued by the federal executive power body responsible for the securities market.

**6.** When delineating the tax base on transactions with the financial instruments of futures transactions, the provisions of **Chapter 14.3** of this Code may be applied only in the cases stipulated by this Chapter.

**7.** The incomes and outlays resulting from obligations (claims) under a swap contract shall be accounted in estimation of the tax base for operations in financial instruments of time transactions.

#### **Article 305.** Specifics in the Evaluation of Operations with the Financial Instruments of Futures Transactions for the Purposes of Taxation

**1.** With respect to the financial instruments of futures transactions circulated on the organised market, the actual price of the transaction shall be recognised for taxation purposes as the market price, if the actual price of the transaction lies in the interval between the minimum and the maximum price of transactions (in the price interval) with the said instrument, registered by the trade organiser as on the date of making the transaction.

If the transactions on one and the same financial instrument of futures transactions were performed through two or more trade organisers, the participant in the futures transactions shall have the right to choose on his own the trade organiser who has registered the price interval which will be used for recognising the actual price of the transaction as the market price for the purposes of taxation.

If the trade organiser has no information on the price interval as on the date of concluding the corresponding transaction, for the said purposes the data of the trade organiser on the price interval as on the date of the closest auction which was held within the last three months shall be used.

*Federal Law No. 281-FZ of November 25, 2009 suspended the provisions of Item 2 of Article 305 of this Code from January 1 up to December 31, 2010 inclusive*

*During the suspension of the provisions of this Item the estimated value of financial instruments of terminal transactions not circulating on the organised securities market shall be determined in accordance with **Item 2 of Article 16** of the said Federal Law*

~~**2. As the actual price of a financial instrument of a time transaction which does not**~~

~~circulate in the organised market shall be deemed for the taxation purposes the market price, if it is by at most 20 per cent higher (lower) than the estimated value of this financial instrument of time transactions as of the date when a time transaction is made. A procedure for determining the estimated value of corresponding kinds of financial instruments of time transactions shall be established by the federal executive power body responsible for the securities market by approbation of the Ministry of Finance of the Russian Federation.~~

~~If the actual price of the financial instrument of a time transaction which does not circulate in the organised market is more than 20 per cent higher (lower) than the estimated value of this financial instrument of time transactions, the taxpayer's incomes (outlays) shall be determined on the basis of the estimated value thereof increased (reduced) by 20 per cent.~~

**Article 306.** Specifics in the Taxation of Foreign Organisations. Permanent Representation of a Foreign Organisation

**1.** The provisions of **Articles 306-309** of this Code shall establish the specifics in the calculation of tax by foreign organisations engaged in business activity on the territory of the Russian Federation, if such activity leads to the creation of a permanent representation of the foreign organisation, and the specifics in the calculation of tax by foreign organisations which are not involved in an activity through a permanent representation in the Russian Federation, while deriving an income from sources in the Russian Federation.

**2.** Seen as the permanent representation of a foreign organisation in the Russian Federation for the purposes of this Chapter shall be an affiliate, representation, department or bureau, an office, agency or any other set-apart subdivision or other place of activity of this organisation (hereinafter 'the department'), through which the organisation regularly performs its business activity on the territory of the Russian Federation, involved in:

- the use of mineral wealth and (or) the use of other natural resources;
- the performance of the contract-envisaged works aimed at the construction, installation, assembly, mounting, adjusting, servicing and pouring into of equipment, including entertainment slot-machines;
- selling commodities from store-houses situated on the territory of the Russian Federation which are owned or rented by this organisation;
- the performance of other works, rendering services and carrying out other kinds of activity, with the exception of that stipulated by **Item 4** of this Article.

**3.** The permanent representation of a foreign organisation shall be seen as set up from the start of the regular performance of business activity through its department. However, the activity involved in organising such department does not of itself establish a permanent representation. The permanent representation shall stop its existence from the moment of termination of the business activity of the foreign organisation through this department.

In the case of the use of the mineral wealth or of utilising other kinds of natural resources, the permanent representation of a foreign organisation shall be seen as set up since the earliest of the following dates: the date of coming into force of the licence (the permit) certifying the right of this organisation to the performance of the corresponding activity, or the date of the actual start of such activity. If the foreign organisation performs works or renders services to another person who possesses this licence (permit), or if it comes out as a general contractor for the person possessing such licence (permit) in resolving the questions involved in the formation and the termination of the existence of the permanent representation of this foreign organisation shall be applied a procedure similar to that established by **Items 2-4 of Article 308** of this Code.

**4.** The fact of performance by the foreign organisation on the territory of the Russian Federation of an activity of preparatory or auxiliary character in the absence of any sign of a

permanent representation stipulated by **Item 2** of this Article, cannot be considered as leading to the formation of a permanent representation. Referred to a preparatory or an auxiliary activity shall be, in particular:

1) the use of structures exclusively for the purposes of the storage, demonstration and (or) delivery of commodities belonging to this foreign organisation before the start of such delivery;

2) keeping stock of commodities belonging to this foreign organisation exclusively for the purposes of their storage, demonstration and (or) delivery before the start of such delivery;

3) maintaining a permanent place of activity exclusively for the purposes of purchasing commodities by this foreign organisation;

4) maintaining a permanent place of activity exclusively for the collection, processing and (or) dissemination of information for bookkeeping, for marketing or advertising, or for studying the market of commodities (works, services) sold by the foreign organisation, if such activity is not the principal (regular) activity of this organisation;

5) keeping a permanent place of activity exclusively for the purposes of signing contracts on behalf of this organisation, if the signing of contracts takes place in conformity with the detailed written instructions from the foreign organisation.

**4.1.** The fact a person who is a foreign market partner of the International Olympic Committee in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, exercising activities on the territory of the Russian Federation in connection with the discharge of obligations of a market partner of the International Olympic Committee within the period of organisation of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, which is fixed by **Part 1 of Article 2** of the cited Federal Law, where there are the signs of a permanent representation provided for by **Item 2** of this article, may not be deemed as leading to the establishment of a permanent representation.

**5.** The fact of the foreign organisation's possession of securities and of participation shares in the capital of Russian organisations, as well as of other property on the territory of the Russian Federation in the absence of any sign of a permanent representation envisaged by **Item 2** of this Article, is not in itself considered for such foreign organisation as leading to the creation of a permanent representation in the Russian Federation.

**6.** The fact of conclusion by the foreign organisation of an agreement of simple partnership or some other agreement presupposing a joint activity of its parties (participants), performed wholly or in part on the territory of the Russian Federation, cannot in itself be considered for the given organisation as leading to the establishment of a permanent representation in the Russian Federation.

**7.** The fact of the supply by the foreign organisation of the personnel for work on the territory of the Russian Federation in another organisation in the absence of the signs of a permanent representation, stipulated by **Item 2** of this Article, cannot be considered as leading to the creation of a permanent representation of the foreign organisation which has supplied the personnel, if such personnel act exclusively on behalf of and in the interest of the organisation to which it was directed.

**8.** A foreign organisation's performance of transactions involved in the import to the Russian Federation or in the export from the Russian Federation of commodities, including in the framework of foreign trade contracts, in the absence of the signs of a permanent representation envisaged by **Item 2** of this Article, cannot be considered as leading to the formation of a permanent representation of this organisation in the Russian Federation.

**9.** The foreign organisation shall be seen as having a permanent representation if this organisation delivers from the territory of the Russian Federation the commodities in its possession being a result of processing on the customs territory or under customs control and also if this organisation performs an activity satisfying the signs envisaged by Item 2 of this Article, through a person who, on the grounds of contractual relations with this foreign organisation, represents its interests in the Russian Federation, acts on the territory of the Russian Federation on behalf of this foreign organisation, possesses and regularly exercises the powers for concluding contracts or for coordinating their essential terms on behalf of the given organisation, thus creating the legal consequences for the given foreign organisation (a dependent agent).

The foreign organisation shall not be seen as having a permanent representation if it performs an activity on the territory of the Russian Federation through a broker, a commission agent, a professional Russian securities market trader or through any other person acting in the framework of his principal (regular) activity.

**10.** The fact that the person performing activity on the territory of the Russian Federation is reciprocally dependent on the foreign organisation shall not be considered as leading to the formation of a permanent representation of this foreign organisation in the Russian Federation in the absence of the signs of a dependent agent envisaged by Item 9 of this Article.

#### **Article 307.** Specifics in the Taxation of Foreign Organisations Performing an Activity Through a Permanent Representation in the Russian Federation

**1.** Recognised as the object of taxation for foreign organisations which perform an activity in the Russian Federation through a permanent representation shall be:

- the income derived by the foreign organisation as a result of the performance of an activity on the territory of the Russian Federation through its permanent representation, reduced by the amount of the outlays made by this permanent representation which shall be defined taking account of the provisions of **Item 4** of this Article;

- the incomes of the foreign organisation from the possession, use and (or) disposal of the property of the permanent representation of this organisation in the Russian Federation minus the outlays involved in deriving such incomes;

- the other incomes from the sources in the Russian Federation pointed out in **Item 1 of Article 309** of this Code, referred to the permanent representation.

**2.** The tax base shall be delineated as the monetary expression of the object of taxation, established by Item 1 of this Article.

When delineating the tax base of a foreign non-profit organisation, the provisions of **Item 2 of Article 251** of this Code shall be taken into account.

**3.** If the foreign organisation performs on the territory of the Russian Federation an activity of a preparatory and (or) an auxiliary character in the interest of third persons which is leading to the formation of a permanent representation, and if with respect to such an activity no receipt of any remuneration is envisaged, the tax base shall be defined in the amount of 20 per cent from the sum of the outlays of this permanent representation involved in such activity.

**4.** If the foreign organisation has on the territory of the Russian Federation more than one department, the activity through which is leading to the establishment of a permanent representation, the tax base and the sum of the tax shall be calculated separately for every department.

If the foreign organisation performs through such departments an activity in the framework of a single technological process, or in other similar cases in agreement with the federal executive body authorised to exercise control and supervision in the area of taxes and fees, such organisation shall have the right to calculate taxable profit connected with its activity



through a department on the territory of the Russian Federation, as a whole by the group of such departments (including for all the departments), under the condition that all the departments included in this group apply the same accounting policy for the purposes of taxation. In this case, the foreign organisation shall determine on its own which of the departments shall keep the tax records and submit the tax declarations at the place of location of every department. The sum of tax on the profit subject to payment to the budget in this case shall be distributed between the departments in the general order envisaged by **Article 288** of this Code. The cost of the fixed assets and of the non-material assets, or an average-listed number of the workers (the fund for the remuneration of the workers' labour) not involved in the activity of the foreign organisation on the territory of the Russian Federation through the permanent representation shall not be recorded.

**5.** Foreign organisations performing an activity in the Russian Federation through a permanent representation shall apply the provisions envisaged by **Articles 280, 283** of this Code.

**6.** Foreign organisations performing an activity in the Russian Federation through a permanent representation shall pay tax according to the rates established by **Item 1 of Article 284** of this Code, with the exception of the incomes listed in **Subitems 1 and 2 and in the second paragraph of Subitem 3 of Item 1 of Article 309** or this Code. The said incomes referred to the permanent representation shall be levied with tax apart from the other incomes, in accordance with the rates established by **Subitem 3 of Item 3** and by **Item 4 of Article 284** of the present Code.

**7.** When into the sum of the foreign organisation's profit are included the incomes from which, in conformity with **Article 309** of the present Code, tax has been in fact withheld and transferred to the budget system of the Russian Federation onto the corresponding Federal Treasury account, the sum of the tax subject to payment by this organisation shall be reduced by the sum of the withheld tax. If the sum of the tax withheld in the reporting period exceeds the sum of the tax for this period, the sum of tax paid in excess shall be subject to return, or shall be offset against the future tax payments of this organisation in the procedure provided for by **Article 78** of this Code.

**8.** Foreign organisations performing an activity in the Russian Federation through a permanent representation shall pay the advance payments and tax in the order stipulated by **Articles 286 and 287** of the present Code.

Foreign organisations performing an activity in the Russian Federation shall submit the **tax declaration** by the results of the tax (reporting) period, as well as the **annual report** on activity in the Russian Federation in compliance with the form endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees, through the permanent representation to the tax body at the place of location of the permanent representation of this organisation in the order and within the time terms established by **Article 289** of this Code.

**Removed.**

If the activity of the permanent representation of the foreign organisation in the Russian Federation is stopped before the end of the tax period, the tax declaration for the last reporting period shall be submitted by the foreign organisation in the course of one month from the day of termination of the activity of this department.

**9.** If the business activity of a foreign organisation on the territory of the Russian Federation in conformity with this Code or with the provisions of an international agreement of

the Russian Federation on the issues of taxation leads to appearance on the territory of the Russian Federation of a permanent representation, the incomes of such permanent representation, subject to taxation in the Russian Federation, shall be defined taking into account the functions, fulfilled in the Russian Federation, the used assets and the assumed economic (commercial) risks.

The circumstances, indicated in this Item, shall be taken into account when distributing the incomes and the outlays between the foreign organisation and its permanent representation in the Russian Federation.

**Article 308.** Specifics in the Taxation of Foreign Organisations if the Activity Is Performed on a Construction Site

**1.** For the purposes of this Chapter, interpreted as construction sites of foreign organisations on the territory of the Russian Federation shall be:

1) the place of building new, as well as of reconstruction, technical re-equipment and (or) repairs of the existing objects of immovable property (with of air and sea vessels, inland navigation ships and space objects);

2) the place of building and (or) assembly, repairs, reconstruction, and (or) technical re-equipment of structures, including floating and boring installations, as well as machinery and equipment, whose normal functioning requires a rigid mounting on the foundation or fastening to the construction elements of the buildings, structures or floating facilities.

**2.** When identifying the term of existence of the construction site for the purposes of calculating tax, and also of putting the foreign organisation onto the records with the tax bodies, works and other operations whose duration falls into this term, shall embrace all the kinds of preparatory, building and (or) mounting works, including those involved in building approach lines, communications, electric cables, drainage and other objects of the infrastructure, with the exception of the objects of infrastructure initially developed for other purposes not connected with the given construction site.

If a foreign organisation, while being a general contractor, gives orders for the performance of a part of the contractual works to other persons (subcontractors), the period of time spent by the subcontractors on carrying out the works shall be seen as the time thus expended by the general contractor himself. This provision shall not be applied with respect to the period of works which the subcontractor performs under direct contracts with the builder or technical orderer and which are not included in the volume of works entrusted to the general contractor, with the exception of those cases when these persons and the general contractor are reciprocally dependent persons in conformity with **Article 105.1** of this Code.

If the subcontractor is a foreign organisation, his activity on this construction site shall also be considered as creating a permanent representation of the subcontractor organisation.

The given provision shall be applied to Subcontractor organisations whose activity comprises in total not less than 30 calendar days, under the condition that the general contractor has a permanent representation.

**3.** For the purposes of taxation, seen as the beginning of the existence of the construction site shall be the earliest of the following dates: the date of signing an act on handing over the site to the contractor (an act on admitting the subcontractor's personnel to the performance of his part of the total volume of works), or the date of the actual start of the works.

Seen as the end of the existence of the construction site shall be the date of the builder's or technical orderer's signing an acceptance act on the object or on the complex of works envisaged by the contract. Seen as the end of the subcontractor's works shall be the date of

signing the act on the acceptance of works by the general contractor. If the acceptance act was not formalised or if the works have in fact ended after signing such act, the construction site shall be seen as having stopped its existence (the subcontractor's works shall be seen as completed) on the date of the actual end of the preparatory, building or mounting works included in the volume of works of the corresponding person on the given construction site.

**4.** The construction site shall not stop its existence if the works on it are stopped only for a time, except for cases of the conservation of the construction object for a term of over 90 calendar days by the decision of the federal executive power bodies, of the corresponding state power bodies of the subjects of the Russian Federation, or of the local self-government bodies adopted within the scope of their competence, or as a result of an impact of force majeure circumstances.

If the works on the construction object are continued or resumed after an interval in the works when the act mentioned in **Item 3** of this Article, is signed, the term of performance of the continued or resumed works and of the interval between the works shall be added to the total term of the existence of the construction site only if:

1) the territory (water area) of the resumed works is the territory of the earlier stopped works or that closely adjoining it;

2) the continued or resumed works on the object are entrusted to a person who has earlier performed the works on this construction site, or if the new and the former contractors are reciprocally dependent persons.

If the continuation or the resumption of the works is connected with the construction or mounting of a new object on the same construction site or with the reconstruction of the earlier completed object, the term of performance of such continued or resumed works and of the interval between the works shall also be added to the total term of existence of the construction site.

In all other cases, including the performance of repairs, reconstruction or technical re-equipment of an object which was earlier handed over to the builder or technical orderer, the term of performance of the continued or resumed works and the interval between the works shall not be added to the total term of existence of the construction site, started with the works on the earlier commissioned object.

**5.** The construction or mounting of such objects as roads, viaducts and channels, or as the laying down of communications in the course of whose performance the geographical place of their location changes, shall be considered as an activity performed on one construction site.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 309 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 309.** Specifics in the Taxation of Foreign Organisations Not Performing an Activity Through a Permanent Representation in the Russian Federation but Deriving Incomes from the Sources in the Russian Federation

**1.** The following kinds of incomes received by foreign organisations, which are not connected with its business activity in the Russian Federation, shall be referred as the foreign organisation's incomes derived from the sources in the Russian Federation and shall be subject to levying with tax to be withheld from the source of the payment from the incomes:

1) the dividends paid out to foreign organisations who are shareholders (partners) of

Russian organisations;

2) the incomes received as a result of the distribution in favour of foreign organisations of the profit or of the property of organisations, of other persons or of their associations, including in cases of their liquidation (taking account for the provisions of **Items 1 and 2 of Article 43** of this Code);

3) the interest income from any kind of debt liabilities, including bonds with the right of participation in the profits and convertible bonds, including:

- the incomes received from the state and municipal emission securities, the terms of whose issue and circulation envisage the receipt of incomes in the form of interest;
- the incomes on other debt liabilities of Russian organisations not pointed out in the second paragraph of this Subitem.

4) the incomes from the use in the Russian Federation of the rights to the objects of intellectual activity. To such incomes, in particular, shall be referred any kinds of payments received by way of compensation for the use or for granting the right to the use of any author's copyright to the works of literature, art or science, including cinema films and films or recordings for television or radio broadcasting programmes, for the use (for granting the right to use) of any patents, trade marks, drafts or models, of plans, of secret formulas or processes, or for the use (for granting the right to use) of information concerning industrial, commercial or scientific experiences;

**Federal Law** No. 132-FZ of June 7, 2011 amended Subitem 5 of Item 1 of Article 309 of this Code. The amendments shall **enter into force** from the date of the **official publication** of the said Federal Law and shall **extend** to legal relations arising from January 1, 2011

**5)** the incomes from sale of stocks (partner shares in the capital) of Russian organisations over 50 per cent of whose assets consists of immovable property situated on the territory of the Russian Federation, as well as of the financial instruments derivative from such stocks (partner shares), except for stocks recognized to be circulating in the organized securities market in compliance with **Item 3 of Article 280** of this Code. With this, the incomes from the sale on foreign exchanges (through foreign trade organisers) of the securities or of the financial instruments derivative from them which are circulated on these exchanges shall not be recognised as incomes from sources in the Russian Federation;

6) the incomes from the sale of immovable property situated on the territory of the Russian Federation;

7) incomes from letting out or subletting property used on the territory of the Russian Federation, including the incomes from leasing operations and from letting out or subletting sea-going ships and aircraft or transport facilities, as well as containers used in international shipments. With this, incomes from the leasing operations connected with acquisition and use of the subject of leasing by the recipient of lease shall be calculated reasoning from the total amount of leasing payment less the reimbursement of the cost of the lease property (when it is granted out on lease) to the grantor of lease;

**8)** incomes from international shipments (including demurrages and other payments arising from carriage). For the purposes of this article the term "demurrage" is used in the meaning established by the **Code** of Merchant Navigation of the Russian Federation.

Seen as international shipments shall be any kinds of shipments effected by a sea-going ship, river boat or air vessel, by a motor transport vehicle or by rail transport, with the exception of cases when the shipment is effected exclusively between the points situated outside of the Russian Federation;

9) the fines and penalties for violating contractual obligations by Russian persons, state bodies and (or) the executive bodies of local self-government;

**10)** other similar incomes.

2. Incomes received by foreign organisations from the sale of commodities, of the other property save indicated in **Subitems 5 and 6 of Item 1** of this Article, as well as of property rights from the performance of works and rendering services on the territory of the Russian Federation, which do not lead to the formation of a permanent representation in the Russian Federation, shall not be subject to taxation in conformity with **Article 306** of this Code.

The re-insurance premiums and bonuses paid out to the foreign partner shall not be recognised as incomes from sources in the Russian Federation.

3. The incomes listed in **Item 1** of this Article shall be seen as the object of levying with tax, irrespective of the form in which such incomes are received, in particular, of whether they are received in kind, by the settlement of the liabilities of this organisation, in the form of remitting its debt or of offsetting the claims to this organisation.

4. When delineating the tax base on the incomes pointed out in **Subitems 5 and 6 of Item 1** of this Article, from the sum of such incomes may be deducted the outlays in accordance with the procedure envisaged by **Articles 268, 280** of this Code.

The said outlays of the foreign organisation shall be taken into account when defining the tax base, if by the date of payment out of these incomes at the disposal of the tax agent withholding the tax from such incomes in conformity with this Article, there is documented data on such incomes submitted by this foreign organisation.

5. The tax base for the incomes of foreign organisations subject to taxation in conformity with this Article, and the sum of tax withheld from such incomes shall be computed in the currency in which the foreign organisation received such incomes. The outlays made in a different currency shall be computed in the same currency in which the income was received, in accordance with the official exchange rate (cross-rate) of the Central Bank of the Russian Federation as on the date of making such outlays.

6. If the founder or the beneficiary under a contract of trust management is a foreign organisation having no permanent representation in the Russian Federation, while the trusted manager is a Russian organisation or a foreign organisation performing its activity through a permanent representation in the Russian Federation, the tax from the incomes of such founder or of such beneficiary obtained in the framework of the trust management, shall be withheld and transferred to the budget by the trust manager.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 310 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**

**Article 310.** Specifics in the Calculation and Payment of Tax on the Incomes Derived by a Foreign Organisation from Sources in the Russian Federation Withheld by the Tax Agent

1. Tax on the incomes received by a foreign organisation from sources in the Russian Federation shall be calculated and withheld by the Russian organisation or by the foreign organisation performing an activity in the Russian Federation through a permanent representation which pay out the income to the foreign organisation in each payment of the incomes indicated in **Item 1 of Article 309** of this Code with the exception of the cases envisaged by **Item 2** of this Article, in the currency of the payment of the income.

Tax from the kinds of incomes indicated in **Subitem 1 of Item 1 of Article 309** of this Code shall be calculated in accordance with the rate envisaged by **Subitem 3 of Item 3** of Article 284 of this Code.

Tax from the kinds of incomes indicated in the **second paragraph of Subitem 3 of Item 1 of Article 309** of this Code shall be calculated in accordance with the rate envisaged by **Item 4 of Article 284** of this Code.

The tax from the kinds of incomes indicated in **Subitem 2, Paragraph Three of Subitem 3** and in **Subitems 4 and 7** (in so far as they relate to letting and sub-letting property used on the territory of the Russian Federation, including that used in leasing operations), **9 and 10 of Item 1 of Article 309** of this Code shall be calculated in accordance with the rates envisaged by **Subitem 1 of Item 2 of Article 284** of the present Code.

The tax from the kinds of incomes listed in **Subitems 7** (in so far as it relates to incomes from letting and sub-letting of sea-going ships, aircraft and other movable transport means or containers used in international carriage) and **8 of Item 1 of Article 309** of this Code shall be calculated in accordance with the rate envisaged by **Subitem 2 of Item 2 of Article 284** of this Code.

The tax from the kinds of incomes indicated in **Subitems 5 and 6 of Item 1 of Article 309** of this Code shall be calculated taking account of the provisions of **Item 2 and 4** of the said Article, in accordance with the rates envisaged by **Item 1 of Article 284** of the present Code. If the outlays mentioned in **Item 4 of Article 309** of the present Code are not recognised as outlays for the purposes of taxation, the tax from such incomes shall be computed according to the rates envisaged by **Subitem 1 of Item 2 of Article 284** of this Code.

The sum of tax withheld from the incomes of foreign organisations in conformity with this Item shall be transferred by the tax agent to the federal budget in the currency of the Russian Federation in the procedure provided for by **Items 2 and 4 of Article 287** of this Code.

If the tax is paid out to the foreign organisation in kind or in another non-monetary form, including in the form of making mutual offsets, or if the sum of the tax subject to withholding exceeds the sum of the foreign organisation's income received in monetary form, the tax agent shall be obliged to transfer the tax into the budget in the computed sum, having reduced in the proper order the income of the foreign organisation received in non-monetary form.

Tax on income in the monetary form to be paid (to be remitted) in respect of serial securities with obligatory centralised custody, as regards issues of federal state serial securities with mandatory centralized custody and issues of other serial securities with mandatory centralized custody whose state registration was effected or whose registration number was awarded thereto after January 1, 2012, to a person which is entitled under the effective legislation to receive such income and which is a foreign organization shall be estimated and deducted by the depository engaged in payment (remittance) of the cited income to a taxpayer.

**2.** The calculation and withholding of the sum of tax from incomes paid out to foreign organisations shall be effected by the tax agent on all the kinds of incomes pointed out in **Item 1 of Article 309** of the present Code, in all cases when such incomes are paid out, with the exception of the cases when:

1) the tax agent is notified by the receiver of the income that the paid out income refers to the permanent representation of the receiver of the income in the Russian Federation and that at the disposal of the tax agent is the copy of the certificate certified by a notary on the receiver of the income being put onto the records in the tax bodies, formalised not earlier than in the preceding tax period;

2) with respect to the income paid out to the foreign organisation, **Article 284** of this Code envisages the tax rate of 0 per cent;

3) incomes are paid out and received from production sharing agreements if the legislation of the Russian Federation on taxes and fees envisages relief of such incomes from withholding the tax in the Russian Federation as they are transferred to foreign organisations;

**Federal Law** No. 132-FZ of June 7, 2011 amended Subitem 4 of Item 2 of Article 310 of

this Code. The amendments shall **enter into force** from the date of the **official publication** of the said Federal Law and shall **extend** to legal relations arising from June 8, 2007

4) incomes are paid out which in conformity with international treaties (agreements) are not levied with tax in the Russian Federation, under the condition that the foreign organisation presents to the tax agent the confirmation, envisaged by **Item 1 of Article 312** of this Code. In this case, the payment of the incomes by Russian banks and a development bank which is a state corporation on transactions with foreign banks does not require confirmation of the fact of the permanent place of location of the foreign bank in the state with which an international treaty (agreement) is signed regulating the questions of taxation, if such place of location is confirmed by information supplied in generally accessible information hand-books;

5) incomes are paid to organisations that are foreign organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation or that are foreign market partners of the International Olympic Committee in compliance with **Article 3.1** of the cited Federal Law;

6) incomes connected with dissemination of mass media products concerning the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi and paid to official broadcasting companies in compliance with **Article 3.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation.

**Federal Law** No. 132-FZ of June 7, 2011 amended Item 3 of Article 310 of this Code. The amendments shall **enter into force** from the date of the **official publication** of the said Federal Law and shall **extend** to legal relations arising from June 8, 2007

3. In the event of paying out by the tax agent to a foreign organisation of the incomes which are taxable under international treaties (agreements) in the Russian Federation at reduced rates, the calculation and withholding of the tax from incomes shall be effected by a tax agent at corresponding reduced rates, provided that a foreign organisation presents to the tax agent the confirmations stipulated by **Item 1 of Article 312** of this Code. With this, in the event of paying out by Russian banks and by development bank, which is a state corporation, of incomes from operations with foreign banks, the confirmation of the fact of a foreign bank's permanent location in a state with which an international treaty (agreement) regulating taxation matters is made shall not be necessary, if such location is confirmed by the data from international reference-books open to general use.

4. The tax agent shall submit by the results of the reporting (tax) period, within the time terms fixed for the presentation of the tax settlements by **Article 289** of this Code, information on the sums of incomes paid out to foreign organisations and of taxes withheld for the previous reporting (tax) period to the tax body at the place of its location in accordance with the **form** established by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

5. The specifics of estimation and payment of tax on the incomes derived by a foreign organisation from the sources in the Russian Federation to be subtracted by a tax agent which

are established by this article shall extend to tax estimation and payment by the Russian organisations which are participants in a consolidated group of taxpayers and which pay out incomes to a foreign organisation.

The tax sums shall be estimated, subtracted and remitted to the budget by the organisations which are participants of a consolidated group of taxpayers independently, without participation of the responsible participant in the consolidated group of taxpayers (except when such responsible participant acts as a tax agent according to the rules of this article).

#### **Article 311.** Elimination of Double Taxation

**1.** The incomes received by the Russian organisation from sources outside the Russian Federation shall be taken into account when delineating its tax base. The said incomes shall be recorded in full volume taking account of the outlays made both in the Russian Federation beyond its boundaries.

**2.** In delineating the tax base, the outlays made by the Russian organisation in connection with the receipt of incomes from sources outside the Russian Federation shall be deducted in the order and in the amount established by this Chapter.

**3.** The sums of tax paid out in conformity with the legislation of foreign states by the Russian Federation, shall be set off when this organisation pays tax in the Russian Federation. The sum of the set off sums of the taxes paid outside the Russian Federation cannot exceed the sum of the tax subject to payment by this organisation in the Russian Federation.

The offsetting is effected under the condition that the taxpayer submits the document confirming the payment (withholding) of the tax outside the Russian Federation: for the taxes paid by the organisation itself - those certified by the tax body of the corresponding foreign state, and for taxes withheld in conformity with the legislation of foreign states or with an international agreement by the tax agents - the confirmation by the tax agent.

The confirmation indicated in this Item shall be valid within the tax period in which it was submitted to the tax agent.

**4.** If there are detached units located outside the territory of the Russian Federation, tax shall be paid (advance tax payments shall be made), as well as tax calculations and tax declarations shall be submitted by the organisation at its location.

***Federal Law No. 57-FZ of May 29, 2002 amended Article 312 of this Code***

*The amendments **shall enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

***See the previous text of the Article***

#### **Article 312.** Special Provisions

**1.** When applying provisions of international treaties of the Russian Federation, the foreign organisation shall submit to the tax agent, paying out the income, confirmation of the fact that the foreign organisation has a permanent place of location in the state with which the Russian Federation has signed an international treaty (agreement), regulating the questions of taxation which shall be certified by a competent body of the corresponding foreign state. Where the given confirmation is in a foreign language, its translation into Russian shall be likewise submitted to the tax agent.

When the foreign organisation having the right to the receipt of income submits the confirmation mentioned in Item 1 of this Article to the tax agent, paying out the income before the date of the payment out of the income with respect to which a privileged regime of taxation is envisaged by the international treaty of the Russian Federation, with respect to such income



is applied relief from withholding the tax from the source of payment, or the tax from the source of the payment is withheld at a reduced rate.

**2.** Return of excessively withheld tax on incomes paid out earlier to foreign organisations with respect to which international treaties of the Russian Federation, regulating the questions of taxation, envisage a special taxation regime, shall be effected under the condition that the following documents are submitted:

- an application for the return of the withheld tax, made out in accordance with the form established by the federal executive body authorised to exercise control and supervision in the area of taxes and fees;

- a confirmation of the fact that at the moment of the payment out of the income this foreign organisation had its permanent place of location in a state with which the Russian Federation has concluded an international treaty (agreement) regulating the questions of taxation which shall be certified by the competent body of the corresponding foreign state;

- the copies of the agreement (or of another document), in conformity with which income is paid out to the foreign legal entity, and the copies of the payment documents confirming the transfer of the sums of the tax, subject to return, to the budget system of the Russian Federation onto the corresponding Federal Treasury account.

If the above documents are compiled in a foreign language, the tax body shall have the right to demand that their translation into Russian also be submitted. No notary's certification of the contracts, payment documents or their translation into Russian shall be required. And no other documents, except for the above-listed, shall be demanded.

The application for the return of the sum of taxes earlier withheld in the Russian Federation, as well as the other documents listed in this Item, shall be submitted by the foreign receiver of the income to the tax body at the place of the tax agent's being put onto records within three years from the moment of the end of the tax period in which the tax was paid out.

Return of tax earlier levied (and paid up) shall be effected by the tax body at the place of registration of the tax agent in the currency of the Russian Federation after submitting the application and the other documents mentioned in this Item in the procedure provided for by **Article 78** of this Code.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 313 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 313.** Tax Records. General Provisions

The taxpayers shall calculate the tax base by the results of every reporting (tax) period on the grounds of the data of the tax records.

Tax recording shall be seen as the system for summing up information for defining the tax base for tax on the grounds of the data from the basic documents grouped in accordance with the procedure stipulated by this Code.

Where in bookkeeping registers there is not enough information for determining the tax base in compliance with the requirements of this Chapter, the taxpayer shall be entitled to enter independently additional requisite elements to bookkeeping registers applied, thus forming taxation registers, or to keep independent taxation registers.

*See Regulations for Accounting Records "The Record-keeping of Payments of the Profit Tax (RKP 18/02)" approved by Order of the Ministry of Finance of the Russian Federation No.*

*114n of November 19, 2002*

Tax recording shall be effected for the purpose of accumulating complete and authentic information on the procedure for recording for the purposes of taxation the economic operations performed by the taxpayer in the course of the reporting (tax) period, as well as for supplying with information the internal and external users for exerting control over the correctness of the calculation, over the fullness and timeliness of the calculation and over the payment of tax into the budget.

The system of tax recording shall be organised by the taxpayer on his own, proceeding from the principle of the successive application of the norms and rules of tax recording, that is, it shall be applied consecutively from one tax period to another. The procedure for keeping the tax records shall be established by the taxpayer in the accounting policy for the purposes of taxation to be approved by the corresponding Order (Direction) of the manager. The tax and other bodies shall not be empowered to establish for taxpayers obligatory forms of tax accounting documents.

The taxpayer shall change the procedure for recording individual economic operations and (or) objects for the purposes of taxation in cases of changes in legislation or of the applied methods for recording. Decisions on any changes in the accounting policy for the purposes of taxation in the event of changing applied methods for recording shall be taken as of the start of a new tax period, and in the event of changes in the legislation on taxes and fees it shall be done no earlier than from the moment of entry into force of changed rules of the said legislation.

If the taxpayer has begun to perform any new kinds of activity, he shall also be obliged to define and to reflect in the accounting policy for the purposes of taxation the principles and the procedure for reflecting these kinds of activity for taxation purposes.

The data of tax recording shall reflect the procedure for the formation of the sum of the incomes and outlays, the way of determining the share of the outlays recorded for the purposes of taxation in the current tax (reporting) period, the sum of the residual of the outlays (losses) which shall be referred to the outlays in the next tax periods, the order of accumulation of the sums of the set up reserves, as well as the sum of indebtedness by settlements with the budget on the tax.

Seen as confirmation of the data of the tax records shall be:

1. the basic accounting documents (including a reference note from the accountant);
2. the analytical tax recording registers;
3. the calculation of the tax base.

The forms of analytical tax recording registers for determining the tax base which are the documents for the tax recording shall contain the following requisites:

- the name of the register;
- the period (the date) of compilation;
- the operation's measuring indices in kind (if this is possible) and in the monetary expression;
- the names of the economic operations;
- the signature (deciphering of the signature) of the person responsible for compiling the said registers.

The content of the data of the tax recording (including the data from the basic documents) shall be seen as a tax secret. The persons who have access to the information contained in the data of the tax records shall be obliged to keep **tax secrets**. They shall be held responsible for divulging it in conformity with the effective legislation.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 314 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the**

*official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 314.** Analytical Tax Recording Registers

Analytical registers of tax records shall be seen as consolidated forms for the systematisation of the data of tax recording for the reporting (tax) period, grouped in accordance with the demands of this Chapter, without distribution (reflection) by business accounting accounts.

The data of the tax records shall be seen as the data which is recorded in the development tables, the accountant's reference notes and other taxpayer's documents which arrange information on the objects of taxation into groups.

The formation of the tax recording data presupposes continuity in reflecting in chronological order the objects of recording for the purposes of taxation (including operations whose results are recorded in several reporting periods or are transferred to several years).

Analytical accounting of the data of tax recording shall be organised by the taxpayer so that it shall reveal the procedure of the formation of the tax base.

Analytical tax recording registers are intended for the systematisation and accumulation of information contained in the basic documents accepted for recording, and of the analytical data of the tax records for reflecting them in the calculation of the tax base.

The tax recording registers shall be kept in accordance with special forms on paper carriers, in electronic form and (or) on any machine-readable carriers.

The forms of the tax recording registers and the way of reflecting in them the analytical data of the tax records and of the data of the basic documents shall be elaborated by the taxpayer on his own and shall be established in the Appendices on the organisation's accounting policy for the purposes of taxation.

The correctness of reflecting the economic operations in the tax recording registers shall be guaranteed by the persons who have compiled and signed them.

During the storage of the tax recording registers their protection from unsanctioned corrections shall be ensured.

The correction of mistakes in the tax recording register shall be justified and confirmed with the signature of the responsible person who has made the correction, with an indication of the date and with the substantiation of the effected correction.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 315 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 315.** Procedure for Making the Calculation of the Tax Base

The tax base for the reporting (tax) period shall be calculated by the taxpayer on his own in conformity with the norms established by the present Chapter, proceeding from the data of the tax records, by progressive total from the year's start.

The calculation of the tax base shall contain the following data:

1. The period for which the tax base is defined (from the start of the tax period by progressive total).

2. The sum of the incomes from sales received in the reporting (tax) period, including:

1) the earnings from the sale of commodities (works, services) of self production, as well

as the earnings from sale of property and of rights of property, with the exception of the earnings mentioned in Subitems 2 - 7 of this Item;

- 2) the earnings from the sale of securities not circulated on the organised market;
- 3) the earnings from the sale of securities circulated on the organised market;
- 4) the earnings from the sale of purchased commodities;
- 5) **abolished** from January 1, 2006;
- 6) the earnings from the sale of basic assets;
- 7) the earnings from the sale of commodities (works, services) of servicing production and economies.

**3.** The sum of the outlays made over the reporting (tax) period, minus the sum of the incomes from sale, including:

1) the outlays on the output and sale of commodities (works, services) of self manufacture, as well as the outlays made on the sale of the property and of the rights of property, with the exception of the outlays mentioned in Subitems 2 - 6 of this Item.

The total sum of the outlays shall be reduced by the sums of the residuals of the production in progress, of the residuals of products in the store-house and of products shipped but not sold as at the end of the reporting (tax) period, identified in conformity with **Article 319** of the present Code;

- 2) the outlays made in the sale of securities not circulated on the organised market;
- 3) the outlays on the sale of securities circulated on the organised market;
- 4) the outlays made on the sale of the purchased commodities;
- 5) the outlays connected with the sale of fixed assets;
- 6) the outlays made by the servicing productions and economies as they sold commodities (works, services).

**4.** The profit (loss) from sales, including:

1) the profit from the sale of home-produced commodities (works, services), as well as the profit (loss) from the sale of property and of the rights of property, with the exception of the profit (loss) pointed out in Subitems 2, 3, 4 and 5 of this Item;

- 2) the profit (loss) from the sale of securities not circulated on the organised market;
- 3) the profit (loss) from the sale of securities circulated on the organised market;
- 4) the profit (loss) from the sale of the purchased commodities;
- 5) the profit (loss) from the sale of fixed assets;
- 6) the profit (loss) from the sale of the servicing productions and economies.

**5.** The sum of extra-sale incomes including:

1) incomes from operations with the financial instruments of futures transactions circulated on the organised market;

2) incomes from operations with the financial instruments of futures transactions not circulated on the organised market.

**6.** The sum of extra-sale outlays, especially:

1) outlays on operations with the financial instruments of futures transactions circulated on the organised market;

2) outlays on operations with the financial instruments of futures transactions not circulated on the organised market.

**7.** The profit (loss) from extra-sales operations.

**8.** The total tax base for the reporting (tax) period.

**9.** To define the sum of the profit subject to taxation, from the tax base shall be excluded the sum of the loss subject to being put off in the order envisaged by **Article 283** of this Code.

**Article 316.** Procedure for the Tax Recording of the Incomes from Sales

The incomes from sales shall be defined by the kind of activity, if for the given kind of

activity is envisaged other taxation procedure, is applied a different tax rate or is envisaged the order of recording profits and losses, received (incurred) from the given kind of activity differing from the general order.

The sum of receipts from sales shall be defined in conformity with **Article 249** of this Code, taking account for the provisions of **Article 251** of this Code as on the date of recognising the incomes and outlays in accordance with the method for recognising the incomes and the outlays selected by the taxpayer for the purposes of taxation.

If the price of the sold commodity (works, services) or of the right of property is expressed in the currency of a foreign state, the sum of the earnings from the sale shall be recalculated into roubles as on the date of sale. If a taxpayer applying the accrual method for defining receipts and expenditures receives an advance payment or caution money, the amount of sales proceeds in the part thereof falling at the advance payment of the caution money shall be estimated on the basis of the official exchange rate fixed by the Central Bank of the Russian Federation as of the date when the advance payment or caution money are received.

If the price of the sold commodities (works, services) and property rights is expressed in conventional units, the sum of earnings from the sale thereof shall be recalculated into roubles at the rate established by the Central Bank of the Russian Federation as on the date of the sale. With this, arising sum differences shall be included in the composition of extra-sale incomes (outlays) depending on the difference which arises.

If the sale is effected through a commission agent, the tax paying consignor shall define the sum of the earnings from the realisation as on the date of sale on the grounds of the notice from the commission agent on the realisation of the property (of the rights of property) belonging to the consignor. The commission agent shall be obliged to notify the consignor of the date of sale of the property belonging to him, in the course of three days as from the moment of the end of the reporting period in which such sale has taken place.

If the settlements in the sale are carried out on the terms of granting the commodity credit, the sum of the earnings shall also be defined as on the date of sale and shall include the sum of interest levied for the period from the moment of the shipment to the moment of the transfer of the right of property to the commodities.

An interest levied for the use of the commodity credit as from the moment of the transfer of the right of property to the commodities until the moment of the complete settlement on the liabilities shall be included into the composition of the extra-sales outlays.

For production facilities with a long technological cycle (over one tax period), except for case when completed works (services) are delivered in phases under the contracts concluded, income from the sale of the said works (services) shall be distributed by the taxpayer at the taxpayer's own discretion with due regard to the principle of even income recognition on the basis of record data. In this case the principles and methods applied to distribute income from sales shall be approved by the taxpayer in its accounting policy for taxation purposes.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 317 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**

#### **Article 317.** Procedure for Tax Recording of Individual Kinds of Extra-Sales Incomes

When defining the extra-sales incomes in the form of fines, penalties or other sanctions imposed for violating contractual liabilities, as well as of the sums of recompense for the inflicted losses or damages, the taxpayers defining incomes using the method of calculation, shall reflect the due sums in conformity with the terms of the contract. If the terms of the contract do not

establish the amount of penalty sanctions or a recompense for the losses, no liability arises with the taxpayer for calculating the extra-realisation incomes from these kinds of incomes. And if the debt is exacted by court decision, the liability involved in the calculation of this extra-sales income arises with the taxpayer on the grounds of a court decision, which has entered into legal force.

#### **Article 318.** Procedure for Defining the Sum of the Outlays on Production and Sale

**1.** If the taxpayer defines the incomes and the outlays by method of calculation, the outlays on the production and on sale shall be defined taking account for the provisions of this Article.

For the purposes of this Chapter, the outlays on the production and sales made in the course of the reporting (tax) period shall be subdivided into:

- 1) direct;
- 2) indirect.

To direct outlays may be in particular classified as:

the material expenses determined in compliance with **Subitems 1 and 4 of Item 1 of Article 254** of this Code;

the outlays on paying labour wages to the personnel participating in the production of commodities, carrying out works and rendering services and expenses towards compulsory pension insurance used to finance the insurance and accumulated portions of the labour pension, for obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses which are accrued on said amounts of outlays on paying labour wages;

the sums of accrued depreciation of the fixed assets used in the production of commodities, works and services.

To indirect outlays there shall pertain all other sums of outlays, except for the extra-sale outlays determined in compliance with **Article 265** of this Code and made by a taxpayer within a report (tax) period.

A taxpayer shall define at his discretion in his accounting concepts for taxation purposes a list of the direct expenses relating to the manufacture of goods (performance of works, provision of services).

**2.** The sum of indirect outlays on production and sales effected in the reporting (tax) period, shall be in full volume referred to the outlays of the current report (tax) period subject to the requirements provided for by this Code. A similar procedure shall apply to include non-sales expenses in the expenses of the current period.

Direct expenses are classified as expenses of the current accounting (tax) period following the progress of the sales of the products, works, services in whose cost they are taken into account under **Article 319** of this Code.

Taxpayers providing services are entitled to post the sum of direct expenses incurred in the accounting (tax) period in full to reduce incomes from the manufacture and sales of this accounting (tax) period without distribution over the balance of work-in-progress.

**3.** Where in respect of individual outlays limitations with regard to the amount of outlays accepted for the purposes of taxation are stipulated under this Chapter, the base for calculating the ultimate amount of such outlays shall be determined in progressive total, as of the start of a tax period. With this, as regards the outlays of a taxpayer connected with voluntary insurance (retirement insurance) of his workers, the term of a contract's validity in a tax period, starting from the date of entry of such contract into force, shall be taken into account when determining the ultimate amount of the outlays.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 319 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**

**Article 319. Procedure for Estimating the Residuals of Incomplete Production and of Those of Finished and Shipped Products**

**1.** For the purposes of this Chapter, interpreted as incomplete production (hereinafter referred to as the NZP) shall be those which have not gone through all the processing (finishing) operations stipulated by the technological process. Into the incomplete production shall be included products finished but not completely accepted by the customer, as well as works and services finished but not accepted by the customer. To the incomplete production shall also be referred the residuals of the non-fulfilled orders of the productions and the residuals of semi-finished products of domestic manufacture. The materials and semi-finished products still in production shall be referred to work in progress only if they have already been processed.

The residuals of incomplete production as at the end of the current month shall be estimated by the taxpayer on the grounds of the data of the basic accounting documents on the movement and on the residuals (in quantitative terms) of raw materials and finished products in workshops (works and other industrial subdivisions of a taxpayer) and the data of the tax records on the sum of direct outlays made in the current month.

A taxpayer shall define at his discretion the procedure for distributing direct expenses to work-in-progress and the products (works, services) manufactured (performed, provided) in the current month with account taken of the correspondence of the expenses incurred to the products (works, services) manufactured (performed, provided).

The said procedure for distributing direct expenses (the assessment of the value of work-in-progress) is established by the taxpayer in his accounting concepts for taxation purposes and it shall be implemented for at least two tax periods.

If direct expenses are not attributable to a specific production process used to manufacture a given type of product (work, service) the taxpayer shall designate a specific mechanism in his accounting concepts for taxation purposes to distribute the said expenses using economically-substantiated indicators.

The sum of the residuals of the incomplete production as at the end of the current month shall be included into the composition of the direct outlays in the next month. When the tax period comes to an end, the sum of the residuals of the incomplete production as at the end of the tax period shall be included in the composition of the next tax period in the order and on the terms stipulated in this Article.

**2.** The residuals of finished products left in warehouses as at the end of the current month shall be assessed by the taxpayer on the grounds of the data of basic accounting documents on the movement and residuals of finished products left in warehouses (in quantitative terms), as well as of the sum of direct outlays made in the current month, reduced by the sum of direct outlays related to the residuals of NZP. The assessment of the residuals of finished products in warehouses shall be determined by a taxpayer as a difference between the amount of direct outlays falling at the residuals of finished products as on the start of the current month increased by the amount of the direct outlays falling at the output in the current month (less the amount of the direct outlays falling at the residuals of NZP), and the amount of the direct outlays falling at the products shipped within the current month.

**3.** The residuals of the shipped but not sold products as at the end of the current month

shall be assessed by a taxpayer on the basis of the data on the shipment (in quantitative terms) and the amount of the direct outlays made in the current month decreased by the amount of the direct outlays related to the residuals of NZP and the residuals of finished products in warehouses. The assessment of the residuals of shipped but not sold products as at the end of the current month shall be determined by a taxpayer as the difference between the amount of the direct outlays falling at the residuals of shipped but not sold finished products as at the start of the current month increased by the amount of the direct outlays falling at the products shipped in the current month (less the amount of the direct outlays falling at the residuals of finished products in warehouses), and the amount of the direct outlays falling at the products sold in the current month.

#### **Article 320.** Procedure for Assessing Expenses in Trading Transactions

Taxpayers pursuing wholesale, small-scale wholesale and retail activities shall assess sales expenses (hereinafter referred to in the present Article as "distribution costs" with due regard to the below details.

During the current month distribution costs are assessed in accordance with this Chapter. As this is being done, distribution cost amounts shall in particular include the expenses of the taxpayer being a buyer of goods incurred to deliver these goods, warehouse expenses and other current month expenses relating to the acquisition, unless they are taken into account in the value of the goods purchased and the selling of these goods. The following is not included in distribution costs: the cost of purchase of goods at the price set by contractual terms. In this case the taxpayer has a right to recognise the cost of acquisition of goods including the expenses relating to the acquisition thereof. The said cost of the goods shall be taken into account when they are sold in accordance with **Subitem 3 of Item 1 of Article 268** of this Code. The cost of acquisition of goods that have been shipped but have not been sold as at the end of the month shall not be included by the taxpayer in the expenses relating to the production and sales until the time when they are sold. The procedure for recognising the cost of acquisition of goods shall be defined by the taxpayer in his accounting concepts for taxation purposes and shall be implemented for at least two tax periods.

Current month expenses are classified as direct and indirect. Direct expenses include the cost of acquisition of goods sold in a given reporting (tax) period and the amounts spent towards the delivery (transport expenses) of purchased goods to a warehouse of the taxpayer buying the goods, unless such expenses were included in the purchase price of the goods. All other expenses, except for non-sales expenses assessed in accordance with **Article 265** of this Code, that have been incurred in the current month shall be deemed indirect expenses and they shall reduce sales incomes of the current month. The sum of direct expenses deemed the balance of unsold goods shall be assessed by the average percentage indicator as of the beginning of the month as follows:

- 1) assessment shall be made of the sum of direct expenses attributable to the balance of unsold goods as of the beginning of the month and incurred in the current month;
- 2) assessment shall be made of the cost of acquisition of the goods sold in the current month and the cost of acquisition of the balance of unsold goods as of the end of the month;
- 3) calculation shall be made of an average percentage indicator as the ratio of the sum of direct expenses (**Item 1** of this part) to the value of the goods (**Item 2** of this part);
- 4) assessment shall be made of the direct expense sum attributable to the balance of unsold goods as the average percentage indicator multiplied by the value of the balance of goods as of the end of the month.

#### **Article 321.** Specifics in Keeping the Tax Records by Organisations Set Up in Conformity with the Federal Laws Regulating the Activity of These Organisations



Organisations set up in conformity with federal laws (the Central Bank of the Russian Federation and the Deposit Insurance Agency), regulating the activity of these organisations, shall keep separate records on the incomes and outlays received (made) in the performance of an activity involved in the discharge of the functions envisaged by legislation, as well as of the incomes and outlays received (made) in the performance of other kinds of commercial activity.

When carrying out the tax recording of commercial activities, such organisations shall apply the general norms of this Chapter, regulating the order of delineating the incomes and the outlays, as well as the special norms (specifics) envisaged for the individual taxpayer categories, or the norms stipulated for particular circumstances. A non-profit organisation applies the given norms if it performs such kinds of activity in conformity with federal laws.

If such non-profit organisations make obligatory uncompensated outlays in conformity with the demands of the legislation of the Russian Federation, such outlays shall be recognised as outlays of this organisation, subtracting the incomes from its commercial activity.

**Article 321.1. Abrogated** from January 1, 2011.

**Article 321.2.** The Specifics of Keeping Tax Records by Participants in a Consolidated Group of Taxpayers

1. The responsible participant in a consolidated group of taxpayers shall keep as applied to the procedure for keeping tax records established by this article tax records of the consolidated tax base on the basis of information of the tax ledgers of each participant in this group to be kept in compliance with **Article 313** of this Code.

2. A procedure for keeping tax records of a consolidated group of taxpayers shall be established in the accounting policy for the purpose of taxing the consolidated group of taxpayers.

3. An estimate of a consolidated tax base for the accounting (tax) period shall be independently made by the responsible participant in a consolidated group of taxpayers in compliance with this article on the basis of tax registration data of all the participants in this group as a progressive total from the start of the tax period as applied to the procedure established by **Article 316** of this Code.

4. Each participant in a consolidated group of taxpayers shall present to the responsible participant in this group the tax registration data required for estimation of the consolidated tax base at the time fixed by an agreement on forming the consolidated group of taxpayers.

5. The consolidated tax base of a consolidated group of taxpayers shall be estimated as the arithmetic sum of incomes of all the participants in this group reduced by the arithmetic sum of outlays of all the participants thereof subject to the provisions of this Code.

The negative difference shall be deemed a loss of a consolidated group of taxpayers.

**Article 322.** Specifics in Organising the Tax Recording of Depreciated Property

1. Organisations in their tax recording shall determine the residual value of depreciable property items as of the first day of the tax period in which it is established by the accounting policy for taxation purposes to change the method for charging depreciation.

In the event of establishing in the accounting policy for taxation purposes the declining method for charging depreciation for the purpose of determining the aggregated balance of depreciation groups (subgroups), the residual value of depreciable property items, except for the items for which depreciation is charged by using the straight-line method in compliance with **Item 3 of Article 259** of this Code, shall be determined on the basis of the term of their beneficial use fixed when putting these items into operation as of the first day of the tax period when it is established by the accounting policy for the taxation purposes to apply the declining method for charging depreciation.

The amount of depreciation charged for one month in respect of depreciable property

items shall be determined in the following way:

1) when applying the declining method of charging depreciation within the composition of depreciation groups (subgroups) - as the product of the aggregated balance of a corresponding depreciation group (subgroup) as of the first day of the month in respect of which the amount of charged depreciation is determined and the depreciation rate established by **Item 5 of Article 259.2** of this Code;

2) when applying the straight-line method of charging depreciation - as the product of the initial (replacement) value and the depreciation rate established by the taxpayer for the said property in compliance with **Item 2 of Article 259.1** of this Code.

**2.** Depreciation shall not be charged in respect of the fixed assets transferred by the taxpayer for gratuitous use starting from the first day of the month following the month when the said transfer was effected.

A similar procedure shall apply in respect of fixed assets put in storage by decision of the leadership of an organisation for over three months, as well as in respect of fixed assets being reconstructed or updated by the decision of the leadership of an organisation within the time period exceeding 12 months.

In the event of termination of a contract of gratuitous use and return of fixed assets to the taxpayer, as well as in the event of depreservation or completion of reconstruction (updating), depreciation shall be charged in the procedure determined by this Chapter starting from the first day of the month following the month when fixed assets were returned to the taxpayer, as well as when reconstruction (updating) or depreservation of a fixed asset was completed.

**3.** In the event of making changes in the accounting policy for the purposes of taxation in compliance with **Item 1 of Article 159** of this Code under which the taxpayer applying the straight-line method of charging depreciation passes over to application of the declining method of charging depreciation, the items in respect of which depreciation is charged in compliance with the changes made by the taxpayer in the accounting policy thereof for the taxation purposes by using the nonlinear method shall be included into depreciation groups (subgroups) for the purpose of determining their aggregated balance on the basis of the residual value thereof determined as of the first day of the accounting period when it is established by the accounting policy for taxation purposes to apply the declining method of charging depreciation.

With this, the depreciable property items cited in this Item for the purpose of determining the aggregated balance of depreciation groups shall be included in these groups on the basis of the term of beneficial use of such items established when putting them into operation.

When making the changes cited in this Item in the accounting policy for the purposes of taxation, the depreciation subgroups provided for by **Item 13 of Article 258** of this Code shall be created within the composition of depreciation groups formed in compliance with the procedure established by this Item.

**4.** When making changes in the accounting policy for the purposes of taxation in compliance with **Item 1 of Article 259** of this Code under which the taxpayer applying the declining method of charging depreciation passes over to application of the straight-line method of charging depreciation, the taxpayer in compliance with **Article 257** of this Code shall determine the residual value of depreciable property items as of the first day of the tax period when it is established by the accounting policy for the purposes of taxation to apply the straight-line method of charging depreciation.

In so doing, the depreciation rate in respect of every item of depreciable property shall be determined in compliance with **Item 2 of Article 259.1** of this Code on the basis of the remaining term of beneficial use of a depreciable property item determined as of the first day of the tax period for which it is established by the accounting policy for taxation purposes to apply the straight-line method of charging depreciation.

**Article 323.** Specifics in Keeping the Tax Records of Operations with Depreciable Property

The taxpayer shall determine the profit (loss) from the sale or retirement of the depreciated property on the grounds of analytical accounting on every object as on the date of recognising the income (outlays).

Receipts and expenditures in respect of depreciable property shall be accounted on an item-by-item basis, except for depreciation charged on depreciable property items when applying the non-linear method of charging depreciation.

Analytical accounting shall contain information on:

- the original cost of the depreciated property sold (retired) in the reporting (tax) period;
  - the changes in the original cost of such fixed assets as their construction or equipment is completed as they are reconstructed or partially liquidated;
  - the terms of beneficial use of fixed assets and intangible assets accepted by the organisation;
  - the amount of depreciation charged on depreciable fixed assets and intangible assets for the period from the starting date of charging depreciation up to the end of the month when such property is sold (when it retires) - in respect of the items whose depreciation is charged by the linear method;
  - the amount of charged depreciation and the aggregated balance of every depreciation group and every depreciation subgroup (when applying the non-linear method of charging depreciation);
  - the residual value of the depreciable property items included into depreciation groups (subgroups) determined in compliance with **Item 1 of Article 257** of this Code - in case of withdrawal of depreciable property items;
  - the price of sale of the depreciated property, proceeding from the terms of the purchase and sale contract;
  - the date of acquisition and the date of sale (retirement) of the property;
  - the date of putting property into operation, the date of exclusion from the composition of depreciable property for the reasons provided for by **Item 3 of Article 256** of this Code, the date of re-activating property, the date of termination of a contract on the gratuitous use, the date of completing reconstruction works, the date of modernization;
- the outlays incurred by a taxpayer which are connected with the sale (retirement) of depreciable property, especially the outlays provided for by **Subitem 8 of Item 1 of Article 265** of this Code, as well as the outlays on the storage, servicing and transportation of sold (retired) property;

A taxpayer shall determine the profit (loss) from the sale of depreciable property in compliance with **Item 3 of Article 268** of this Code, as on the date of making the transaction.

In analytical accounting as on the date of sale of the depreciated property shall be fixed the sum of the profit (loss) on the said operation, which shall be taken into account for the purposes of defining the tax base, in the following order:

The profit derived by a taxpayer shall be subject to the inclusion in the composition of the tax base in the reporting period in which the sale of the property took place.

The losses of a taxpayer shall be shown in the analytical accounting as other outlays of the taxpayer in compliance with the procedure established by **Article 268** of this Code.

The analytical accounting should contain information on the denominations of the objects in respect of which there are amounts of such outlays, on the number of months within which such outlays may be included into the composition of other outlays connected with production and sale, and the amount of outlays falling in each month. The term shall be determined in months and shall be calculated in the form of the difference between the number of months of the term of beneficial use of this property and the number of months of operation of property

prior to the moment of sale thereof, including the month when the property was sold.

*Federal Law No. 57-FZ of May 29, 2002 reworded Article 324 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 324.** Procedure for Keeping Tax Records on the Outlays on Repairs of Fixed Assets

1. As regards the analytical accounting, a taxpayer shall form the amount of outlays on repairs of fixed assets subject to the grouping of all outlays made, including the cost of spare parts and disposables used for repairing, the outlays on labour wages of the workers engaged in repairing, and other outlays connected with carrying out the said repairing by own means , as well as subject to the outlays on paying the works carried out by outside forces.

2. A taxpayer forming a reserve for forthcoming outlays on repair shall calculate allocations to such reserve reasoning from the aggregate cost of fixed assets calculated in compliance with the procedure established by this Item and from the normative standards of allocations endorsed by the taxpayer independently in the accounting policy thereof for the purposes of taxation.

The aggregate cost of fixed assets shall be determined as the sum of the original cost of all depreciable fixed assets put into operation as at the start of the tax period where the reserve of forthcoming outlays on the repair of fixed assets is formed. For calculating the aggregate cost of the depreciable fixed assets put into operation prior to entry into force of this Chapter, the replacement cost determined in compliance with **Item 1 of Article 257** of this Code shall be accepted.

When determining normative standards of allocations to the reserve of forthcoming outlays on the repair of fixed assets, a taxpayer shall be bound to determine the ultimate amount of allocations to the reserve of forthcoming outlays on the repair of fixed assets reasoning from the periodicity of repairing an object belonging to fixed assets, the frequency of changing elements of fixed assets (especially the units, parts and structures thereof) and the estimated cost of the said repair. With this, the ultimate sum of the reserve for forthcoming outlays on the said repair may not exceed the average value of actual outlays on the repair formed within the last three years. Where a taxpayer accumulates assets for especially complex and expensive types of major repair of fixed assets within more than one tax period, the ultimate amount of allocations to the reserve of forthcoming outlays on the repair of fixed assets may be increased by the amount of allocations to financing the said repair falling in an appropriate tax period in compliance with a schedule of carrying out the said types of repair on conditions that in the previous tax periods the aforesaid or similar repair works have not been conducted.

The allocations to the reserve of forthcoming outlays on the repair of fixed assets within a tax period shall be written off as outlays in equal portions on the last date of an appropriate report (tax) period.

Where a taxpayer forms the reserve for forthcoming outlays on the repair of fixed assets, the amount of actually made expenses on the conduct of the repair shall be written off at the expense of the funds of the said reserve.

Where the amount of actually made outlays on the repair of fixed assets within a reporting (tax) period exceeds the amount of the reserve formed for forthcoming outlays on the repair of fixed assets, the remainder of the outlays for the purposes of taxation shall be included into the composition of other outlays as on the date of the end of the tax period.

If at the end of a tax period the remainder of the reserve funds for forthcoming outlays on the repair of fixed assets exceeds the amount of the outlays on the repair of fixed assets actually made in the current tax period, the sum of such excess as on the last date of the current tax period for the purposes of taxation shall be included in the composition of a taxpayer's outlays.

Where in compliance with the accounting policy for the purposes of taxation and on the basis of a schedule of conducting a major repair of fixed assets a taxpayer accumulates assets for financing the said repair within more than one tax period, at the end of the current tax period the remainder of such assets shall not be subject to inclusion into the composition of the outlays for the purposes of taxation.

**3.** If a taxpayer exercises the types of activities in respect of which the tax base with regard the tax is calculated separately in compliance with **Article 274**, then the analytical accounting of outlays on the repair of fixed assets for the purposes of taxation shall be effected according to types of production and types of activities.

*Federal Law No. 57-FZ of May 29, 2002 supplemented this Code with Article 324.1*

*This Article shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

**Article 324.1.** Procedure for Accounting Outlays on Forming the Reserve for Forthcoming Outlays on Payment of Leaves and the Reserve for Payment of Bonuses for Long Service

**1.** A taxpayer who has decided on the even accounting of forthcoming outlays on payment of workers' leaves for the purposes of taxation shall be obliged to show in the accounting policy for the purposes of taxation the way of making the reserve accepted by him and to determine the ultimate amount of allocations and the monthly per cent rate of allocations to said reserve.

For that, a taxpayer shall be obliged to draw up a special calculation (estimate) to show the way of calculating the rate of monthly allocations to the said reserve reasoning from the data on the supposed annual amount of outlays on payment of leaves, including the amount of insurance premiums for obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses on these outlays. With this, the per cent rate of allocations to the said reserve shall be determined as the ratio of the supposed annual amount of outlays on payment of leaves to the supposed annual amount of outlays on labour wages.

**2.** The outlays on forming the reserve for forthcoming outlays on payment of leaves shall be entered to the accounts for recording outlays on labour wages of appropriate categories of workers.

**3.** A taxpayer shall be obliged to carry out the inventory of the said reserve at the end of a tax period.

The under-used amounts of the said reserve, as on the last date of the current tax period, shall be subject to obligatory inclusion into the tax base of the current tax period.

Where the funds of actually calculated reserve confirmed by the inventory on the last date of a tax period are not sufficient, the taxpayer shall be obliged, as on the 31st of December of the year when the reserve was formed, to include into the outlays the amount of actual outlays on paying leaves and the accordingly the sum of insurance premiums for obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory

medical insurance, obligatory social insurance against industrial accidents and professional illnesses in respect of which the said reserve has not been earlier formed.

**4.** The reserve for forthcoming outlays on paying workers' leaves should be specified reasoning from the number of unused vacation days, the average daily amount of outlays on labour wages of workers (subject to the established methods of calculating average wages) and the obligatory deduction of insurance premiums for obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses.

Where, on the basis of the results of an inventory of forthcoming outlays on leave payment, the amount of the estimated reserve in respect of unused vacation days determined on the basis of the average daily amount of outlays on labour wages and the number of days of unused leave as of the end of a year exceeds the actual balance of the unused reserve as of the end of the year, the excessive amount shall be subject to inclusion into the composition of outlays on labour wages. Where on the basis of the results of an inventory of forthcoming outlays on leaves' payment the amount of the estimated reserve in respect of unused vacation days determined on the basis of the average daily amount of outlays on labour wages and the number of days of an unused leave as of the end of a year is less than the actual balance of the unused reserve as of the end of the year, the negative difference shall be subject to inclusion into the composition of off-sale revenues.

**5.** Where in the course of specifying the accounting policy for the next tax period a taxpayer deems it unreasonable to form a reserve for forthcoming outlays on paying leaves, the amount of the remainder of the said reserve exposed as a result of an inventory, as on the 31st of December of the year when it was formed, shall be included in the composition of extra-sale outlays of the current tax period for the purposes of taxation.

**6.** A taxpayer shall make allocations to the reserve for forthcoming outlays on paying yearly bonuses for long service and for the results of work during the past year in a similar procedure.

### **Article 325.** Procedure for Keeping Tax Records on the Development of Natural Resources

**1.** Taxpayers who have adopted the decision on the acquisition of licences for the right to use mineral wealth shall separately reflect in the analytical registers of tax records the outlays made for the purposes of acquiring the licences. The outlays connected with the acquisition of each concrete licence shall be recorded separately.

To the outlays made on the acquisition of licences shall be, in particular, referred:

- outlays involved in the preliminary estimate of the deposit;
- outlays connected with carrying out audits of deposit stocks;
- outlays on the development of the technical and economic substantiation (of other similar works) and on projects for developing the deposit;
- outlays on the acquisition of geological and other information;
- outlays on the payment for participation in the tender (auction).

If the taxpayer concludes a licence agreement for the right to use mineral wealth (receives the licence), the outlays made by the taxpayer for the purpose of obtaining the licence shall form the cost of the licence agreement (the licence), which shall be recorded by the taxpayer in the composition of non-material assets whose depreciation shall be charged in the order established by **Articles 256 - 259.2** of this Code or, at the taxpayer's choice, in the composition of other outlays connected with production and sale within two years. The procedure for accounting the said outlays selected by the taxpayer shall be shown in the

accounting policy for the purposes of taxation.

*The provisions of Paragraph 9 of Item 1 of Article 325 (as regards the recognition of expenses) of this Code (in the wording of **Federal Law No. 229-FZ of July 27, 2010**) shall **apply** in respect of the outlays on the development of natural resources made after January 1, 2011*

If by the results of the tender (auction) the taxpayer does not conclude a licence agreement for the right to use mineral wealth (does not receive the licence), the taxpayer's outlays, made for the purpose of obtaining a licence, shall be included in the composition of other outlays from the first day of the month following the month of holding the tender (auction), evenly in the course of two years. If after making preliminary outlays, made for the purpose of obtaining a licence, the taxpayer adopts the decision on the refusal from taking part in the tender (auction) or on the inexpediency of acquiring the licence, the said outlays shall also be included in the composition of the other outlays from the first day of the month following that month in which the taxpayer adopted the said decision, evenly in the course of five years. The said decision shall be formalised with the corresponding Order (Direction) of a manager.

In a similar order shall be recorded the outlays made for the acquisition of licences for the right to use mineral wealth, if the said licences are issued to the taxpayer without holding a tender.

**2.** The outlays on the development of natural resources mentioned in **Item 1 of Article 261** of this Code shall be reflected in the analytical registers of tax records apart on every plot of the earth bowels (deposits) or on the plot of the territory (water area) reflected in the taxpayer's licence agreement (in the licence for the right to use mineral wealth).

Depending on the particular kind of outlays, they shall be grouped as:

- general outlays on the developed plot (deposit) as a whole;
- outlays related to the individual parts of the territory of the developed plot;
- outlays related to the particular object created in the course of developing the plot.

To the general outlays shall be referred, in particular:

- outlays on the search for and estimation of the deposits of useful minerals (including the audit of the stocks), on prospecting for commercial minerals and (or) on hydro-geological studies carried out on the plot of the earth's bowels in accordance with licences (permits) granted in the established order, as well as outlays on the acquisition of necessary geological and other information from third persons;

Seen as outlays referred to the individual parts of the territory of the developed plot shall be outlays identified on the grounds of basic accounting documents, in particular:

- those on preparing the territory for the performance of mining, building and other works in conformity with the established demands for safety and protection of the land, the earth's bowels and other natural resources;

- the other outlays effected in connection with the development of the part of the plot area.

The sum of the general outlays shall be recorded on every part of the area of the developed plot (deposit) in the share defined proceeding from the ratio of the sum of the outlays related to the individual parts of the area of the developed plot to the total sum of the outlays made on the development of the given plot (deposit).

To the outlays related to the particular object created in the course of development of the plot shall be referred those directly involved in building structures which may be subsequently recognised, on the grounds of the taxpayer's decision, as constantly operated fixed assets objects.

**3.** When carrying out geological-search work and geological prospecting work aimed at finding useful minerals, the sum of the outlays made by the taxpayer shall be defined on the grounds of the acts on the works performed under agreements with the contractors and on the grounds of the expenditures actually made by the taxpayer referred to the outlays on the development of natural resources in conformity with the provisions of this Article.

The taxpayer shall organise the tax recording of the said outlays on every contract and on every object connected with the development of natural resources.

The analytical registers of tax records shall contain information on completing the works in the context of every contract involved in the said works on every particular plot of the earth's bowels.

Outlays made under the contract concluded with a contractor shall be included in the composition of miscellaneous expenses as of the first day of the month in which an appropriate certificate proving implementation of works (stages of works) under this contract is signed. The effected outlays shall be included in equal parts in the composition of other outlays within the time terms envisaged by **Article 261** of this Code.

The current outlays on the maintenance of the objects connected with the development of natural resources (including those on wage payments, the maintenance and pouring into of temporary structures and other such expenses), as well as the outlays on bringing to an end the prospecting of the deposit or of the sections thereof which are within the limits of allotment of land or mining lease of an organisation shall be included in the full sum in the composition of outlays of the reporting (tax) period in which they were made. To the outlays on bringing to an end the prospecting shall also be referred those involved in the performance of works aimed at completing the prospecting of deposits which are already put into operation and are industrially developed.

The said order of recording concerns the outlays on all geological-search and geological prospecting work, including the outlays made on those works which have been recognised as useless and unpromising, or the continuation of which has been recognised as inexpedient.

If the developed plot (the part of the area of the developed plot) is recognised by the taxpayer as unpromising, or if the continuation of its development is recognised as inexpedient, the sums of the outlays made by the taxpayer on the development of the given plot shall be included in the composition of the other outlays in the general order laid down in **Article 261** of this Code.

**4.** If the taxpayer's outlays made in the composition of outlays on the development of natural resources are directly connected with building the objects which subsequently, by the taxpayer's decision, may be turned into permanently operated fixed assets objects (including wells), these outlays shall be recorded in the analytical registers of tax records by every erected object of fixed assets. The said fixed assets objects shall be depreciated in conformity with the order established by this Chapter.

The outlays on building temporary structures (including temporary approach lines and roads; sites and installations for the storage of the fertile soil layer, of extracted rock and of waste; the temporary structures for accommodating members of the geological prospecting parties, and other similar objects) shall be included in the composition of the other outlays as from the first day of the month following the month in which the works for their construction were completed on the grounds of the acts on the performed works.

**5.** If a certain well has proved (been recognised) as unproductive, the taxpayer's outlays on the liquidation of such well shall also be included in the composition of the outlays recorded on the given object in the tax records in conformity with the procedure established by **Article 261** of this Code. The total sum of the outlays reflected in the tax records on the given object shall be included in the composition of the other outlays in conformity with the order envisaged by this Article.



6. Where the right of using a subsoil plot (plots) passes over (is transferred) under the **legislation** of the Russian Federation to a third person, the outlays on the development of natural resources actually made by the taxpaying former licence holder shall be accounted for by such licence holder in the procedure established by this article.

If the right of using a subsoil plot (plots) passes over (is transferred) in connection with re-organisation of an organisation, outlays shall be accounted for in compliance with **Item 2.1 of Article 252** of this Code.

**Article 325.1.** Procedure for Tax Accounting of Expenses Connected with the Provision of Safe Conditions and Protection of Labour in Coal Mining

1. In the event of applying the tax deduction for severance tax in compliance with **Article 343.1** of this Code, a taxpayer shall ensure separate accounting of the outlays connected with the provision of safe conditions and protection of labour in coal mining on a given subsoil plot as against other outlays connected with development of this subsoil plot.

2. The expenses connected with the provision of safe conditions and protection of labour in coal mining made (incurred) by a taxpayer shall be accounted for separately in respect of each subsoil plot in the accounting (tax) period in which they are made.

3. In case of making (incurring) the expenses cited in **Item 2** of this article which relate to several subsoil plots (if it is impossible to separate expenses), the cited expenses, for the purpose of application of the tax deduction established by **Article 343.1** of this Code, shall be accounted for separately with respect to each subsoil plot in the share defined by a taxpayer in compliance with the accounting policy selected by the taxpayer for taxation purposes.

4. A list of the kinds of expenses connected with the provision of safe conditions and protection of labour in coal mining deductible from the sum of severance tax shall be determined by the Government of the Russian Federation subject to the provisions of **Item 5 of Article 343.1** of this Code.

5. The sum of expenses which is not accounted in estimation of the tax deduction in compliance with the procedure established by **Item 4 of Article 343.1** of this Code within 36 tax periods for severance tax shall be recognized as a taxpayer's expense when estimating the tax base for tax on organisations' profit in compliance with **Chapter 25** of this Code in the following procedure:

1) the expenses cited in **Subitem 1 of Item 5 of Article 343.1** of this Code shall be accounted for uniformly within a year starting from the day following the end date of such expenses' recognition in compliance with Article 343.1 of this Code;

2) the expenses cited in **Subitems 2 and 3 of Item 5 of Article 343.1** of this Code shall be accounted for in the procedure established by **Articles 256-259.3** of this Code. In so doing, as the residual value of depreciable property shall be deemed the difference between the initial cost thereof estimated in the procedure established by **Article 257** of this Code and the sums accounted when applying the tax deduction for severance tax in compliance with **Article 343.1** of this Code.

**Article 326.** Procedure for Keeping Tax Records on Time Transactions Using the Method of Calculation

The taxpayer shall define the tax base for operations with the financial instruments of time transactions on the basis of data from the tax recording registers.

The data of the tax recording registers shall reflect the procedure for formation of the sum of incomes (outlays) on time transactions recorded for the purposes of taxation.

Taxpayers shall be obliged to keep analytical accounts of claims (commitments) under financial instruments of time transactions in respect of each kind of financial instruments of time

transactions. Analytical accounts concerning the rights of claim (commitments) shall be kept separately in respect of operations in financial instruments of time transactions circulating in the organised market, of operations in financial instruments of time transactions which do not circulate in the organised market, as well as in respect of operations made for hedging purposes.

The data of the tax recording registers shall show in monetary terms the sums of the taxpayer's claims (liabilities) with respect to the contractors thereof in accordance with the terms of the concluded contracts:

- on transactions envisaging the basic asset's sale and delivery;
- on settlement time transactions.

The claims (liabilities) under financial instruments of time transactions both circulating and not circulating in the organised market shall not be subject to the current revaluation in connection with alteration of the market price, market quotation, foreign currency exchange rate, interest rates, stock indices or other indices of the base asset subject to the provisions of this Article.

Taxpayers shall account in the tax base thereof changes in the current value of financial instruments of time transactions circulating in the organised market in the amount of the sums of money estimated by an exchange (clearing organisation). The cited demand shall not extend to the financial instruments of time transactions under whose terms an obligation is discharged by either party to the financial instrument of a time transaction in case of making claim for it by the other party to the cited transaction, in particular depending on the circumstances in respect of which it is not known in advance whether they will occur or not.

The claims (commitments) in respect of the transactions which are classified as transactions involving the delivery of the object of a transaction with postponement of execution shall be neither subject to the current revaluation in connection with changes in the market price, market quotation, currency exchange rate, interest rates, stock indices or other indices of the base asset subject to the provisions of this Article.

A taxpayer shall show in analytical records as of the date of making a transaction the amount of raised claims (obligations) with respect to contractors on the basis of the terms and conditions of the transaction and the claims (commitments) in respect of the base asset (in particular commodities, monetary assets, precious metals, securities and interest rates).

The tax base shall be estimated by a taxpayer as of the date when a time transaction is executed subject to the provisions of this Article.

When supplying the securities circulating in the organised market and constituting the base assets of the financial instrument of time transactions, the financial result of operations in such base asset shall be estimated on the basis of the actual price of delivery of the base asset in compliance with the terms under which the financial instrument of time transactions is executed.

Where the terms of the financial instrument of a time transaction or of a time transaction qualified as a transaction involving the delivery of the object of a transaction with postponement of delivery provide for making intermediate settlements (except for advance payments), in particular when changing the cost estimate of claims (commitments) in connection with alteration of the market price, market quotation, currency exchange rate, interest rates, stock indices or other indices of the base asset, the taxpayer shall estimate incomes (outlays) on each date of making such settlements in compliance with the terms of the cited transaction.

The premium under an option contract as agreed by the parties thereto, regardless of its qualification as the financial instrument of a time transaction or as a transaction with postponement of execution, shall be recognised in the appropriate incomes (outlays) once on the date of making settlements in connection with an option premium for the taxpayers applying the method of calculation, irrespective of whether the option contract is executed or not, as well

as regardless of the kind of the base asset.

When the maturity time of the financial instrument of a time transaction comes, the taxpayer shall assess claims and obligations as of the date of execution thereof in compliance with the terms and conditions of making it and shall estimate the sum of incomes (outlays) to be included into the tax base.

A taxpayer shall keep separate tax records of operations in financial instruments of time transactions made for the purpose of compensation for probable losses resulting from unfavourable changes in the price or other index of the base asset (hedging object).

A reference note shall be drawn up by a taxpayer with respect to each hedging operation and shall contain the following data:

a description of a hedging operation including the denomination of the hedging object, kinds of insured risks (price risk, currency risk, credit risk, interest risk and other similar risks), planned actions to be made in respect of the hedging object (purchase, sale or other actions), financial instruments of time transactions to be used, terms and conditions of transactions' execution;

starting date of a hedging operation, its end date and/or duration, intermediate settlement terms. The starting date of a hedging operation may be fixed by way of consolidating the procedure for fixing it;

extent, date and price of a transaction (transactions) in the hedging object (extent, date, price and other essential terms of a transaction - for expected (planned) transactions);

extent, date and price of a transaction (transactions) in financial instrument of time transactions.

A reference note may also contain other data at the taxpayer's discretion which prove making an operation for hedging purposes.

If the hedging object are the claims (obligations) resulting from an aggregate of transactions, as well as if the hedging object is the taxpayer's property, the starting date and the end date of a hedging operation shall be independently fixed by the taxpayer on the basis of the predicted indices concerning the hedging object.

Subject to the provisions of this Article and **Articles 301-305** of this Code, the incomes (outlays) connected with financial instruments of time transactions made for the purpose of compensation for the unfavourable consequences to the taxpayer which may result from changes in the price, currency exchange rates, interest rates, stock indices or other indices concerning the hedging object shall be accounted as of the end of a reporting (tax) period and as of the date of a transaction's (transactions') execution, irrespective of the date when incomes (outlays) connected with the hedging object emerge.

Upon termination of a hedging operation, the incomes (outlays) connected with financial instruments of time transactions shall be estimated subject to the incomes (outlays) accounted in the tax base in the previous tax periods.

Where the hedging object are claims (commitments) concerning a specific transaction, the incomes (outlays) connected with financial instruments of time transactions in case of its early dissolution (termination for other reasons) shall be estimated as of the end of the reporting (tax) period in which the transaction with the hedging object was dissolved ahead of time (was terminated for other reasons) or as of the date the transaction's (transactions') execution, if the cited date of execution precedes the reporting date of the period, and shall be included into the tax base in whose estimation the incomes (outlays) connected with the hedging object are taken into account. In so doing, the incomes (outlays) connected with financial instruments of time transactions arising after the reporting date of the period when its early dissolution took place shall be accounted in estimation of the tax base for financial instruments of time transactions subject to the incomes (outlays) which have been previously accounted in the tax base for the operations connected with the hedging object.

The incomes (outlays) connected with early dissolution of financial instruments of time transactions (with their termination for other reasons), which are used for hedging operations, shall be accounted in the same procedure and in the same tax base where the incomes (outlays) related to the financial instruments of time transactions used for hedging purposes are accounted.

The volume of the base asset of the financial instrument of time transactions which circulates in the organised market and is made for hedging purposes (of the hedging instrument) may exceed the volume of the hedging object within the framework of a single hedging instrument, if such excess is caused by standardisation of the base asset of the financial instrument of a time transaction on the part of a stock exchange.

If the outlays connected with financial instruments of time transactions made for hedging purposes, as well as the outlays made in connection with appropriate hedging operations, exceed the incomes derived from such financial instruments of time transactions at the end of a reporting (tax) period or on the date of a transaction's execution, it shall not entail re-qualification of the hedging operation into ordinary operations in financial instruments of time transactions.

For the purpose of estimating the incomes (outlays) accountable in the tax base the taxpayer shall be entitled to provide in the accounting policy thereof for the taxation purposes the possibility of current revaluation of the financial instruments used for hedging purposes, depending on changes in the market price, market quotation, currency exchange rate, interest rate, stock index or other indices characteristic of the base asset, provided that the hedging object is subject to revaluation in compliance with the requirements of this Code. In so doing, the incomes (outlays) resulting from such re-valuation shall be estimated as of the end of a reporting (tax) period depending on changes in the indices defined in the accounting policy for the taxation purposes as compared to the appropriate indices fixed by the financial instrument of a time transaction.

The taxpayer shall assess claims (obligations) as of the date of execution of the financial instrument of a time transaction in compliance with the terms and conditions thereof and shall estimate the sum of the incomes (outlays) subject to the sums which have been previously accounted for the taxation purposes within the composition of incomes (outlays).

With respect to financial instruments of time transactions which provide for purchase and sale of foreign currency, or precious metals, or securities nominated in foreign currency, the taxpayer shall estimate, as of the date a transactions' execution, incomes (outlays) subject to the differences of exchange defined as the difference between the rate of a foreign currency fixed by a contract at which a transaction is to be executed and the official exchange rate of the foreign currency toward the rouble of the Russian Federation fixed by the Central Bank of the Russian Federation, and of the official prices of precious metals as of the date of the transaction's execution.

#### **Article 327.** Procedure for Organising Tax Recording on Futures Transactions Using the Cash Method

Taxpayers applying the cash method for defining the incomes and outlays shall organise tax recording in conformity with the principles described in this Chapter. The incomes and outlays on operations with the financial instruments of futures transactions shall be calculated by the taxpayers, who apply the cash method for defining the incomes and the outlays as on the date of the actual arrival (transfer) of the monetary funds.

#### **Article 328.** Procedure for Keeping Tax Records on Incomes (Outlays) in the Form of Interest Received on Contracts of Loan, Credit, Bank Account and Bank Deposit, as Well as of Interest on Securities and Other Debt Liabilities

1. A taxpayer on the basis of the analytical accounting of extra-sale incomes shall interpret the incomes (outlays) in the form of interest on securities, on contracts of credit and loan, of bank account and of bank deposit and (or) on the otherwise formalised debt liabilities.

In the analytical accounting a taxpayer shall independently show the incomes (outlays) in the sum of interest due to him in accordance with the terms and conditions of the said contracts (and in compliance with the terms of issue with regard to securities, on the bills - by the terms for the issue or for the transfer (for the sale)) separately on each kind of debt liabilities subject to **Article 269** of this Code.

The amount of incomes (outlays) in the form of interest on debt liabilities shall be included in the records of analytical accounting proceeding from the profitability established for each kind of debt liabilities and from the term of validity of such debt liability in the reporting period, as on the date of recognising the incomes (outlays) determined in compliance with the provisions of **Articles from 271 to 273** of this Code.

2. Interest paid by a bank under a contract of bank account shall be included by a taxpayer in the tax base on the grounds of an excerpt on the movement of the taxpayer's monetary funds on the bank account thereof, unless otherwise provided for by this Chapter. Where a contract of servicing bank account does not provide for making settlements with regard to payment of bank services when conducting each settlement cash operation, the date of the receipt of income by the taxpayer who has passed over to the recognition, accounting and determination of incomes (outlays) by using the method of calculation shall be deemed the last date of the reporting month.

3. interest under contracts of credit, loan and other similar contracts and other debt liabilities (including securities) shall be accounted, as on the date of recognising the income (outlay) in compliance with this Chapter.

4. Interest received (subject to receipt) by a taxpayer for letting use of monetary assets shall be accounted in the composition of the incomes (outlays) subject to inclusion into the tax base on the basis of an abstract on the movement of the taxpayer's monetary assets of the taxpayer on a banking account thereof, unless otherwise provided for by this Article.

A taxpayer determining his incomes (outlays) by using the method of calculation shall determine the amount of income (outlay) received (paid) or subject to the receipt (payment) in the reporting period in the form of interest under the terms and conditions of a contract proceeding from the profitability established for each type of debt liabilities and the validity of such debt liability in the reporting period subject to the provisions of this Item. A taxpayer shall be obliged to show in the analytical accounting on the basis of certificates of the person in charge of keeping records of incomes (outlays) with regard to debt liabilities the amount of interest due to be received (paid) as on the end of a month in the composition of incomes (outlays).

In the event of early liquidation of a debt liability, interest shall be determined proceeding from the interest rate established by the terms and conditions of a contract subject to the provisions of **Article 269** of this Code and the actual time period of using borrowed assets.

A procedure for recognising incomes (outlays) in the form of interest established by this Article with regard to any kind of debt liabilities shall be likewise applied by the organisations for which operations with such debt liabilities are recognised as sale operations in compliance with their authorised activities.

5. As regards state and municipal securities, income in the form of interest thereon shall be determined in compliance with **Articles 271** and **273** of this Code and may be recognised on the date of their sale on the basis of a contract of purchase and sale, or on the date of paying the interest on the basis of a bank abstract, or on the last date of the reporting period in compliance with the provisions of this Chapter. Interest shall be subject to showing in the tax records on the basis of a certificate of the person in charge of calculating profit from operations

with securities.

Where a taxpayer determines incomes and outlays by using the cash method, interest shall be deemed received on the date of arrival of the monetary funds. A ground for including such amounts into the composition of the incomes received in the form of interest shall be a bank abstract concerning the movement of monetary assets on bank accounts.

Where a taxpayer, when determining incomes and outlays, applies the method of calculation, the amount of interest on state and municipal securities received by a taxpayer (due to a taxpayer) shall be recognised as income on the date of sale of a security, or on the date of paying such interest (repayment of coupon) in compliance with the terms of the issue, or on the last date of the reporting period in compliance with the provisions of this Chapter.

Where an accumulated coupon interest is included in the sale price of state and municipal securities, a taxpayer shall independently determine on the date of sale of such securities the amount of income in the form of interest on the basis of a contract of purchase and sale subject to the provisions of **Items 6 and 7** of this Article.

**6.** When making transactions with state and municipal securities which are sold under the condition that the price of transaction in them includes the accumulated coupon income (income in the form of interest), a taxpayer who has passed over to the determination of incomes (outlays) by using the cash method shall calculate income as the difference between the amount of accumulated coupon income received from the purchaser and the amount of accumulated coupon income paid to the seller. If during the time period between the date of sale of a security and the date of acquisition thereof in compliance with the terms and conditions of the issue payments in the form of interest were made, then the date of paying interest while redeeming the coupon shall be recognised as the date of receiving the income. With this, the income shall be determined as the difference between the amount of interest paid when redeeming the coupon and the amount of accumulated coupon income paid to the seller. When selling the security the interest on which, included in the composition of incomes in the procedure provided for by this Paragraph, was paid by the issuer thereof while the security was in the possession of a taxpayer, the amount received from the purchaser of such security shall be recognised as interest.

**7.** A taxpayer who determines incomes and outlays by using the method of calculation and who makes transactions in state and municipal securities, the accumulated interest (coupon) income on which is included in the price of transaction when selling them, shall determine incomes in the form of interest subject to the following provisions. If prior to the expiry of a reporting (tax) period a security is not sold, the taxpayer shall be obliged on the last date of the reporting (tax) period to determine the amount of income in the form of interest falling at this period as a result of calculation.

With this, as income for the reporting (tax) period in the form of interest there shall be recognised the difference between the amount of accumulated interest (coupon) income, calculated as on the end of a reporting (tax) period in compliance with the terms and conditions of the issue, and the amount of accumulated interest (coupon) income calculated as at the end of the previous tax period, if after the end of the previous tax period the issuer has not paid the interest (has not redeemed coupons).

If the issuer paid out interest (redeemed coupons) during the current reporting (tax) period, then, in addition to the income in the form of interest calculated and accounted while making such payments (redemption) in compliance with Paragraph Four of this Item, the income in the form of interest shall be taken as equal to the amount of accumulated interest (coupon) income calculated as on the end of the said reporting (tax) period.

When paying interest (redeeming coupons) for the first time within a report (tax) period, the income in the form of interest shall be calculated as the difference between the amount of the interest being paid (of the coupon being redeemed) and the amount of accumulated interest

(coupon) income calculated as at the end of the previous tax period. When making subsequent payments of interest (redeeming coupons) during a reporting (tax) period, income in the form of interest shall be taken as equal to the amount of paid out interest (of the redeemed coupon).

If said security was acquired during the current tax period, the calculation of income in the form of interest shall be effected in compliance with the provisions of Paragraphs from One to Four, where the amount of accumulated interest (coupon) income calculated as at the end of the previous tax period shall be replaced while making the calculations by the amount of the accumulated interest (coupon) income paid by the taxpayer to the seller of the security.

When selling the said security, the income in the form of interest shall be calculated in compliance with the provisions of Subitems from 1 to 4 of this Item, where the amount of accumulated interest (coupon) income calculated as on the end the reporting (tax) period shall be replaced while making calculations by the amount of accumulated interest (coupon) calculated as on the date of sale.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 329 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 329.** Procedure for Keeping Tax Records in the Sale of Securities

Recognised as an income from operations with securities shall be the earnings from the sale of securities in conformity with the terms of the contract of sale.

Incomes and outlays on operations with securities shall be recognised in compliance with the procedure established by **Articles 271** or **Article 273** of this Code depending on the procedure for recognition of incomes and outlays applied by a taxpayer.

When selling securities, the price of acquiring sold securities calculated subject to the method for recording securities established by a taxpayer (FIFO, LIFO or on the basis of the price of one unit) shall be recognised as an outlay.

If into the price of sale of state and municipal securities circulated on the organised securities market is included a part of the accumulated coupon income, the sum of the income and of the outlays on such securities shall be calculated without the accumulated coupon income.

The profit (loss) from the sale of securities in selling the securities circulated on the organised securities market, as well as of those not circulated on the organised securities market, shall be reflected in separate tax recording.

Interest income on state and municipal securities, in respect of which the deduction of a part of accumulated interest income from the price of a transaction is stipulated, shall be determined as on the date of sale thereof on the basis of a contract of purchase and sale subject to the provisions of **Article 328** of this Code and shall be shown in tax records on the basis of a certificate of the person in charge of calculating profit (income) from transactions in securities.

#### **Article 330.** Specifics in Keeping Tax Records on the Incomes and Outlays of Insurance Institutions

Taxpaying insurance institutions shall keep tax records on the incomes (outlays) derived (made) on contracts of insurance, co-insurance and re-insurance, on concluded contracts and on kinds of insurance.

The taxpayer's revenues in the form of the total amount of the insurance fee to be received, shall be recognised as on the date of arising of the taxpayer's liability towards an

insured person under the contract made which results from the terms and conditions of contracts of insurance, co-insurance and re-insurance, regardless of the procedure for paying the insurance fee cited in the appropriate contract (except for contracts of life insurance and of pension insurance). Under contracts of life insurance and of pension insurance income in the form of a part of the insurance fee shall be recognised at the time when the taxpayer obtained the right to receive a regular insurance fee in compliance with the terms and conditions of the said contracts.

A taxpayer in the procedure and on the conditions which are established by the legislation of the Russian Federation shall form insurance reserves. Taxpayers shall show changes in the amounts of insurance reserves for each type of insurance.

Insurance payments under a contract subject to making under the terms and conditions of the said contract shall be included into the composition of outlays as on the date of arising of a taxpayer's liability to pay out insurance money in favour of the insurant or insured persons (when insuring liability - in favour of the beneficiary) with regard to an insured accident which has actually occurred, shown as an absolute sum of money which should be calculated in compliance with the laws of the Russian Federation and rules of insurance. Income (outlay) in the form of reimbursement for a share of insurance payments shall be recognised on the date of arising of a re-insurer's liability to make payment to re-insurant in connection with an insured accident which has actually occurred shown as an absolute sum of money in compliance with the terms and conditions of the contract of re-insurance.

The amounts of reimbursement due to a taxpayer as result of answering actions of recourse or acknowledged by guilty persons shall be regarded as an income:

on the date of entry of a court decision into legal force;

on the date of assuming by a guilty person the liability in writing to compensate for caused damage.

With this, the share of the said amounts subject to reimbursement to reinsurers by re-insurants shall be included into the incomes (outlays) of the re-insurant and re-insurer accordingly at the moment established for the said taxpayers in compliance with this Article.

The taxpayer shall keep records of insurance premiums (fees) under contracts of co-insurance in so far as they fall at the share of the taxpayer in compliance with the terms and conditions of these contracts.

The income of a taxpayer effecting obligatory medical insurance in the form of the assets received from territorial funds of obligatory medical insurance shall be recognised as of the date of remittance of the said assets fixed by the contract of financing in the amount determined on the basis of the procedure for financing specified in such contract.

The insurance payments under an agreement on obligatory insurance of civil responsibility of owners of transport vehicles made in the name of a taxpayer that is an insurance organisation by another insurer that is participant of an agreement on direct compensation for losses in accordance with the legislation of the Russian Federation on obligatory insurance of civil responsibility of owners of transport vehicles shall be included in the composition of expenses as on the date of receipt from the insurer that carried out the direct compensation for losses of a demand for paying for the harm compensated for by him to the victim.

The incomes mentioned in **Subitems 11.1 and 11.2 of Item 2 of Article 293** of this Code and the expenses mentioned in **Subitems 9.1 and 9.2 of item 2 of Article 294** of this Code shall be recognised in the event that the obligations among the insurers under an agreement on direct compensation for the losses shall be performed proceeding from the number of satisfied demands during the reporting period and the average amounts of the insurance payments. Such incomes and expenses shall be determined by the results of each reporting period by comparing the aggregate amounts of the accumulated positive and negative differences which



have arisen as a result of making the settlements with every single insurer. In so doing, there shall be taken into account only those operations of direct compensation for losses on which the settlements have been completed as on the end of the reporting (tax) period:

with an insurer that has insured the civil liability of the victim on the conditions that the payment to the victim has been made and its compensation has been received in the size of the average amount of the insurance payment from the insurer that has insured the civil liability of the person who has caused the harm;

with an insurer that has insured the civil liability of the person who has caused the harm on the conditions that the insurance payment has been made by the insurer that has insured the civil liability of the victim has been recognised as an expense and it has been compensated in the size of the average amount of the insurance payment.

Operations on direct compensation for losses on which the settlements have not been completed, shall be taken into account in the next **reporting (tax) period**.

### **Article 331.** Specifics in Keeping Tax Records of the Bank's Incomes and Outlays

Tax paying banks shall keep the tax records of the incomes and outlays received (made) in performing banking activity on the grounds of reflecting the operations and the transactions in analytical accounting in conformity with the procedure for recognising the incomes and the outlays laid down in this Chapter.

Analytical accounting of the incomes and outlays received (made) in the form of interest on debt liabilities shall be kept in accordance with the order envisaged by **Article 328** of this Code.

The incomes and outlays on the economic and other operations, related to future reporting periods on which in the current reporting period advance payments were made shall be recorded in the sum of the funds to be referred to outlays at the beginning of the reporting period which they concern. Analytical accounting of the incomes and outlays on economic operations shall be kept in the context of every contract reflecting the date and the sum of the received (issued) advance payment, as well as the period in the course of which the said sum shall be referred to the incomes and outlays.

The commission fees for services rendered on correspondent relations, paid by the taxpayer, and the outlays on cash-settlement servicing, on opening accounts in other banks and on other similar operations shall be referred to the outlays as on the date of performing the operation, if in conformity with the contract are envisaged settlements on each particular operation, or as on the last date of the reporting (tax) period. The taxpayer shall keep records on the incomes involved in the performance of operations for the clients' cash-settlement servicing in a similar order for correspondent relations and other similar operations.

The sum of the positive (negative) differences arising from revaluating the cost of discounting noble metals in case it is changed shall be included in the composition of incomes in the form of the sum of the balance of an excess of the positive revaluation over the negative, and into the composition of the outlays in the form of the sum of the balance of an excess of the negative revaluation over the positive, as on the last date of the reporting (tax) period. In the sale of noble metals, seen as income shall be the positive difference between the price of sale and the cost of discounting of such noble metals as on the date of their sale, and as outlays - the negative difference. Seen as the cost of discounting of noble metals shall be their purchase cost taking account of the revaluation carried out in the course of the time when such metals are at the disposal of the taxpayer, in conformity with the **requirements** of the Central Bank of the Russian Federation.

**Abrogated** from January 1, 2010.

In the transactions involved in the purchase and sale operations with precious stones, the taxpayer shall reflect in the tax records the qualitative and the value (the mass and the price)

characteristics of the acquired and sold precious stones. The revaluation of the purchase cost of precious stones up to the price list prices shall not be recognised as taxpayer's income (outlays). If the sold precious stones are withdrawn, the income (loss) shall be defined in the form of the difference between the price of sale and the cost of discounting. Seen as the cost of discounting shall be the price of acquisition of precious stones.

Analytical accounting shall be kept on every purchase and sale contract on precious stones. In analytical accounting shall be reflected the dates of performance of purchase and sale operations, the purchase price and the sales price, as well as the quantitative and qualitative characteristics of the precious stones.

**Article 331.1.** The Details of the Tax Accounting for Taxation Purposes of Budget-Supported Institutions

**1.** Until July 1, 2012 the budget-supported institutions being beneficiaries of budget funds and using as support to their activities the proceeds they receive from the provision of services for payment, gratuitous receipts from natural and legal entities, international organisations and/or the governments of foreign states, for instance voluntary donations, and proceeds from the pursuance of another income-yielding activity shall apply the following provisions:

1) if at the expense of the budget appropriations allocated for said institutions financing is planned for expenses towards payment for utility services, communication services, transport expenses for the provision of services to administrative and managerial staff, expenses towards all kinds of repair of fixed assets with the incomes received from the provision of services for payment and from the pursuance of another income-yielding activity and the incomes received within the framework of goal-oriented financing, for taxation purposes the posting of these expenses as reducing the incomes received from the provision of services for payment and for the pursuance of another income-yielding activity, and the incomes received within the framework of goal-oriented financing shall be effected pro rata to the share of the incomes received from the provision of services for payment and the pursuance of another income-yielding activity in the sum total of incomes (including the incomes received within the framework of goal-oriented financing);

2) unless at the expense of the budget appropriations allocated for said institutions a provision has been made for financing expenses towards payment for utility services, communication services (except for cellular (mobile) communications) and the repair of fixed assets acquired (created) with budget funds, these expenses shall be taken into account in tax base calculation when services are provided for payment and another income-yielding activity is pursued, provided the operation of such fixed assets is relating to the provision of services for payment and pursuance of another income-yielding activity.

**2.** In the sum total of incomes for the purposes specified in **Item 1** of this article no account shall be taken of the non-sales incomes (incomes received as interest on bank account contracts, bank deposit contracts, incomes received from the lease of property, exchange-rate differences and other incomes).

*Federal Law No. 57-FZ of May 29, 2002 amended Article 332 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

**Article 332.** Specifics in Keeping Tax Records on the Incomes and Outlays in the Execution of Contracts on Trust Management of Property

Tax paying organisations which manage property under the terms of a contract on trust

management shall be obliged to keep separate analytical accounting on the incomes and outlays connected with the execution of contracts of trust management, and on the incomes received in remuneration for trust management - in the context of every contract on the trust management.

Analytical accounting shall supply information which makes it possible to identify the founder of the contract on trust management and the beneficiary, the date of entry into force and the date of termination of a contract on trust management, the cost and the composition of property received into trust management, and the procedure and the deadlines for making settlements on the trust management. When making transactions with the property received into trust management, the incomes and outlays shall be reflected in accordance with the rules for the formation of the incomes and the outlays established by this Chapter.

The incomes of the founder of the management and of the trust manager under a contract on the trust management shall be formed in every reporting (tax) period, irrespective of whether making settlements in the course of the term of validity of the contract on the trust management is or is not envisaged by such contract.

The sum of remuneration to the trust manager shall be recognised as the outlays on the contract on the trust management; it reduces the sum of the income derived from operations with the property handed over to trust management. If the third person - the beneficiary - is envisaged as the beneficiary under a contract on the trusted management, the outlays (losses) (except for remuneration) in the execution of the contract on trust management shall not reduce the incomes received by the founder of the contract on the trust management on other grounds.

When the depreciated property is returned to the founder of the contract on the trust management, such property shall be included in the same depreciation group, and the depreciation shall be charged by the same rates and in the same order as before the start of the contract on the trust management. The depreciation charged for the whole period of use of such property before the date of its return to the founder of the contract on the trust management shall be taken into account when defining the residual cost of such property. If the beneficiary is a third person, the outlays (losses) from the reduction in the cost of such property when it is returned shall not be accepted for the reduction of the founder's tax base.

#### **Article 332.1.** Specifics of Tax Registration of Outlays on Scientific Studies and/or Research and Development Works

**1.** A taxpayer shall form in its analytical accounting records the amount of outlays on scientific studies and/or research and development works subject to grouping of all the outlays made according to kinds of works (to contracts), including the cost of expended materials and power, depreciation of fixed assets and intangible assets used in carrying out scientific studies and/or research and development works, other outlays directly connected with carrying out scientific studies and/or research and development works on one's own, as well as subject to outlays on payment for works carried out under contracts for implementing scientific studies and contracts for carrying out research-and-development works and engineering works.

**2.** Tax registers must contain the following data:

1) on the sums of outlays on scientific studies and/or research and development works subject to grouping according to the kinds of works (to contracts);

2) on the sums of outlays according to expenditure items (depreciation of fixed assets, depreciation of intangible assets, labour wages of employees, tangible assets, other assets directly connected with carrying out scientific studies and/or research and development works) in respect of each kind of scientific study and/or research and development work carried out on one's own;

3) on the sums of outlays on scientific studies and/or research and development works made in the accounting (tax) period in the form of deductions to form funds intended for

rendering support to scientific, scientific-and-technical and innovative activities established in compliance with the Federal Law on Science and Governmental Scientific-and-Technical Policy;

4) on the sums of outlays on scientific studies and/or research and development works made in the accounting (tax) period from the reserve to cover forthcoming outlays on scientific studies and/or research and development works - in respect of the taxpayer forming the cited reserve;

5) on the sums of outlays on scientific studies and/or research and development works that have had positive results and that have not had positive results which are included in the composition of other outlays of the accounting (tax) period;

6) on the sums of outlays on scientific studies and/or research and development works that have had positive results and that have not had positive results which are included in the composition of other outlays of the accounting (tax) period with the coefficient of 1.5 applied thereto.

**3.** If a taxpayer has created a reserve to cover forthcoming outlays on scientific studies and/or research and development works in compliance with **Article 267.2** of this Code, the outlays made in the course of implementation of programmes of scientific studies and/or research and development works that reduce the amount of the cited reserve shall be reflected in tax registers in the procedure established by this article.

#### **Article 333.** Specifics in Keeping Tax Records on the Incomes (Outlays) in REPO Transactions with Securities

Analytical records concerning REPO transactions shall be kept separately in the analytical tax registers especially assigned for it in respect of each transaction, and in respect of monetary assets in foreign currency a double assessment shall be made: both in the foreign currency and in roubles.

The cost of the securities to be transferred while executing the second part of a REPO transaction shall be accounted by the taxpayer which acts as the seller under the first part of the REPO transaction.

The purchaser under the first part of a REPO transaction shall account the cost of securities for the period from the acquisition date of the securities under the first part of the REPO transaction up to the date of their sale under the second part of the REPO transaction.

In analytical records shall be shown the date of sale (acquisition) and the cost of sold (acquired) securities under the first part of a REPO transaction, the date of acquisition (sale) and cost of the securities to be acquired (sold) while executing the second part of the REPO transaction.

Where the object of a REPO transaction are securities nominated in foreign currency, the obligations (claims) which the purchaser (seller) has under the first part of the REPO transaction as to their repurchase shall not be subject to revaluation in connection with changes in the official exchange rates of foreign currencies with respect to the rouble of the Russian Federation fixed by the Central Bank of the Russian Federation.

The obligations (claims) concerning monetary assets in foreign currency under the second part of a REPO transaction where incomes (outlays) from the REPO transaction are deemed under **Items 3 and 4 of Article 282** of this Code interest on the loan granted (received) in securities shall be revaluated in connection with alteration of the official exchange rate of foreign currency in respect of the rouble of the Russian Federation fixed by the Central Bank of the Russian Federation.

The amount of monetary commitments (claims) which are subject to revaluation in connection with alteration of the official exchange rate of foreign currency in respect of the rouble of the Russian Federation may be changed, if under the terms of a REPO agreement the issuer's payments in respect of the securities or the monetary settlements provided for by the

agreement in case of alteration of the securities price or in other instances provided for by the REPO agreement reduce within the period between the dates of execution of the first and second parts of the REPO agreement the sum of the monetary assets to be paid by the seller under the first part of the REPO agreement in the course of the subsequent acquisition of securities under the second part of the REPO agreement.

The results of the cited revaluation shall be accounted within the composition of organisations' off-sale incomes (outlays).

*Federal Law No. 148-FZ of November 11, 2003 supplemented Part Two of this Code with Chapter 25.1. This Chapter shall enter into force from January 1, 2004*

## **Chapter 25.1. Fees for the Use of Fauna Objects and for the Use of Aquatic Biological Resource Objects**

### **Article 333.1. Payers of the Fees**

**1.** Payers of the fee for the use of fauna objects, except for the fauna objects classified as aquatic biological resource objects (hereinafter referred to as "payers") shall be deemed organisations and natural persons, in particular, individual entrepreneurs which obtain in the established procedure a permit for taking fauna objects in the territory of the Russian Federation.

**2.** Payers of the fee for the use of aquatic biological resource objects (hereinafter referred to as "payers") shall be deemed organisations and natural persons, in particular, individual entrepreneurs which obtain in the established procedure a permit for the extraction (catch) of aquatic biological resource in the inland waters, the territorial sea, on the continental shelf of the Russian Federation and in the exclusive economic zone of the Russian Federation and also in the Azov, Caspian, Barents Seas and in the area of the Archipelago of Spitsbergen.

### **Article 333.2. The Objects of Assessment**

**1.** Below are the objects of assessment:

the fauna objects in compliance with the list established by **Item 1 of Article 333.3** of this Code which are withdrawn from their habitat under a permit for taking fauna objects issued in compliance with the legislation of the Russian Federation;

the aquatic biological resource object in compliance with the list established by **Items 4 and 5 of Article 333.3** of this Code which are withdrawn from their habitat under the permit for the extraction (catch) of water biological resources issued in compliance with the legislation of the Russian Federation, including the aquatic biological resource objects to be withdrawn from their habitat as permitted by-catch.

**2.** For the purposes of this Chapter the fauna objects and aquatic biological resource objects used by representatives of indigenous small-numbered peoples of the North, Siberia and Far East of the Russian Federation (according to a list approved by the Government of the Russian Federation) to meet their personal needs and persons who are not classified as indigenous small-numbered peoples but who permanently reside at the places of their traditional residence and traditional economic activity and for whom hunting and fishing are means of subsistence. Such a right shall extend only to the quantity (volume) of fauna objects and aquatic biological resource objects recovered for the purpose of meeting personal needs at the places

of traditional residence and traditional economic activity of this category of payers. Limits on the use of fauna objects and limits and quotas on the procurement (catching) of aquatic biological resources for the purpose of meeting personal needs shall be established by the executive governmental bodies of Russian regions by agreement with empowered federal executive governmental bodies.

**Article 333.3. Fee Rates**

1. The rates of the fee for each fauna object shall be set as follows, except as otherwise established by **Items 2** and **3** of this article:

Fauna Object	Fee rate in roubles (per animal)
Musk ox, hybrid European bison with bison or livestock	15,000
Bear (except for Kamchatka populations and white-breasted bear)	3,000
European brown bear (Kamchatka populations), white-breasted bear	6,000
Red deer, elk	1,500
Axis deer, fallow deer, bighorn sheep, Siberian ibex, chamois, tur, mouflon	600
Roe, boar, kastura, lynx, glutton	450

Reindeer, saiga	300
Sable, otter	120
Badger, marten, marmot, beaver	60
Yellow-throated marten	100
Common raccoon	30
Steppe cat, jungle cat	100
Mink	30
Wood grouse, Siberian capercailly	100
Caucasian snow-cock	100
Sand grouse	30
Pheasant, black grouse, water rail, little crane, tiny crane, crane, Siberian ruddy crane, moor-hen	20

2. When young (aged up to one year) wild hoofed mammals are withdrawn the rates of the fee for use of fauna objects shall be set at 50 per cent of the rates established by **Item 1** of this Article.

3. The rates of the fee for each fauna object specified in **Item 1** of this Article shall be set at 0 roubles if these fauna objects are used for the purpose of:

protecting public health, eliminating a threat to human life, preventing disease of agricultural and domestic animals, regulating the species composition of fauna objects, preventing a damage to the economy, fauna and its habitat, and also reproducing fauna objects as carried out on a permission of an empowered executive governmental body;

studying stocks, and also for scientific purposes in keeping with the legislation of the Russian Federation.

4. The rates of collection for every object of water biological resources, with the exception of sea mammals, shall be established in the following amounts, unless otherwise stipulated in **Item 6** of this Article:

Name of the object of water biological resources	Collection rate
	in roubles
	(for one ton)

Far Eastern Basin (the inland sea waters, territorial sea, the exclusive economic zone of the Russian Federation and the continental shelf of the Russian Federation in the Chuckchee Sea, the East Siberian Sea and the Bering Sea, in the Sea of Okhotsk, in the Sea of Japan and in the Pacific Ocean)	
Pollock of the Sea of Okhotsk	3 500
Pollock of the other catching areas	2 000
Cod	3 000
Herring of the Bering Sea	400
Herring of the Sea of Okhotsk in the spring-summer catching period	400
Herring of the other catching areas and catching periods	200
Halibut	3 500
Greenling	750
Sea perch	1 500
Sablefish	1 500



Tuna		
600		
Smelt		
200		
Pacific		saury
150		
Char		loach
200		
Humpback salmon		3
500		
Dog-salmon		4
000		
Amur autumn keta		3
000		
Silver salmon		4
000		
Chinook salmon		6
000		
Blueback salmon		20
000		
Sima		6
000		
Thornyhead		
200		
Sturgeon*		
Flounder, navaga, capelin, anchovy, eelpouts, marline		
spikes, Arctic cod, long -fin codling, gobies, dog-fish		
species, gerbale, sharks, skates, mullets and others		
10		
Red king crab of the Kamchatka Western Coast		35
000		
Red king crab of the northern part of the Sea of Okhotsk		35
000		
Red king crab of the other catching areas		35
000		
Blue crab		35
000		
Golden king crab		20
000		
Bairdi tanner crab of the Sea of Okhotsk		35
000		
Bairdi tanner crab of the other catching areas		13
000		
Opilio snow crab		35
000		
Triangle tanner crab		8
000		
Red snow crab		8
000		
Red	vermillion	crab
200		

Grooved	tanner	crab
200		
Scarlet	king	crab
200		
Spiny king crab of the South Kuriles area		25
000		
Spiny king crab of the other catching areas		13
000		
Horsehair rectangular crab of the South Sakhalin and the Aniva Bay zone of the Sea of Okhotsk and of the south-western sector of the Sea of Japan		20
000		
Horsehair rectangular crab of the other catching areas		9
000		
Humpy	pink	shrimp
200		
Northern shrimp		3
000		
Northern shrimp of the Bering Sea		
200		
Grass shrimp		2
600		
Pandalus Hypsinotus		5
000		
Other	shrimp	species
200		
Squid		
500		
Primorye	Subzone	squid
200		
Octopuses		1
000		
Whelk		12
000		
Scallop		9
000		
Other molluscs (mussel, surf clam, Asian clam and others)		
20		
Sea cucumber		30
000		
Cucumaria		
300		
Gray sea urchin		6
000		
Black sea urchin		2
600		
Other sea urchin species (yellow, polyacanthus, green, etc.)		6
000		
Algae		
10		
Other	water	biological resources

200	Northern Basin (the White Sea, inland sea waters, territorial sea, the exclusive economic zone of the Russian Federation and the continental shelf of the Russian Federation in the Laptev Sea, the Kara Sea and the Barents Sea, and in the Spitsbergen Isle area	
	Cod	5
000	Haddock	3
500	Atlantic salmon (salmon)	7
500	Humpback	salmon
200	Herring	
400	Herring, the Czech-Pechora and the White Sea species	
100	Flounder	
200	Black halibut	7
000	Sea	perch
1500	Sea	pollock
50	Whitefish species	1
800	European whitefish, smelt, navaga, catfish species	200
	Arctic cod, capelin, lumpfish, European gerbile, star-skate, Polar shark, cusk and others	
20	Red king crab	30
000	Northern shrimp	3
000	Sculptured shrimp	2
000	Other shrimp species (Euphasiides)	
20	Scallop	9
000	Other	mollusks
20	Green sea urchin	3
000	Cucumaria	
300	Algae	
10	Baltic Basin (the inland sea waters and the territorial	

sea, the exclusive economic zone of the Russian Federation and the continental shelf of the Russian Federation in the Baltic Sea and in the Gulf of Danzig, in the Courland Gulf and in the Gulf of Finland

Sprats	(herring)
20	
Sprats	(anchovy)
20	
Atlantic salmon (Baltic salmon)	7
500	
Cod	2
500	
Siberian whitefish	1
500	
Turbo-flounder	
400	
Flounder of the other species	
50	
Eel	10
000	
Lamprey	7
000	
Pike perch	1
500	
Vimba (zarthe)	1
800	
Perch	
400	
European whitefish, bream, pike, burbot, sicklebacks, roach, smelt, ruff, sparling, sicklefish, redeye,	
20	
silver bream and others Caspian Basin (the areas of the Caspian Sea, in which the Russian Federation exercises jurisdiction with respect to fishing)	
Sprats (anchovy-like, big-eyed, ordinary)	
20	
Herring (Dolgino, Caspian clupeid herring, big-eyed clupeid, anadromous black-back)	
20	
Various big fish species, accompanying the main catch (mullet, silverside, bream, wild carp, fresh-water	
150	
catfish, silver bream, pike and others, with the exception of pike perch and of kutum)	
Pike perch	1
000	
Kutum	1
000	
Caspian	roach
200	
Sturgeon*	

Redeye, marline, perch, crucian carp and other	
20	
fresh-water species in the main catch	
Azov and Black Sea Basin (the inland sea waters and territorial sea, the exclusive economic zone of the Russian Federation in the Black Sea and the areas of the Sea of Azov with the Taganrog Bay, where the Russian Federation exercises jurisdiction with respect to fishing)	
Pike perch	1
000	
Flounder-brill	2
000	
Mullet of all species	1
000	
Bream	
150	
Roach	
150	
Black Sea khamsa (anchovy)	
20	
Sardelle	
20	
Sprats (anchovy)	
20	
Vimba (zarthe)	1
800	
Goatfish	1
800	
Herring	
450	
Pilengas	
450	
Sturgeon*	
Skate, sicklefish, dog-shark, jack mackerel, silverside, gobies, blood scam, whiting and others	
10	
Other water biological resources (mollusks, algae)	
10	
Inland water objects (the rivers, water reservoirs and lakes)	
Sturgeon*	
Atlantic salmon (Baltic salmon, salmon), Chinook salmon, autumn Amur dog-salmon, silver salmon, Siberian white salmon, salmon trout, blueback salmon, eel	5
000	
Dog-salmon, sima, brown trout	3
000	
Baikal white grayling, whitefish, muksun	2
100	
Siberian char, Dolly Varden trout, char loach, lake	

char, trout of all kinds, lenok, whitefish, omul, Siberian whitefish, pelyad, barbel, black-back, vimba (zarthe), cyprinid, grayling, Chalcaburnus (a species of the carp family), kutum, fresh-water catfish, lamprey	1
200	
White amur, cyprinid, silver carp, fresh-water catfish	
150	
of the Volga River	
Various big fish species (except pike perch)	
150	
Pike perch	1
000	
Ripus, roach, Caspian roach, European whitefish	
80	
Brime fish	2
000	
Gammarid	1
000	
Crayfish species	1
000	
Other objects of water biological resources	
20	

\* The payment shall be collected if the catching is permitted.

**5.** The collection rates for every object of water biological resources - a sea mammal, shall be established in the following amount, unless otherwise stipulated in **Item 6** of this Article:

Name of the object of water biological resources	Collection rate
	in roubles
	(for one ton)
Falcated teal and other whales (with the exception of white whale)	30
000	
White whale	7
000	
Pacific walrus	1
500	
Fur	seal
10	
Ringed seal	(akiba)
10	

Ribbon			seal
10			
Sea	hare	(bearded	seal)
10			
Ordinary		seal	(larga)
10			
Greenland			seal
10			
Caspian			seal
10			
Baikal			seal
10			

**6.** The rates of the fee for each aquatic biological resource object specified in **Items 4** and **5** of this Article shall be set at 0 roubles in cases when such aquatic biological resource objects are used in the event of the following:

fishery for the purpose of reproduction and acclimatization of aquatic biological resources;

fishery for scientific research and monitoring purposes.

**7.** The rates of fee for every object of aquatic biological resources mentioned in **Items 4** and **5** of this Article for the town-forming and settlement-forming Russian fishing organisations included into the list to be approved by the Government of the Russian Federation, as well as for Russian fishing organisations, including fishing artels (collective farms), shall be established in the amount of 15 per cent of the fee rates envisaged in Items 4 and 5 of this Article.

For the purposes of this Article, as town-forming and settlement-forming fishing organisations shall be recognised those ones which satisfy the following criteria:

they are engaged in fishing with the use of fishing vessels which are owned by them or used under the contracts (of bare board charter and time-charter);

they are registered as legal entities in compliance with the **legislation** of the Russian Federation;

in their total incomes derived from the sale of commodities (works or services) the share of the income derived from selling the aquatic biological resources extracted (caught) by them and/or other aquatic biological resource products made of the aquatic biological resources extracted (caught) by them shall amount to at least 70 per cent for the calendar year preceding the year when the permit to extract (catch) aquatic biological resources is issued;

*The criterion of the number of workers provided for by Paragraph Six of Item 7 of Article 333.3 of Part Two of the Tax Code of the Russian Federation (in the wording of Federal Law No. 314-FZ of December 30, 2008) shall **apply** upon the expiry of one month from the day of the official publication of the said Federal Law*

the number of workers taking account of their family members residing together with them as on January 1 of the calendar year when the permit to extract (catch) aquatic biological resources is issued amounts to at least half of the population of an appropriate inhabited locality.

For the purposes of this Chapter, as fishing organisations shall be recognised organisations engaged in fishing and/or making fish and other products of aquatic biological resources (in particular by using fishing vessels under contracts) and realising their catches and products under the condition that in the total incomes derived from realisation of commodities

(works, services) of such organisations the share of the income derived from realising catches of fish and other aquatic biological resources and/or the fish and other products made from them constitutes at least 70 per cent.

**8. Abrogated.**

**9.** The rates of the fee for each object of aquatic biological resources mentioned in **Item 4** and **5** of this Article for individual businessmen who meet the criteria stipulated for fishery organisations by **paragraph seven of Item 7** of this Article, shall be established in the size of 15 per cent of the rates of the fee stipulated by Item 4 and 5 of this Article.

**Article 333.4.** Procedure for Calculating the Fees

**1.** The amount of fee for the use of fauna objects shall be assessed in respect of each fauna object specified in Items 1 - 3 of Article 333.3 of this Code as the quantity of fauna objects times the fee rate established for the specific fauna object.

**2.** The amount of fee for the use of aquatic biological resource objects shall be assessed in respect of each aquatic biological resource object specified in **Items 4 - 7 of Article 333.3** of this Code as the quantity of aquatic biological resource objects times the fee rate established for the specific aquatic biological resource object on the date when the term of the permit's validity begins.

**Article 333.5.** Procedure and Term for the Payment of the Fees. Procedure for Entering the Fees

**1.** The payers specified in **Item 1 of Article 333.1** of this Code shall pay the amount of fee for the use of fauna objects when they obtain a permit for taking fauna objects.

**2.** The payers specified in **Items 2 of Article 333.1** of this Code shall pay the amount of fee for the use of aquatic biological resource objects as a one-off and regular contributions, as well as where it is provided for by this Chapter, as a one-off contribution.

The amount of the one-off contribution shall be assessed as a share of calculated fee amount equal to ten per cent.

The one-off contribution shall be paid when the permit for the extraction (catch) of aquatic biological resources is being obtained.

The outstanding amount of fee calculated as the difference between the calculated fee amount and the amount of the one-off contribution shall be payable in regular equal instalments during the whole effective term of the permit for the extraction (catch) of aquatic biological resources every month at the latest on the 20th day of the month.

The fee for using objects of aquatic biological resources which are subject to extraction from their habitat as a permitted by-catch on the basis of the permit to extract (catch) aquatic biological resources shall be paid as a one-off contribution at the latest on the 20th day of the month following the last month of the validity term of the permit to extract (catch) aquatic biological resources.

**2.1. Abrogated.**

**3.** Payment of the fee amounts for using fauna objects shall be made by payers at the location of the body that has issued the permit for taking fauna objects.

Payment of fee amounts for using aquatic biological resource objects shall be made:

by payers being natural persons, except for individual businessmen, - at the location of the body that has issued the permit for the extraction (catch) of the aquatic biological resources;

by payer being organisations and individual businessmen - at the place of their registration.



4. The amounts of fees for the use of aquatic biological resource objects shall be entered in accounts of the Federal Treasury bodies for the purpose of being later distributed in compliance with the **budget legislation** of the Russian Federation.

**Article 333.6.** Procedure for Licensors to Provide Information

1. Not later than the 5th day of every month the **bodies** charged with the issuance in the established procedure of permit for taking fauna objects and permit for the extraction (catch) of aquatic biological resources shall provide the tax bodies at the place where they have been placed on record with information on the permits issued, the amount of fee payable on every permit and also information on fee due dates.

2. The forms in which information is provided by the bodies charged with the issuance in the established procedure of permits shall be approved by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

**Article 333.7.** Procedure for Organisations and Individual Entrepreneurs to Provide Information. The Setoff or Refund of Fee Amounts Relating to Unrealised Permits

1. The organisations and individual entrepreneurs using fauna objects under a permit for taking fauna objects shall, within ten days after the date of receipt of such a permit, provide information to the tax bodies at the location of the body that has issued the said permit, on the obtained permits for taking fauna objects, the fee amounts payable and the fee amounts that have been actually paid.

Upon the expiry of the effective term of the permit for taking fauna objects organisations and individual entrepreneurs shall be entitled to apply to the tax body at the location of the body, that has issued the said permit, for a setoff or refund of the fee amounts relating to the unrealised permits for taking fauna object which have been issued by an empowered body.

The setoff or refund of fee amounts relating to unrealised permits for taking fauna objects shall be effected in the procedure established by **Chapter 12** of this Code, provided the documents of which a **list** is approved by the federal tax body have been filed.

2. The organisations and individual entrepreneurs using aquatic biological resource objects under a permit for the extraction (catch) of aquatic biological resources shall provide **information** within ten days after the receipt of such permit to the tax bodies where they have been put on record on the obtained permits for the extraction (catch) of aquatic biological resources, the fee amounts payable as a one-off payment and as regular payments.

The organisations and individual businessmen shall present data on the quantity of aquatic biological resources subject to extraction from their habitat as a permitted by-catch on the basis of the permit to extract (catch) aquatic biological resources to the tax authorities at their registration place at the latest at the time fixed for payment of a one-off contribution established by Paragraph Five of Item 2 of Article 333.5 of this Code according to the form approved by the federal executive body in charge of exercising control and supervision in the field of taxes and fees.

3. The information indicated in **Items 1** and **2** of this Article shall be provided by the organisations and individual entrepreneurs using fauna objects and using aquatic biological resource objects in accordance with the **forms** approved by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

## **Chapter 25.2. The Water Tax**

## **Article 333.8.** The Taxpayers

1. Taxpayers for the purposes of the water tax (hereinafter referred to as "taxpayers") are the organisations and natural persons which do a special and/or extraordinary use water use under the **legislation** of the Russian Federation, recognized as a taxable item in compliance with **Article 333.9** of this Code.

2. The following are not deemed taxpayers: organisations and natural persons using water under contracts for the use of water or decisions on provision of bodies of water for use concluded and adopted respectively after the **entry into force** of the Water Code of the Russian Federation.

## **Article 333.9.** The Objects of Taxation

1. Except as otherwise envisaged by **Item 2** of this Article, the objects of taxation for the purposes of the water tax (hereinafter referred to as "tax") are the following types of use of bodies of water (hereinafter referred to as "types of water use"):

- 1) water intake from bodies of water;
- 2) the use of areas of bodies of water, except for timber rafting by means of rafting and bag boom towing;
- 3) the use of bodies of water without water intake for the purposes of hydraulic power production;

4) the use of bodies of water for the purpose of timber rafting by means of rafting and bag boom towing.

2. The following shall not be deemed objects of taxation:

- 1) the intake of water from underground bodies of water as containing mineral resources and/or natural medical treatment resources and also thermal waters;
- 2) the intake of water from bodies of water for the purposes of fire safety and also elimination of natural disasters and the aftermath of accidents;
- 3) the intake of water from bodies of water for sanitary, ecological and navigation drawdowns;
- 4) the intake of water by sea vessels, inland waterway and mixed (sea-river) vessels from bodies of water for the purposes of operating technological equipment;
- 5) the intake of water from bodies of water and the use of area of bodies of water for fishing and aquatic biological resource reproduction;
- 6) the use of area of bodies of water for navigation, in particular, of small-size floating craft and also for one-off landing (take-off) of aircraft;
- 7) the use of area of bodies of water for deployment and moorage of floating craft, deployment of communication facilities, buildings, structures, plants and equipment for the purpose of pursuing activities having to do with protection of waters and aquatic biological resources, environmental protection against a harmful effects of waters, and also the pursuance of such activities at bodies of water;
- 8) the use of area of bodies of water for state monitoring of bodies of water and other natural resources and also for geodetic, topographic, hydrographical as well as prospecting and survey works;

**Federal Law** No. 417-FZ of December 7, 2011 amended Subitem 9 of Item 2 of Article 333.9 of this Code. The amendments shall **enter into force** on January 1, 2013, but no earlier than upon the expiry of one month from the day of the **official publication** of the said Federal Law and no earlier than the first day of the next **tax period** for water tax

- 9) the use of area of bodies of water for the placing and building of hydraulic engineering

structures for the purposes of hydraulic power production, amelioration, fishery, water-transport, water-supply and sewerage;

10) the use of area of bodies of water for the purposes of organised recreation by the organisations intended exclusively for maintaining and taking care of disabled persons, veterans and children;

11) the use of bodies of water for dredging and other works relating to the operation of navigable waterways and hydraulic engineering structures;

12) the special use of bodies of water for the needs of national defence and state security;

13) the intake of water from bodies of water for agricultural purpose land irrigation (in particular, grasslands, pastures) , watering fruit and vegetable gardening as well as dacha land plots, the land plots of citizens' personal auxiliary farms, for watering cattle and poultry and catering for them owned by agricultural organisations and citizens;

14) the intake of water from underground bodies of water with mining an sewer-drainage waters;

15) the use of area of bodies of water for fishing and hunting.

#### **Article 333.10.** The Tax Base

**1.** For each type of water use deemed an object of taxation under **Article 333.9** of this Code the taxpayer shall assess a tax base separately for each body of water.

If a body of water is subject to various tax rates the tax base shall be assessed by the taxpayer as applicable to each tax rate.

**2.** For a water intake the tax base shall be assessed as the volume of water taken out of the body of water over the tax period.

The volume of water taken out of the body of water shall be calculated according to the water meter readings recorded in the primary water use log-book.

If there are no water meters the volume of water taken shall be assessed on the basis of the duration of operation and the capacity of the technical facilities. If water intake volume cannot be assessed on the basis of operating time and technical facility capacity the volume of water taken shall be assessed on the basis of established water consumption rates.

**3.** In the event of use of area of bodies of water, except for timber rafting by means of rafting and bag boom towing, the tax base shall be assessed as the area of the water space given.

The area of the water space given shall be determined according to the data of the water use licence (contract on water use) and if there is no such data in the licence (contract), according to the materials of a relevant technical and design documentation.

**4.** When bodies of water are used without water intake for the purposes of hydraulic power production the tax base shall be assessed as the quantity of electrical energy produced over the tax period.

**5.** When bodies of water are used for the purposes of timber rafting by means of rafting and bag boom towing the tax base shall be assessed as the volume of timber floated by means of rafting and bag boom towing over the tax period in terms of thousands of cubic metres times the distance of the rafting in terms of kilometres divided by 100.

#### **Article 333.11.** The Tax Period

The tax period is the quarter.

#### **Article 333.12.** Tax Rates

*For water intake from surface bodies of water for technological needs within established limits*

*the taxpayers operating thermal energy and atomic energy facilities with a direct-flow water supply system are subject to the coefficient of 0.85 from January 1 through December 31, 2005*

1. Tax rates shall be established by the basin of a river, lake, sea and by the economic area as follows:

1) when water is taken from:  
surface and underground bodies of water within the set quarterly (annual) water use limits:

Economic District	River, Lake Basin	Tax Rate Roubles/1,000 Cu.M of Water Taken	
		from a Surface Body of Water	from an Underground Body of Water
1	2	3	4

Northern	Volga	300	384
	Neva	264	348
	Pechora	246	300
	Northern Dvina	258	312
	Other rivers & lakes	306	378
Northwestern	Volga	294	390
	Western Dvina	288	366
	Neva	258	342
	Other rivers & lakes	282	372
Central	Volga	276	342
	Don	294	384
	Western Dvina	306	354
	Neva	252	306
	Other rivers & lakes	264	336
Volga-Vyatka	Volga	282	336
	Northern Dvina	252	312
	Other rivers & lakes	270	330
Central- Chernozem	Dneper	258	318
	Don	336	402
	Volga	282	354

	Other rivers & lakes	258	318
Povolzhski	Volga	294	348
	Don	360	420
	Other rivers & lakes	264	342
Northern	Don	390	486
Caucasus	Kuban	480	570
	Samur	480	576
	Sulak	456	540
	Terek	468	558
	Other rivers & lakes	540	654
Urals	Volga	294	444
	Ob	282	456
	Ural	354	534
	Other rivers & lakes	306	390
Western	Ob	270	330
Siberian	Other rivers & lakes	276	342
Eastern	Amur	276	330
Siberian	Yenisey	246	306
	Lena	252	306
	Ob	264	348
	Lake Baikal & its basin	576	678
	Other rivers & lakes	282	342
Far Eastern	Amur	264	342
	Lena	288	342
	Other rivers & lakes	252	306
Kaliningrad	Neman	276	324
Region	Other rivers & lakes	288	336;

the territorial sea of the Russian Federation and the inland sea waters within the established quarterly (annual) water use limits:

M	Sea	Tax Rate Roubles/1,000 Cu.
		of Sea Water
	Baltic	8.28
	White	8.40
	Barents	6.36
	Azov	14.88
	Black	14.8
	Caspian	11.52
	Kara	4.80
	Laptev	4.68
	Eastern Siberian	4.44
	Chukotka	4.32

Bering	5.28
Pacific Ocean (within the limits of the territorial sea of the Russian Federation)	5.64
Okhotsk	7.68
Japan	8.04;

2) in the event of use of the area of:  
 surface bodies of water, except for timber rafting by means of rafting and bag boom towing:

Economic District	Tax Rate (Thousand Roubles per Year) per Sq. Km of Used Area
1	2

Northern	32.16
Northwestern	33.96
Central	30.84
Volga-Vyatka	29.04
Central-Chernozem	30.12
Povolzhski	30.48
Northern Caucasian	34.44
Urals	32.04
Western Siberian	30.24
Eastern Siberian	28.20
Far Eastern	31.32
Kaliningrad Region	30.84;

the territorial sea of the Russian Federation and inland sea waters:

Sea	Tax Rate (Thousand Roubles per Year) per Sq. Km of Used Area
1	2

Baltic	33.84
White	27.72

Barents	30,72
Azov	44.88
Black	49.80
Caspian	42.24
Kara	15.72
Laptev	15.12
Eastern Siberian	15.00
Chukotka	14.04
Bering	26.16
Pacific Ocean (within the limits of the territorial sea of the Russian Federation)	29,28
Okhotsk	35.28
Japan	38.52;

3) in the event of use of bodies of water without water intake for the purposes of hydraulic power production:

Hour	River, Lake, Sea Basin	Tax Rate Roubles/1,000 kW-Electric Energy
1		2

Neva	8.76
Neman	8.76
The rivers of basins of Ladoga and Onega Lakes and Lake Ilmen	9.00
Other rivers of Baltic Sea basin	8.88
Northern Dvina	8.76
Other rivers of White Sea basin	9.00
The rivers of Barents Sea basin	8.76
Amur	9.24
Volga	9.84
Don	9.72
Yenisey	13.70
Kuban	8.88
Lena	13.50
Ob	12.30
Sulak	7.20
Terek	8.40
Ural	8.52
The basin of Lake Baikal and Angara River	13.20
The rivers of Eastern Siberian Sea	8.52
The rivers of Chukotka and Bering Seas	10.44

Other rivers and lakes

4.80

4) in the event of use of bodies of water for the purposes of timber rafting by means of rafting and bag boom towing:

River, Lake, Sea Basin of Boom Rafting	Tax Rate Roubles/1,000 Cu. M Timber in Rafting & Bag Towing per 100 Km of
1	2

Neva	1,656.0
The rivers of basins of Ladoga and Onega Lakes and Ilmen Lake	1,705.2
Other lakes of Baltic Sea basin	1,522.8
Northern Dvina	1,650.0
Other rivers of White Sea basin	1,454.4
Pechora	1,554.0
Amur	1,476.0
Volga	1,636.8
Yenisey	1,585.2
Lena	1,646.4
Ob	1,576.8
The other rivers and lakes where timber is rafted and towed by means of bag booms	1,183.2

2. When water is taken in excess of the established quarterly (annual) water use limits tax rates in as much as this excess is concerned shall be set at five times the tax rates established by **Item 1** of this Article. If the taxpayer lacks approved quarterly limits, such limits shall be set by means of calculation as one quarter of the approved annual limit.

3. The rate of water tax in the case of water intake from bodies of water for the purposes of water supply to the general public shall be set at the rate of 70 roubles per 1,000 cubic metres of water taken out of the body of water.

#### **Article 333.13. Tax Calculation Procedure**

1. The taxpayer shall calculate tax amount on his own.
2. The tax amount according to the results of each tax period shall be calculated as the tax base times the tax rate corresponding thereto.
3. The sum total of the tax is the sum produced by adding up tax amounts calculated under **Item 2** of this Article on all types of water use.



**Article 333.14.** Tax Payment Procedure and Term

1. The sum total of the tax calculated in keeping with **Item 3 of Article 333.13** of this Code shall be paid at the place where the object of taxation is located.

2. The tax shall be paid within the term ending on the 20th day of the month following the past tax period.

**Article 333.15.** The Tax Return

1. The **tax return** shall be filed by the taxpayer with the tax body at the place where the object of taxation is located, within the term set for the payment of the tax.

In this case the taxpayers, referred to the category of major taxpayers in conformity with **Article 83** of this Code, shall submit tax declarations (computations) to the tax body at the place of their recording as major taxpayers.

2. Taxpayers being foreign person shall also file a copy of the **tax return** with the tax body at the location of the licensor which has issued the water use licence, within the term set for the payment of the tax.

*Federal Law No. 127-FZ of November 2, 2004 supplemented Section VIII of Part Two of this Code with Chapter 25.3 "State Duty". This Chapter shall **enter into force** from January 1, 2005*

**Chapter 25.3. State Duty**

**Article 333.16.** State Duty

1. State duty shall mean the fee recoverable from the persons specified in **Article 333.17** of this Code when they apply to state bodies, local self-government bodies, other bodies and (or) officials, that are authorised under the legislative acts of the Russian Federation, legislative acts of the subjects of the Russian Federation and normative legal acts of local self-government bodies, to commit in respect of these persons the legally relevant actions provided for by this Chapter, except for the actions committed by consular offices of the Russian Federation.

For the purposes of this Chapter, the issuance of documents (of duplicates thereof) shall be equated with legally relevant actions.

2. The bodies and officials specified in **Item 1** of this Article, except for consular offices of the Russian Federation, shall not be entitled to recover payments other than state duty for committing legally relevant actions provided for by this Chapter.

**Article 333.17.** Payers of State Duty

1. As payers of the state duty (hereinafter referred to in this Chapter as payers) shall be deemed:

- 1) organisations;
- 2) natural persons.

2. The persons indicated in **Item 1** of this Article shall be deemed taxpayers, if they:

- 1) apply for the carrying out of the legally relevant actions provided for by this Chapter;
- 2) act as respondents in courts of law, arbitration courts or in cases tried by justices of the peace and if the court does not render a decision in their favour and the claimant is relieved of paying state duty in compliance with this Chapter.

**Article 333.18.** Procedure for, and Time of, Paying State Duty

1. Payers shall pay state duty within the following time periods, if not otherwise established by this Chapter:

1) when applying to the Constitutional Court of the Russian Federation, to courts of law, arbitration courts or to justices of the peace - prior to filing an inquiry, petition, application, statement of claim or complaint (including appeals, cassational appeals and supervisory appeals);

2) the payers indicated in **Subitem 2 of Item 2 of Article 333.17** of this Code - within 10 days as of the date of entry of the court decision into legal force;

3) when applying for the commission of notarial actions - prior to committing notarial actions;

4) when applying for the issuance of documents (duplicates thereof) - prior to issuing the documents (duplicates thereof);

5) when applying for an apostille - prior to placing the apostil;

5.1) when applying for a yearly confirmation of a ship's registration in the Russian International Register of Ships - at the latest on March 31 of the year following the year of the ship's registration in the said register or the last year when such confirmation was effected;

**5.2.** when applying for making the actions relevant in law which are cited in **Subitems 21-33 of Item 1 of Article 333.33** of this Code - before filing applications for making the actions relevant in law or, if applications for making such actions are filed in the electronic form, after filing the cited applications but before their acceptance for consideration;

6) when applying for the carrying out of legally relevant actions, except for the legally relevant actions indicated in **Subitems 1 - 5.2** of this Item - prior to filing applications and (or) documents for the carrying out of such actions or prior to filing the appropriate documents.

**2.** State duty shall be paid by the payer, if not otherwise established by this Chapter.

Where several payers that are not entitled to the benefits established by this Chapter have concurrently applied for the carrying out of a legally relevant action, state duty shall be paid by the payers in equal shares.

If one person (several persons) from among those applying for the carrying out of a legally relevant action is (are) relieved of paying state duty in compliance with this Chapter, the rate of state duty shall be decreased in proportion to the number of persons relieved of paying it in compliance with this Chapter. With this, the remaining part of the amount of state duty shall be paid by the person (persons) that is (are) not relieved of paying state duty in compliance with this Chapter.

The specifics of paying state duty depending on the type of legally relevant action being committed, the category of taxpayers or on any other circumstances is established by **Articles 333.20, 333.22, 333.25, 333.27, 333.29, 333.32** and **333.34** of this Code.

**Federal Law** No. 162-FZ of June 27, 2011 amended Item 3 of Article 333.18 of this Code. The amendments shall **enter into force** on January 1, 2013

**3.** State duty shall be paid at the place of committal of a legally-significant action in cash or by way of cashless settlements.

The fact of a payer's payment of state duty by way of cashless settlements shall be proved by a payment order bearing a note of a bank or of an appropriate regional agency of the Federal Treasury (of another body which opens and keeps accounts) which, in particular, makes settlements in an electronic form, on execution thereof.

The fact of a payer's payment of state duty in cash shall be proved either by the receipt

of the established form issued to the taxpayer by the bank or by the receipt issued to the taxpayer by the official or by the cash-desk of the agency in which the payment thereof was made.

4. Foreign organisations, foreign citizens and stateless persons shall pay the state duty in the procedure and in the amount as established by this Chapter for organisations and natural persons accordingly.

5. A list and forms of the documents required for making the actions relevant in law which are provided for by **Subitem 6 of Item 1** of this Article, as well as a procedure for filing them, shall be established by federal law.

#### **Article 333.19.** Rates of State Duty in Respect of Cases Tried by Courts of Law and Justices of the Peace

1. In respect of cases tried by courts of law and justices of the peace a state duty shall be paid at the following rates:

1) when filing a statement of claim of a material nature, subject to appraisal, with the amount of the claim:

up to 20 000 roubles - 4 per cent of the amount of the claim but at least 400 roubles;

from 20 001 roubles to 100 000 roubles - 800 roubles plus 3 per cent of the amount in excess of 20 000 roubles;

from 100 001 to 200 000 roubles - 3 200 roubles plus 2 per cent of the amount in excess of 100 000 roubles;

from 200 001 roubles to 1 000 000 roubles - 5 200 roubles plus 1 per cent of the amount in excess of 200 000 roubles;

over 1 000 000 roubles - 13 200 roubles plus 0.5 per cent of the amount in excess of 1 000 000 roubles but 60 000 roubles at the most;

2) when filing an application for issuing a court order - 50 per cent of the rate of the state duty recovered in case of filing a statement of claim of material nature;

3) when filing a statement of claim of material nature which is not subject to appraisal, as well as the statement of claim of non-material nature:

for natural persons - 200 roubles;

for organisations - 4 000 roubles;

4) when filing a supervisory appeal - at the rate of the state duty recovered in case of filing a statement of claim of a non-material nature;

5) when filing a statement of claim for divorce - 400 roubles;

6) when filing an application for disputing (in full or in part) normative legal acts of state power bodies, local authorities or officials:

for natural persons - 200 roubles;

for organisations - 3 000 roubles;

7) when filing an application for disputing a decision or action (omission to act) of state power bodies, local authorities, officials, state or municipal civil servants that have violated the rights or freedoms of citizens or organisations - 200 roubles;

8) when filing an application in respect of cases tried in special proceedings - 200 roubles;

9) when filing an appeal and/or a cassational appeal - 50 per cent of the rate of the state duty payable in case of filing a statement of claim of non-material nature;

*The provisions of Subitem 10 of Item 1 of Article 333.19 of Part 2 of this Code (in the wording of **Federal Law No. 374-FZ of December 27, 2009**) shall be **applied** up to January 1, 2013*

10) when filing an application for a repeated issuance of copies of decisions, sentences, court orders, court rulings, decisions of the presidium of a court of the supervisory instance, copies of other documents of a case-file that can be issued by a court, as well as when filing an application for issuing duplicates of executive documents - 4 roubles for each page of a document, but at least 40 roubles;

11) when filing an application for issuance of writs of execution concerning enforcement of decisions of an arbitral tribunal - 1 500 roubles;

12) when filing an application for securing a claim under consideration of an arbitral tribunal - 200 roubles;

13) when filing an application for reversal of a decision of an arbitral tribunal - 1 500 roubles;

14) when filing an application concerning cases on recovering alimony - 100 roubles. If a court decides on recovering alimony both for the maintenance of children and the claimant, the rate of the state duty shall be twice as much.

15) when filing an application for awarding compensation for violation of the right to court proceedings within a reasonable time or the right to execution of a judicial decision within a reasonable time:

by natural persons - 200 roubles;

by organisations - 4 000 roubles.

**2.** The provisions of this Article shall apply subject to the provisions of **Article 333.20** of this Code.

#### **Article 333.20.** Specifics of Paying State Duty When Applying to Courts of Law and to Justices of the Peace

**1.** In respect of cases tried by courts of law and justices of the peace, state duty shall be paid subject to the following specifics:

1) when filing statements of claim containing claims of both material and non-material nature, there shall be concurrently paid state duty established for statements of claim of material nature and state duty established for statements of claim of non-material nature;

2) the amount of the claim serving as the basis for estimating the state duty shall be determined by the claimant, and in the instances established by the laws it shall be done by a judge subject to the rules established by the **civil procedure laws** of the Russian Federation;

3) when filing statements of claim for division of property that is in common ownership, as well as when filing statements of claim for allotment of a share of the said property or for recognising the right to a share in property, the rate of state duty shall be estimated in the following procedure:

if a dispute in respect of allowing the claimant's (claimants') ownership of this property has not been previously settled by a court - in compliance with **Subitem 1 of Item 1 of Article 333.19** of this Code;

if a court has previously decided on allowing the claimant's (claimants') ownership of the said property - in compliance with **Subitem 3 of Item 1 of Article 333.19** of this Code;

4) in the event of making a counter claim, as well as applications for third persons' joining the case who advance independent claims in respect of the point at issue, state duty shall be paid in compliance with the provisions of **Article 333.19** of this Code;

5) in the event of replacing in compliance with a court ruling a drop-out party by the legal successor thereof (in the event of the death of a natural person, reorganisation of an establishment, cession, assignment of a debt and in other instances when liable persons are replaced), state duty shall be paid by such legal successor if it is not paid by the replaced party;

6) in the event of a judge's singling out one or several claims from the joined claimant's claims for consideration thereof in a separate court proceeding, state duty paid when making the statement of claim shall not be re-counted and returned. In respect of the cases singled out for consideration in a separate court proceeding, state duty shall not be repeatedly paid;

7) if a cassational appeal is filed by co-partners and third persons taking the same side in proceedings as the person filing the cassational appeal, the state duty shall not be payable.

8) where the claimant is relieved of paying state duty in compliance with this Chapter, the state duty shall be paid by the respondent (if he is not relieved of paying the state duty) in proportion to the amount of the stated claims satisfied by the court;

9) where it is difficult to determine the amount of a claim at the time of filing it, the rate of the state duty shall be preliminarily established by a judge with the subsequent additional payment of the deficient amount of state duty on the basis of the amount of the claim determined by the court when resolving the case within the time period established by **Subitem 2 of Item 1 of Article 333.18** of this Code;

10) where the claimant increases the amount of his claims, the deficient sum of the state duty shall be additionally paid in compliance with the increased amount of the claim within the time period established by **Subitem 2 of Item 1 of Article 333.18** of this Code. In the event of the claimant's decreasing the amount of his claims, the sum of the state duty paid in excess shall be returned in the procedure provided for by **Article 333.40** of this Code. The rate of the state duty shall be determined in a similar way, if the court, due to the circumstances of the case, exceeds the limits of the claims made by the claimant;

11) when filing statements of claim for heirs' obtaining on demand the share of property due to them, state duty shall be paid in the same procedure as that established for filing statements of claim of material nature not subject to appraisal, if the dispute concerning the recognition of ownership of this property has been previously settled by the court;

12) when filing statements of claim for divorce accompanied by the simultaneous division of the property jointly acquired by spouses, the state duty shall be paid at the rate established both for statements of claim for divorce and for statements of claim of a material nature;

13) in the event of the refusal to accept a statement of claim or an application for issuing a court order, state duty paid when filing the claim or the application for issuing the court order shall be entered on account of the payable state duty;

14) **abrogated.**

**2.** Courts of law or justices of the peace shall be entitled, proceeding from the property status of the payer, to decrease the amount of the payable state duty in respect of the cases tried by the said courts or justices of the peace or to postpone its payment (to allow to pay it by installments) in the procedure provided for by **Article 333.41** of this Code.

**3.** The provisions of this Article shall apply subject to the provisions of **Articles 333.35** and **333.36** of this Code.

### **Article 333.21.** Rates of State Duty in Respect of Cases Tried by Arbitration Courts

**1.** In respect of the cases tried by arbitration courts a state duty shall be paid at the following rates:

1) when filing a statement of claim of material nature, subject to appraisal, with the amount of claim:

up to 100 000 roubles - 4 per cent of the amount of the claim but at least 2 000 roubles;

from 100 001 roubles to 200 000 roubles - 4 000 roubles plus 3 per cent of the amount in excess of 100 000 roubles;

from 200 001 to 1 000 000 roubles - 7 000 roubles plus 2 per cent of the amount in

excess of 200 000 roubles;

from 1 000 001 roubles to 2 000 000 roubles - 23 000 roubles plus 1 per cent of the amount in excess of 1 000 000 roubles;

over 2 000 000 roubles - 33 000 roubles plus 0.5 per cent of the amount in excess of 2 000 000 roubles but 200 000 roubles at the most;

2) when filing the statement of claim in respect of disputes that rise when making, changing or dissolving contracts, as well as in respect of the disputes concerning the invalidation of transactions - 4 000 roubles;

3) when filing an application for declaring invalid a normative legal act, for declaring invalid a non-normative act and for declaring invalid decisions and actions (omission to act) of state bodies, local self-government bodies, other bodies and officials:

for natural persons - 200 roubles;

for organisations - 2 000 roubles;

4) when filing other statements of claim of non-material nature, including an application for allowing a right, the application for awarding the discharge of a duty in kind - 4 000 roubles;

5) when filing an application for declaring the debtor insolvent (bankrupt) - 4 000 roubles;

6) when filing an application for establishing legally relevant facts - 2 000 roubles;

7) when filing an application for the third persons' joining the case who advance independent claims in respect of the point at issue:

in respect of disputes of material nature, if the claim is not subject to appraisal, as well as in respect of disputes of non-material nature - at the rate of the state duty payable when filing the statement of claim of non-material nature;

in respect of disputes of material nature - at the rate of the state duty payable on the basis of the amount disputed by a third person;

8) when filing an application for issuance of writs of execution in respect of the enforcement of a decision of an arbitral tribunal - 2 000 roubles;

9) when filing an application for securing a claim - 2 000 roubles;

10) when filing an application for reversal of a decision of an arbitral tribunal - 2 000 roubles;

11) when filing an application for allowing and enforcing the decision of a foreign court or of a foreign arbitral decision - 2 000 roubles;

12) when filing an appeal and (or) a cassational, supervisory appeal against decisions and (or) awards of an arbitration court, as well as against a court ruling concerning termination of proceedings in respect of a case, or shelving a statement of claim, or issuance of writs of execution in respect of the enforcement of decisions of an arbitral tribunal, or the refusal to issue writs of execution - 50 per cent of the rate of the state duty payable when filing the statement of claim of non-material nature;

*The provisions of Subitem 13 of Item 1 of Article 333.19 of Part 2 of this Code (in the wording of **Federal Law No. 374-FZ of December 27, 2009**) shall be **applied** up to January 1, 2013*

13) when filing an application for repeated issuance of copies of court decisions and rulings, copies of other documents of a case-file issued by an arbitration court, as well as when filing an application for issuance of a duplicate of a writ of execution (including copies of records of a court session) - 4 roubles per page of a document but at least 40 roubles.

14) when filing an application for awarding compensation for violation of the right to court proceedings within a reasonable time or the right to execution of a judicial decision within a reasonable time:

by natural persons - 200 roubles;

by organisations - 4 000 roubles.

2. The provisions of this Article shall apply subject to the provisions of **Article 333.22** of this Code.

**Article 333.22.** Specifics of Paying State Duty When Applying to Arbitration Courts

1. In respect of the cases tried by arbitration courts state duty shall be paid subject to the following specifics:

1) when filing statements of claim that contain claims of both a material and non-material nature, there shall be simultaneously paid state duty established for statements of claim of a material nature and state duty established for statements of claim of a non-material nature;

2) the amount of claim shall be established by the claimant or, in the event of an incorrect showing of the amount of the claim, by an arbitration court. The amount of the claim shall include the sums of forfeits (fines and penalties) and interest indicated in the statement of claim;

3) if the claimant increases the amount of his claims, the deficient sum of the state duty shall be additionally paid in compliance with the amount of the claim within the time period established by **Subitem 2 of Item 1 of Article 333.18** of this Code. If the claimant decreases the amount of his claims, the sum of the state duty paid in excess shall be returned in the procedure provided for by **Article 333.40** of this Code. The rate of the state duty shall be determined in a similar procedure if the court due to the circumstances of the case oversteps the limits of the claims stated by the claimant. The amount of the claim consisting of several independent claims shall be determined on the basis of the sum of all the claims.

4) where the claimant is relieved of paying state duty in compliance with this Chapter, state duty shall be paid by the respondent (if the latter is not relieved of paying state duty) in proportion to the amount of the claims satisfied by an arbitration court;

5) when filing an application for the return (reimbursement) of monetary funds from the budget, state duty shall be paid on the basis of the disputable sum of money in the amount established by **Subitem 1 of Item 1 of Article 333.21** of this Code;

6) when filing applications for the review of judicial acts by way of exercising supervisory powers on condition that the judicial acts have not been appealed with the cassational instance.

2. Arbitration courts shall be entitled, proceeding from the property status of a payer, to decrease the amount of the state duty payable with respect to the cases tried by the said courts or to postpone its payment (to allow to pay it by installments) in the procedure provided for by **Article 333.41** of this Code.

3. The provisions of this Article shall apply subject to the provisions of **Articles 333.35** and **333.37** of this Code.

**Article 333.23.** Rates of State Duty with Respect to Cases Tried by the Constitutional Court of the Russian Federation and by Constitutional (Charter) Courts of the Subjects of the Russian Federation

In accordance with **Federal Law** No. 127-FZ of November 2, 2004, pending the introduction of the appropriate amendments into **Article 39** of Federal Constitutional Law No. 1-FKZ of July 21, 1994 on the Constitutional Court of the Russian Federation, the state duty when filing with the Constitutional Court of the Russian Federation shall be paid in the amount and in the procedure established by the said **Federal Constitutional Law. Article 39** of Federal Constitutional Law No. 1-FKZ of July 21, 1994 shall be amended by **Federal Constitutional Law** No. 7-FKZ of November 3, 2010 upon the expiry of ninety days from the day of the **official publication** of the said Federal Constitutional Law

1. With respect to cases tried by the Constitutional Court of the Russian Federation, state

duty shall be paid at the following rates:

- 1) when directing thereto an inquiry or petition - 4 500 roubles;
- 2) when directing thereto an appeal by an organisation - 4 500 roubles;
- 3) when directing thereto an appeal by a natural person - 300 roubles.

**2.** With respect to the cases tried by constitutional (charter) courts of the subjects of the Russian Federation state duty shall be paid at the following rates:

- 1) when an organisation applies - 3 000 roubles;
- 2) when a natural person applies - 200 roubles.

**3.** The Constitutional Court of the Russian Federation and constitutional (charter) courts of the subjects of the Russian Federation shall be entitled, proceeding from the payer's property status, to decrease the rate of the state duty payable with respect to the cases tried by said courts or to postpone its payment (to allow to pay it by installments) in the procedure provided for by **Article 333.41** of this Code.

**4.** The provisions of this Article shall apply subject to the provisions of **Article 333.35** of this Code.

#### **Article 333.24.** Rates of State Duty for Committing Notarial Actions

**1.** For committing notarial actions by notaries of state notary's offices and (or) by officials of executive bodies and of local selfgovernment bodies authorised in compliance with legislative acts of the Russian Federation and (or) legislative acts of the subjects of the Russian Federation to commit notarial actions, state duty shall be paid at the following rates:

1) for certifying powers of attorney intended for committing transactions (a transaction) that require(s) legalization in notarial form in compliance with the laws of the Russian Federation - 200 roubles;

2) for certifying other powers of attorney that require legalization in notarial form in compliance with the laws of the Russian Federation - 200 roubles;

3) for certifying letters of attorney issued by way of transferring a power of attorney in the instances when such certification is obligatory in compliance with the laws of the Russian Federation - 200 roubles;

4) for certifying mortgage contracts, if this requirement is established by the laws of the Russian Federation:

for certifying mortgage contracts with respect to living quarters for securing the return of a credit (loan) granted for acquisition or construction of a dwelling house or a flat - 200 roubles;

for certifying mortgage contracts with respect to other immovable property, except for sea vessels and aircraft, as well as inland navigation ships - 0.3 per cent of the amount of a contract but 3 000 roubles at the most;

for certifying mortgage contracts with respect to sea vessels and aircraft, as well as inland navigation ships - 0.3 per cent of the amount of the contract but 30 000 roubles at the most;

4.1) for certifying contracts of sale or equity interest pledge contracts with respect to equity or part of equity in the authorised capital of a limited liability company, if the amount of contract comes to:

up to 1 000 000 roubles - then 0.5 per cent of the amount of contract, but not less than 1 500 roubles;

from 1 000 001 roubles to 10 000 000 roubles inclusively - then 5 000 roubles and also 0.3 per cent of the contract amount exceeding 1 000 000 roubles;

over 10 000 001 roubles - then 32 000 roubles and also 0.15 per cent of the amount of the contract exceeding 10 000 000 roubles but 150 000 roubles at the most;

5) for certifying other contracts whose subject must be evaluated, if such certification is



obligatory in compliance with the laws of the Russian Federation - 0.5 per cent of the amount of the contract but at least 300 roubles and 20 000 roubles at the most;

6) for certifying transactions whose subject is not to be evaluated and which under the laws of the Russian Federation must be certified by a notary - 500 roubles;

7) for certifying contracts of cession concerning a mortgage contract in respect of living quarters, as well as a contract of credit or a contract of loan secured by the mortgage of living quarters - 300 roubles;

8) for certifying constituent documents (copies of constituent documents) of organisations - 500 roubles;

9) for certifying an agreement on paying alimony - 250 roubles;

10) for certifying an agreement of marriage - 500 roubles;

11) for certifying contracts of surety - 0.5 per cent of the amount for which an obligation is assumed but at least 200 roubles and 20 000 roubles at the most;

12) for certifying agreements on changing or dissolving a contract attested by a notary - 200 roubles;

13) for certifying wills, for accepting a sealed will - 100 roubles;

14) for opening an envelope with a sealed will and pronouncing the sealed will - 300 roubles;

15) for certifying letters of attorney with respect to the right of using, and (or) disposing of, property, except for the property provided for by **Subitem 16** of this Item:

for children, including adopted ones, for a spouse, parents, full brothers and sisters - 100 roubles;

for other natural persons - 500 roubles;

16) for certifying letters of attorney with respect to the right of using, and (or) disposing of, motor vehicles:

for children, including adopted ones, to a spouse, parents, full brothers and sisters - 250 roubles;

to other natural persons - 400 roubles;

17) for making a captain's protest - 30 000 roubles;

18) for certifying the correctness of translation of a document from one language into another one - 100 roubles per page of the document's translation;

19) for making an execution inscription - 0.5 per cent of the amount to be recovered but 20 000 roubles at the most;

20) for depositing amounts of money or securities, if such depositing is obligatory in compliance with the laws of the Russian Federation - 0.5 per cent of the deposited amount of money but at least 20 roubles and 20 000 roubles at the most;

21) for certifying the authenticity of a signature, where such certification is obligatory in compliance with the laws of the Russian Federation:

entered in documents and applications, except for bank cards and applications for registration of legal entities - 100 roubles;

entered to bank cards and applications for registration of legal entities (from each person and to each document) - 200 roubles;

22) for issuing the certificate of the right to succession at law and by testament:

for children, including adopted ones, for a spouse, parents, full brothers and sisters of the testator - 0.3 per cent of the cost of the property to be inherited but 100 000 roubles at the most;

for other heirs - 0.6 per cent of the cost of the property to be inherited but 1 000 000 roubles at the most;

23) for taking measures aimed at inheritance protection - 600 roubles;

24) for making the protest of a bill in connection with non-payment, non-acceptance and failure to date the acceptance thereof and for certifying non-payment of a cheque - 1 per cent of

the non-paid amount but 20 000 roubles at the most;

25) for issuing duplicates of the documents kept in case-files of state notary's offices and of executive bodies - 100 roubles;

26) for committing other notarial actions for which the laws of the Russian Federation provide for obligatory notarial form - 100 roubles.

**2.** The provisions of this Article shall apply subject to the provisions of **Article 333.25** of this Code.

#### **Article 333.25.** Specifics of Paying State Duty When Applying for the Carrying out of Notarial Actions

**1.** The state duty for committing notarial actions shall be paid subject to the following specifics:

1) for notarial actions committed outside the premises of a state notary's office, executive bodies or local self-government bodies, state duty shall be paid in the amount half as much again;

2) for certifying a power of attorney issued with respect to several persons, state duty shall be paid only once;

3) where there are several heirs (in particular, heirs at law, by testament or heirs entitled to an obligatory share in the inheritance), state duty shall be paid by each heir;

4) for issuing a certificate of the right to succession on the basis of a court decision for declaring a previously issued certificate of the right to succession invalid, state duty shall be paid in the procedure and in the amount established by this Chapter. With this, the amount of state duty paid for the previously issued certificate shall be subject to return in the procedure established by **Article 333.40** of this Code. On the basis of a payers' application the state duty paid for a previously issued certificate shall be subject to setting off on account of the state duty payable for the issue of a new certificate within one year as of the date of entry into legal force of the appropriate court decision. The issue shall be settled in the same way when repeatedly certifying contracts declared invalid by a court;

5) when one calculates the amount of state duty for authentication of contracts subject to appraisal one shall take the amount of the contract specified by the parties but not below the amount determined in accordance with **Subitems 7 - 10** of this Item. When one calculates the amount of state duty for the issuance of inheritance certificates one shall take the estate value determined in keeping with **Subitems 7 - 10** of this Item. When estimating the rate of the state duty for certifying transactions aimed at alienating a share or a part thereof in the authorised capital of a limited liability company, as well as of transactions establishing the obligation to alienate a share or a part thereof in the authorised capital of a limited liability company, the amount of a contract cited by the parties thereto shall be used but not lower than the nominal value of the share or the part thereof. When estimating the rate of state duty for certifying contracts of sale or equity interest pledge contracts with respect to equity or part of equity in the authorised capital of a limited liability company shall be used a value of equity or part of equity as a subject of pledge, cited by the parties of a contract of pledge, but not less than the nominal cost of equity or a part of equity, respectively.

At the discretion of the payer a document may be filed for the purposes of state duty calculation containing an indication of the stocktaking, market, land-registry or another (nominal) value of property that is issued by the organisations (bodies) or appraisers (experts) specified in **Subitems 7 - 10** of this Item. Notaries and the officials who commit notarial actions are neither entitled to assess the type of value of a property item (appraisal method) for the purposes of state duty calculation nor demand that the payer show a document confirming a given type of

value of a property item (appraisal method).

If several documents are submitted which are issued by the organisations (bodies) or appraisers (experts) specified in **Subitems 7 - 10** of this Item and which contain an indication of different values for a property item one shall take -- for the purposes of state duty calculation - the least of these values of the property item;

6) the cost of the property to be inherited shall be appraised on the basis of the cost of the property to be inherited (of the rate of the Central Bank of the Russian Federation in respect of foreign currency and securities in foreign currency) as of the date of the commencement of the inheritance;

7) the cost of transport vehicles may be determined both by the organisations carrying out the appraisal of transport vehicles, by valuation specialists (experts) or by legal expert institutions of a justice body;

8) the cost of immovable property except for land plots, may be assessed both by organisations carrying out the appraisal of immovable property and by the organisations (bodies) engaged in the registration of immovable property units at the location thereof;

9) the cost of land plots may be assessed both by organisations carrying out the appraisal of land plots and by the body engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions in it and by territorial subdivisions thereof;

10) the cost of the property that is not provided for by **Subitems from 7 to 9** of this Item shall be assessed by professional appraisers;

11) the cost of an inherited patent shall be assessed on the basis of all the sums of the state duty paid as of the date of the testator's death or of patenting an invention, production piece or utility model. The cost of inherited rights to the obtaining of a patent shall be determined in the same procedure;

12) the cost of inherited material rights shall be assessed on the basis of the cost of the property (of the rate of the Central Bank of the Russian Federation in respect of foreign currency or securities in foreign currency) to which the material rights are transferred as of the date of the inheritance commencement;

13) the inherited property located outside the Russian Federation or the inherited material rights to it shall be assessed on the basis of the amount indicated in the evaluative document drawn up abroad by officials of the authorised bodies and applicable in the territory of the Russian Federation in compliance with the **laws** of the Russian Federation.

**2.** The provisions of this Article shall apply subject to the provisions of **Articles 333.35** and **333.38** of this Code.

#### **Article 333.26.** Rates of State Duty for the State Registration of Civil Status Acts and Other Legally Relevant Actions Committed by Civil Registration Bodies and by Other Authorised Bodies

**1.** For the state registration of civil status acts and other legally relevant actions committed by civil registration bodies and other authorised bodies a state duty shall be paid at the following rates:

1) for the state registration of marriage, including issuance of a certificate - 200 roubles;

2) for the state registration of divorce, including the issuance of a certificate:

in the presence of the mutual consent of the spouses who do not have common children - 400 roubles to be paid by each of the spouses;

in the event of divorcing judicially - 400 roubles to be paid by each of the spouses;

when divorcing on the basis of an application of either spouse, if the other spouse is declared by a court missing, incapable or sentenced to imprisonment for committing a crime for a term of over three years - 200 roubles;

3) for the state registration of paternity, including the issuance of a paternity certificate - 200 roubles;

4) for the state registration of changing the name comprising the surname, first name and/or patronymic, including the issuance of a name change certificate - 1 000 roubles;

5) for making corrections and amendments in civil registration records, including the issuance of a certificate - 400 roubles;

6) for a repeated issuance of certificates of the state registration of civil status acts - 200 roubles;

7) for issuing to natural persons certificates from the archives of civil registration bodies and other authorised bodies - 100 roubles.

**2.** The provisions of this Article shall apply subject to the provisions of **Article 333.27** of this Code.

**Article 333.27.** Specifics of Paying State Duty for the State Registration of Civil Status Acts and Other Legally Relevant Actions Committed by Civil Registration Bodies and by Other Authorised Bodies

**1.** When effecting the state registration of civil status acts or committing the actions specified in **Article 333.26** of this Code, state duty shall be paid subject to the following specifics:

1) when making corrections and (or) amendments in civil registration records on the basis of an opinion of the civil registration body, the state duty shall be paid in the amount established by **Subitem 5 of Item 1 of Article 333.26** of this Code, regardless of the number of civil registration records where corrections and (or) amendments are made and the number of issued certificates;

2) for issuing certificates of the state registration of civil status acts in connection with a name change, state duty shall be paid in the amount established by **Subitem 6 of Item 1 of Article 333.26** of this Code for every certificate.

**2.** For issuing a certificate of state registration of a civil status act, the state duty shall not be payable if the appropriate civil registration record is restored on the basis of a court decision.

**2.1.** The state duty shall not be paid for issuance of the certificate proving the state registration of civil status and other documents proving the state registration of civil status forwarded in compliance with international treaties made by the Russian Federation, as well as on the basis of requests of diplomatic missions and consular offices of the Russian Federation.

**3.** The provisions of this Article shall apply subject to the provisions of **Articles 333.35** and **333.39** of this Code.

**Article 333.28.** Rates of State Duty for Committing Actions Connected with Acquisition of Russian Citizenship and Abandonment of Russian Citizenship, as Well as in Connection with Entry to the Russian Federation and Exit from the Russian Federation

**1.** For committing actions connected with acquisition of Russian citizenship or abandonment of Russian citizenship, as well as in connection with entry to the Russian Federation and exit from the Russian Federation, a state duty shall be paid at the following rates:

1) for issuing the passport of a Russian Federation citizen certifying the identity of the

Russian Federation citizen outside the Russian Federation - 1 000 roubles;

2) for the issuance of an electronic-data chip passport serving as a personal identification document of a citizen of the Russian Federation outside the Russian Federation (the new generation passport) - 2 500 roubles;

3) for issuing the sailor's passport certifying a sailor's identity - 800 roubles;

4) for making amendments in the sailor's passport certifying a sailor's identity - 200 roubles;

5) for issuing the passport certifying the identity of the Russian Federation citizen outside the Russian Federation to the Russian Federation citizen below the age 14 years - 300 roubles;

6) for issuance of an electronic-data chip passport serving as a personal identification document of a citizen of the Russian Federation outside of the Russian Federation to a citizen of the Russian Federation below the age of 14 - 1, 200 roubles;

7) for making amendments in the passport certifying the identity of the Russian Federation citizen outside the territory of the Russian Federation - 200 roubles;

8) for issuing a traveling document for a refugee or extending the validity of the said document - 200 roubles;

9) for issuing or extending the duration of a visa to a foreign citizen or a stateless person temporarily staying in the Russian Federation for:

exit from the Russian Federation - 600 roubles;

exit from the Russian Federation and subsequent entry to the Russian Federation - 600 roubles;

multiple crossing of the State Border of the Russian Federation - 1000 roubles;

10) for providing by the federal executive power body in charge of foreign affairs the decision on issuance of an ordinary single-entry or double-entry visa to be forwarded to a diplomatic mission or consular office of the Russian Federation - 400 roubles;

11) for providing by the federal executive power body in charge of foreign affairs the decision on issuance of an ordinary multiple visa to be forwarded to a diplomatic mission or consular office of the Russian Federation - 600 roubles;

12) for making amendments by the federal executive power body in charge of foreign affairs in the decision on issuance of a visa - 200 roubles;

13) for readdressing by the federal executive power body in charge of foreign affairs the decision on issuance of a visa to be forwarded to diplomatic missions or consular offices of the Russian Federation at the request of organisations - 200 roubles;

14) for initial registration of an organisation with the federal executive power body in charge of foreign affairs or with a regional agency thereof - 1 000 roubles;

15) for annual re-registration of an organisation with the federal executive power body in charge of foreign affairs or with a regional agency thereof - 600 roubles;

16) for issuance, extension or restoration of visas to foreign citizens and stateless persons by representative offices of the federal executive power body in charge of foreign affairs which are located at check-points of the State Border of the Russian Federation - at the **rates** established by the Government of the Russian Federation (depending on the kinds of actions to be made) but at most 9 000 roubles for issuance, extension or restoration of each visa;

17) for issuing an invitation to enter the Russian Federation to foreign citizens and stateless persons - 500 roubles for each invited person;

18) for issuing or extending the validity of a residence permit for a foreign citizen or a stateless person - 2 000 roubles;

19) for registration of a foreign citizen or a stateless persons at the place of residence in the Russian Federation - 200 roubles;

20) **abrogated** from January 1, 2011;

- 21) **abrogated** from January 1, 2011;
- 22) for issuing to a foreign citizen or stateless person a permit to temporary residence in the Russian Federation - 1 000 rubles;
- 23) for issuing a permit to attract and use foreign workers - 6 000 roubles per every foreign worker involved;
- 24) for issuing a working permit to a foreign citizen or stateless person - 2 000 roubles;
- 25) for granting Russian citizenship, restoration or abandonment of Russian citizenship, for identifying the presence of citizenship of the Russian Federation - 2 000 roubles;
- 26) for issuance of the documents necessary for awarding and (or) payment of the labour pension and (or) the pension within the framework of the state pension provision in compliance with the pension laws of the Russian Federation - 20 roubles for each document.

**2.** The provisions of this Article shall apply subject to the provisions of **Article 333.29** of this Code.

**Article 333.29.** Specifics of Paying State Duty for Committing Actions Connected with Acquisition of Russian Citizenship or Abandonment of Russian Citizenship, as Well as with Entry to the Russian Federation and Exit from the Russian Federation

For committing the actions specified in **Article 333.28** of this Code, state duty shall be payable subject to the following specifics:

- 1) **abrogated** from January 1, 2005;
- 2) when granting Russian citizenship to natural persons who have had citizenship of the USSR, or who have resided or reside in the states, that formed part of the USSR but have not acquired the citizenship of these states and have become stateless persons as a result of it, state duty shall not be paid. If the natural person in his/her Russian Federation citizenship (Russian Federation citizenship reinstatement) application is at the same time asking for Russian Federation citizenship (for reinstatement of Russian Federation citizenship) for his/her minor children, wards the state duty is payable at the rate defined by **Subitem 25 of Item 1 of Article 333.28** of this Code for a single application;
- 3) when Russian Federation citizenship is granted to orphan children and to children left without parental care no state duty shall be paid.
- 4) for the issuance to a citizen of the Russian Federation whose place of residence is the Kaliningrad Region of the document stipulated by **Subitems 1, 2, 5 and 6 of Article 333.28** of this Code, the state duty shall not be paid;
- 5) for issuance, extension and restoration on extraordinary occasions of visas to foreign citizens and stateless persons by representative offices of the federal executive power body in charge of foreign affairs which are located at check-points of the State Border of the Russian Federation a state duty may be paid in foreign currency at the rate established by the Central Bank of the Russian Federation on the date of paying it.
- 6) for registration at the place of residence in the Russian Federation of foreign citizens and stateless persons who are participants of the State programme for assisting voluntary migration to the Russian Federation of compatriots living abroad, and also of members of their families who have jointly moved to a permanent place of residence to the Russian Federation no state duty shall be paid.

**Article 333.30.** Rates of State Duty for Making by the Authorised Federal Executive Body Actions Aimed at the State Registration of a Computer Programme, Database or Integrated-Circuit Layout

1. When applying to the authorised federal executive body for making by it actions aimed at the official registration of a computer programme, database or integrated-circuit layout, a state duty shall be paid at the following rates:

1) for the state registration of a computer programme, database or integrated-circuit layout in the Register of Computer Programmes, the Register of Databases and the Register of Integrated-Circuit Layouts respectively, including issuance to an applicant the certificate of the state registration of a computer programme, database and an integrated-circuit layout, as well as publication of data on a registered computer programme, database or integrated-circuit layout in an official bulletin:

for an organisation - 2 600 roubles;  
of a natural person - 1 700 roubles;

2) for making amendments in the documents and materials attached to an application for registration of a computer programme, database or integrated-circuit layout before publication in an official bulletin- 700 roubles;

3) for making amendments on an applicant's initiative in deposited documents and materials, as well as for issuance to the applicant of a new certificate of the state registration of a computer programme, database or integrated-circuit layout before publication in an official bulletin:

for an organisation - 1 400 roubles;  
for a natural person - 700 roubles;

4) for the state registration of a contract of alienation of the exceptional right to a registered computer programme or database, of alienation or pledge of an exceptional right to a registered integrated-circuit layout, of a licence agreement on granting the right to use a registered integrated-circuit layout, as well as for making amendments in the cited documents and for their state registration - 3 000 roubles and additionally 1 500 roubles for each computer programme, database and integrated-circuit layout provided for by a contract;

5) for the state registration of transfer of an exceptional right to a computer programme, database or integrated-circuit layout to other persons without making a contract - 500 roubles;

6) for registration in the Register of Computer Programmes, the Register of Databases and the Register of Integrated-Circuit Layouts of the data on replacement of the holder of an exceptional right on the basis of a registered agreement or other right-proclaiming document and for publication of the cited data in an official bulletin - 1 600 roubles;

7) for issuance of a duplicate of the certificate of the state registration of a computer programme, database or integrated-circuit layout - 800 roubles.

2. Where the organisations and natural persons which are holders of an exceptional right to a computer programme, database or integrated-circuit layout apply for making the action provided for by **Item 1 of this Article**, the share of the state duty to be paid by each payer shall be fixed in proportion to the payers' number on the basis of **Item 2 of Article 333.18** of this Code proceeding from the established rates thereof for organisations and natural persons.

#### **Article 333.31.** Rates of State Duty for Committing Actions by Authorised Governmental Institutions When Exercising Federal Assay Supervision

1. For committing actions by authorised governmental institutions when exercising federal assay supervision, a state duty shall be paid at the rates established by the Government of the Russian Federation within the following limits (depending on the types of actions to be committed):

1) for testing and hallmarking jewelry and other manufactured consumer articles made of precious metals:

for gold manufactured articles - up to 120 roubles per item;

for silver manufactured articles - up to 300 roubles per unit;

for platinum articles - up to 120 roubles per unit;

for palladium articles - up to 120 roubles per unit;

2) for an expert examination of jewelry and other manufactured consumer articles made of precious metals, an expert examination and a gemmological expert examination of precious stones, except as provided for by **Subitems 3 and 4** of this Item - up to 3400 roubles per unit;

3) for an expert examination of precious metals, precious and jobbing stones, as well as insets in manufactured articles made of different materials carried out by authorised governmental institutions for museums - up to 50 roubles per unit;

4) for the actions indicated in **Subitems 2 and 3** of this Item committed on demand of law enforcement bodies - up to 240 roubles per unit;

5) for analyzing materials containing precious metals - up to 1400 roubles for analyzing one element;

6) for carrying out different works - up to 600 roubles per unit of measurement.

**2.** For the purpose of this Article, as different works shall be deemed:

1) registration of nameplates of manufacturers of jewelry and other manufactured consumer articles made of precious metals;

2) producing electrode nameplates for makers of jewelry and other consumer manufactured articles made of precious metals;

3) making stamps on nameplates upon jewelry and other consumer manufactured articles by electric sparking for manufacturers of jewelry and other consumer manufactured articles made of precious metals;

4) destroying stamps of false hallmarks and nameplates on jewelry and other consumer manufactured articles;

5) producing assay reagents;

6) storing valuables beyond the established time period.

**3.** The provisions of this Article shall apply subject to the provisions of **Article 333.32** of this Code.

**Article 333.32.** Specifics of Paying State Duty for Committing Actions by Authorised Governmental Institutions When Exercising Federal Assay Supervision

**1.** The state duty for committing the actions specified in **Article 333.31** of this Code shall be paid:

1) prior to the issuance of articles - when presenting jewelry and other consumer manufactured articles for testing and hallmarking;

2) prior to issuing the results of an expert examination - when presenting different objects, articles, materials and stones for an expert examination.

When carrying out an expert examination in the territories of museums and an expert examination of various stones on demand of law enforcement bodies, state duty shall be paid after carrying out an expert examination and drawing up relevant documents but prior to issuing the results of the expert examination.

**2.** For testing, hall-marking or carrying out an expert examination, for effecting the analysis within shorter time periods as stipulated by administrative documents of the Russian State Assay Office, if desired by the organisation or the person for which these actions are to be committed, the state duty shall be collected at rates increased by:

1) in the event of giving out hallmarked articles within 24 hours as of the time of accepting them - by 200 per cent;

2) in the event of giving out hallmarked articles within 48 hours as of the time of accepting them - by 100 per cent;

3) in the event of issuing the results of an expert examination or the results of analysis



within 24 hours as of the time of accepting articles - by 200 per cent.

**3.** Depending on the specifics of presented for assaying and marking jewellery and other personal-use articles, the rate of state duty shall be increased:

1) in the event of presenting articles with fixed stones (insets), except for articles presented after repair - by 100 per cent;

2) in the event of presenting articles whose component parts (elements) are made of different alloys of precious metals - by 100 per cent. With this, the rate of state duty shall be established on the basis of precious metal of the main part of the article which the principal state hallmark is to be affixed to;

3) when presenting articles in individual packing or with labels (tags, seals and the like), whose handling requires additional time - by 150 per cent.

**4.** In the event of hall-marking articles with the use of combined tools (nameplate and state hall-mark) the rate of the state duty shall be increased by 50 per cent.

**5.** During an expert examination of non-transportable (dilapidated or large-dimension) articles and also during an expert examination of other articles on the premises of a museum on a customer's request the state duty rate shall be increased by 25 per cent.

**6.** The state duty rate increase envisaged by **Items 2 - 5** of the present Article shall be calculated on the basis of the state duty rate established in keeping with **Article 333.31** of this Code.

**7.** The state duty for the storage of valuables beyond the established term shall be charged starting from the 15th calendar day after the expiry of the term set for work completion.

**8.** When one calculates the amount of state duty for the making of assay chemical agents one shall not take into account the value of the precious metals spent for the making thereof.

**Article 333.32.1.** The Rates of the State Duty for Making Actions by the Authorised Federal Executive Power Body When Effecting State Registration of Medicinal Preparations

For making actions by the authorised federal executive power body which are connected with the state registration of medicinal preparations in compliance with the **Federal Law** on Medicines' Circulation, state duty shall be paid at the following rates (depending on the kind of actions made):

1) for carrying out an expert examination of the documents intended for obtainment of permits to effect clinical testing of a medicinal preparation for medical use and an ethical expert examination, when applying for the state registration of the medicinal preparation - 75,000 roubles;

2) for carrying out an expert examination of the quality of a medical preparation and an expert examination of the ratio of the expected health benefit to the probable risk of the medicinal preparation's application for medical purposes, when effecting the state registration thereof - 225,000 roubles;

3) for carrying out an expert examination of a medicinal preparation and an expert examination of the ratio of the expected health benefit to the probable risk of the medicinal preparation's application permitted for medical use on the territory of the Russian Federation for over twenty years, when effecting the state registration of the medicinal preparation - 30,000 roubles;

4) for carrying out an expert examination of a medicinal preparation and an expert examination of the ratio of the expected health benefit to the probable risk of the medicinal preparation's application for medical purposes in respect of which international multicentric clinical tests have been carried out with a part of them having been made on the territory of the Russian Federation, when effecting the state registration of the medicinal preparation - 225,000

roubles;

5) for carrying out an expert examination of a medicinal preparation and an expert examination of the ratio of the expected health benefit to the probable risk of the medicinal preparation's application for veterinary purposes, when effecting the state registration thereof - 150,000 roubles;

6) for proving the state registration of a medicinal preparation for medical use - 100,000 roubles;

7) for proving the state registration of a medicinal preparation for veterinary use - 50,000 roubles;

8) for amending the instructions on application of a medicinal preparation for medical purposes - 50,000 roubles;

9) for amending the instructions on application of a medicinal preparation for veterinary purposes - 50,000 roubles;

10) for amending the composition of a medicinal preparation for medical application - 100,000 roubles;

11) for including a pharmaceutical substance which is not used in making medicinal preparations in the state register of medicines - 100,000 roubles;

12) for issuing a permit to carry out international multicentric clinical tests of a medicinal preparation intended for medical use - 200,000 roubles;

13) for issuing a permit to carry out post-registration clinical tests of a medicinal preparation intended for medical use - 50,000 roubles.

### **Article 333.33.** Rate of State Duty for State Registration, as Well as for Committing Other Legally Relevant Actions

#### **1.** A state duty shall be paid at the following rates:

**Federal Law** No. 235-FZ of July 18, 2011 reworded Subitem 1 of Item 1 of Article 333.33 of this Code. The new wording shall **enter into force** from the day of the official publication of the said Federal Law

1) for the state registration of a legal entity, except for the state registration of the liquidation of legal entities, the state registration of political parties and regional branches of political parties, the state registration of all-Russia public organisations of disabled persons and the branches being structural units thereof: 4,000 roubles;

2) for the state registration of a political party, as well as of each regional branch of a political party - 2,000 roubles;

**Federal Law** No. 235-FZ of July 18, 2011 supplemented Item 1 of Article 333.33 of this Code with Subitem 2.1. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law

2.1) for the state registration of all-Russia public organisations of disabled persons and the branches being structural units thereof: 1,000 roubles;

3) for the state registration of amendments to be introduced into the constituent documents of a legal entity, as well as for the state registration of liquidation of a legal entity, except when a legal entity is liquidated by way of bankruptcy proceedings - 20 per cent of the rate of the state duty established by **Subitem 1** of this Item;

4) for entering data on a non-profit organisation in the state register of self-regulating organisations (for inclusion of a non-profit organisation in the Uniform State Register of Self-Regulating Organisations) - 4,000 roubles;

4.1) for the entry of information about a legal entity in the state register of microfinance organisations: 1,000 roubles;

4.2) for the issuance of a replacement certificate of entry of information about a legal entity in the state register of microfinance organisations in place of a lost or out-of-order one: 200 roubles;

5) for accrediting branches of foreign organisations established in the territory of the Russian Federation - 120,000 roubles for each branch;

6) for the state registration of a natural person as an individual businessman - 800 roubles;

7) for the state registration of termination by a natural person of his/her activities as an individual businessman - 20 per cent of the rate of the state duty fixed by **Subitem 6** of this Item;

8) for repeated issuance of the certificate of the state registration of a natural person as an individual businessman or of the certificate of the state registration of a legal entity - 20 per cent of the rate of the state duty paid for the state registration thereof;

9) for issuance of the registration certificate to a person making directly distilled gasoline operations;

10) for issuance of the registration certificate to an organisation making industrial alcohol operations;

11) for the state registration of mass media whose products are predominantly intended for dissemination all over the territory of the Russian Federation and beyond its boundaries, over the territories of several constituent entities of the Russian Federation:

of a periodical print - 4,000 roubles;

of a news agency - 4,800 roubles;

of a radio channel, TV channel, video channel, news-reel channel or other mass medium - 6,000 roubles;

12) for the state registration of mass media whose products are predominantly intended for dissemination over the territory of a constituent entity of the Russian Federation, region, town, other inhabited locality, urban district or microdistrict:

of a periodical print - 2,000 roubles;

of a news agency - 2,400 roubles;

of a radio channel, TV channel, video channel, news-reel channel or other mass medium - 3,000 roubles;

13) for issuing a duplicate of the certificate of the state registration of a mass medium - 200 roubles;

14) for making amendments in the certificate of the state registration of a mass medium - 200 roubles;

15) **abrogated** from September 1, 2010;

16) for registration of a foreign citizen or a stateless person, residing in the territory of the Russian Federation, at the place of residence thereof - 200 roubles;

17) for issuing the passport of a Russian Federation citizen - 200 roubles;

18) for issuing the passport of a Russian Federation citizen in place of the lost or decayed one - 500 roubles;

19) for the state registration of a contract of pledging transport vehicles, including the certificate's issuance - 1,000 roubles;

20) for issuance of a duplicate of the certificate of the state registration of a contract of pledging transport vehicles instead of the lost or decayed one - 500 roubles;

21) for the state registration of rights to an enterprise as a property complex, of a contract

of alienation of an enterprise as a property complex, as well as of limiting (charging) rights to an enterprise as a property complex - 0.1 per cent of the cost of the property, of property and other rights forming part of the enterprise as a property complex but at most 60,000 roubles;

22) for the state registration of rights, limitations (charging) of rights to immovable property, contracts of immovable property alienation, except for the legally relevant actions provided for by **Subitems 21, 22.1, 23 - 26, 28 - 31** and **61** of this Item:

for natural persons - 1,000 roubles;

for organisations - 15,000 roubles;

22.1) for the state registration of rights to the immovable property forming part of a unit investment trust - 15,000 roubles;

23) for the state registration of a share in the right of common ownership to common immovable property in an apartment house - 100 roubles;

24) for the state registration of a natural person's ownership of a land plot intended for individual subsidiary farming, a country cottage, small plot farming, gardening, individual construction of a house or garage, or of the immovable property item created or being created on such land plot - 200 roubles;

25) for the state registration of rights, limitations (encumbrances) of rights to land plots from among agricultural lands, of transactions serving as a basis for such rights' limitations (encumbrances) - 100 roubles;

26) for the state registration of a share in common ownership of land plots from among agricultural lands - 50 roubles;

27) for amending records made in the Uniform State Register of Rights to Immovable Property and Transactions Therewith, except for the legally relevant actions provided for by **Subitem 32** of this Item:

for natural persons - 200 roubles;

for organisations - 600 roubles;

28) for state registration:

of a mortgage contract, in particular of making an entry in the Uniform State Register of Rights to Immovable Property and Transactions Therewith on a mortgage as charging the rights to the immovable property:

for natural persons - 1,000 roubles;

for organisations - 4,000 roubles;

of an agreement on changing or dissolving a mortgage contract, in particular making appropriate amendments in the records of the Uniform State Register of Rights to Immovable Property and Transactions Therewith:

for natural persons - 200 roubles;

for organisations - 600 roubles.

Where a mortgage contract or a contract including a mortgage agreement that secures the discharge of a commitment, except for a contract entailing the rise of mortgage on the basis of law, is made by a natural person and a legal entity, the state duty for the legally relevant actions provided for by this Subitem shall be recovered at the rate established for natural persons;

29) for the state registration:

of replacement of the mortgagee resulting from cession of rights in respect of the basic mortgage-secured commitment or in respect of a mortgage contract, including a transaction of assigning the right of claim, and also making an entry in the Uniform State Register of Rights to Immovable Property and Transactions Therewith on the mortgage effected when replacing the mortgagee - 1,000 roubles;

of replacement of the mortgage deed owner, including a transaction of assigning the right of claim, and also making an entry in the Uniform State Register of Rights to Immovable Property and Transactions Therewith on the mortgage effected when replacing the owner of the mortgage deed - 200 roubles;

30) for the state registration:

of a contract of share construction participation:

for natural persons - 200 roubles;

for organisations - 4,000 roubles;

of an agreement on changing or dissolving a contract of share construction participation, of assigning the right of claim under a contract of share construction participation, in particular making appropriate amendments in the Uniform State Register of Rights to Immovable Property and Transactions Therewith - 200 roubles;

31) for the state registration of servitudes:

in the interests of natural persons - 1,000 roubles;

in the interests of organisations - 2,000 roubles;

32) for introducing amendments and additions into a mortgage registration entry - 200 roubles;

33) for a repeated issuance to right owners of the certificate of the state registration of the right to immovable property (instead of lost or decayed one, in connection with making an entry in the Uniform State Register of Rights to Immovable Property and Transactions Therewith on the right of making amendments, and also with a correction in this entry of a technical mistake, except for mistakes made through the fault of the body engaged in the state cadastral registration of rights to immovable property and transactions with it):

for natural persons - 200 roubles;

for organisations - 600 roubles;

34) for the right of exporting:

cultural valuables created more than 50 years ago - 10 per cent of the cost of the cultural valuables to be exported;

cultural valuables created over 100 years ago and imported to the territory of the Russian Federation after August 1, 2009 - 5 per cent of the cost of the cultural valuables to be exported but at most 1,000,000 roubles;

cultural valuables created 50 years ago and later - 5 per cent of the cost of the cultural valuables to be exported;

paleontological articles for collecting - 10 per cent of the cost of the cultural valuables to be exported;

mineralogical articles for collecting - 5 per cent of the cost of the cultural valuables to be exported;

35) for the right of temporary exportation of cultural valuables - 0.01 per cent of the insurance value of the cultural valuables to be temporarily exported;

36) for the state registration of transport vehicles and committing other registration actions connected with:

issuing state registration plates for motor vehicles, in particular instead of lost or decayed ones - 1 500 roubles;

issuing state registration plates for motorcycles, trails, tractors, self-propelled road construction machines and other self-propelled machines, in particular instead of the lost or decayed ones - 1 000 roubles;

issuing the technical certificate of a transport vehicle, in particular instead of the lost or decayed one - 500 roubles;

issuing the certificate of the state registration of a transport vehicle, in particular instead of the lost or decayed one - 300 roubles;

37) for temporary registration of previously registered transport vehicles at the place of their stay -200 roubles;

38) for amending a previously issued technical certificate of a transport vehicle - 200 roubles;

39) for issuing state transit number plates for transport vehicles, in particular instead of the lost or decayed ones:

made of expendables on a metal basis for motor transport vehicles - 1 000 roubles;

made of expendables on a metal basis for motorcycles, trails, tractors, self-propelled road construction machines and other self-propelled machines - 500 roubles;

made of expendables on a paper basis - 100 roubles;

40) for issuing a certificate for a disengaged numbered assembly, in particular instead of the lost or decayed one;

41) for issuance of the technical inspection card, in particular instead of a lost or tattered one, where it is provided for by **Part 1 of Article 54** of Federal Law No. 3-FZ of February 7, 2011 on the Police - 300 roubles;

**Federal Law** No. 330-FZ of November 21, 2011 supplemented Item 1 of Article 333.33 of this Code with Subitem 41.1. The Subitem shall **enter into force** on January 1, 2012

41.1) for issuance of a technical inspection card, in particular instead of a lost one or tattered one, for tractors, self-propelled road construction and other self-propelled machines and their trailers - 300 roubles;

42) for issuance of the international technical inspection certificate, in particular instead of a lost or tattered one, where it is provided for by **Part 1 of Article 54** of Federal Law No. 3-FZ of February 7, 2011 on the Police - 300 roubles;

43) for issuing a national driving licence, the licence of the tractor's driver-operator (driver), and also when replacing a lost or decayed one:

made of expendables on a paper basis - 400 roubles;

made of expendables on a plastic basis - 800 roubles;

44) for issuing the international driving licence, in particular instead of the lost or decayed one - 1 000 roubles;

45) for issuing a temporary permit to drive transport vehicles, and also when replacing a lost or decayed one - 500 roubles;

46) for issuing the certificate of conformity of a transport vehicle's design to the traffic safety requirements, in particular instead of the lost or decayed one - 500 roubles;

47) for issuing to educational establishments certificates proving the compliance of the equipment and of the implementation of the training process with the requirements for consideration by the appropriate agencies of the question of their accreditation and for issuing to the said establishments licences for training tractor drivers and operators of self-propelled machines - 1 000 roubles;

48) for entering an apostil - 1 500 roubles for each document;

49) for issuing the certificate of recognition of a document of a foreign state proving the education and/or qualification levels - 4 000 roubles;

49.1) for issuing the certificate of recognition of a document of a foreign state proving a scientific degree or of a document of a foreign state proving an academic title - 4 000 roubles;

50) for issuing a duplicate of the certificate of recognizing a document of a foreign state

proving the education and/or qualification levels - 200 roubles;

50.1) for issuing a duplicate of the certificate of recognition of a document of a foreign state proving a scientific degree or a document of a foreign state proving an academic title - 200 roubles;

51) for legalization of documents - 200 roubles for each document;

52) for discovery of documents from the territory of foreign states - 200 roubles for each document;

53) for committing by an authorised body actions connected with the state registration of serial securities' issues (additional issues):

for the state registration of an issue (additional issues) of serial securities to be placed by subscription - 0.2 per cent of the nominal value of an issue (additional issue) but at most 200 000 roubles;

for the state registration of an issue (additional issue) of serial securities to be placed in the ways, other than subscription - 20 000 roubles;

for the state registration of a report on the results of an issue (additional issue) of serial securities, except when such report is registered concurrently with the state registration of the issue (additional issue) of serial securities - 20 000 roubles;

for the state registration of a securities prospectus (when the state registration of an issue (additional issue) of serial securities was not accompanied by registration of their prospectus) - 20 000 roubles;

for the state registration of an issue of Russian depository receipts, of an issue (additional issue) of an issuer's options - 200 000 roubles;

for the state registration of a prospectus of Russian depository receipts, an issuer's options (when the state registration of an issue of Russian depository receipts or of an issue (additional issue) of an issuer's options was not accompanied by registration of their prospectus) - 20 000 roubles;

for the state registration of the amendments to be made in the decision on an issue (additional issue) of serial securities and/or in a prospectus thereof - 20 000 roubles;

54) for making by an authorised body of actions connected with registration of pension and insurance rules of non-governmental pension funds:

for registration of pension rules and insurance rules of a non-governmental pension fund - 2 000 roubles;

for registration of amendments to be made in pension rules and insurance rules of a non-governmental pension fund - 1 000 roubles;

55) for making the following actions:

issuing a permit to placement and (or) circulation of serial securities of Russian issuers outside the Russian Federation, and also by way of placing under foreign laws the securities of foreign issuers certifying the rights in respect of serial securities of Russian issuers - 20 000 roubles;

issuing a permit proving the status of a self-regulating organisation of professional participants of the securities' market, of a self-regulating organisation of management companies of joint-stock investment funds, unit investment funds and non-governmental pension funds - 20 000 roubles;

56) for committing registration actions connected with unit investment funds:

for registering the rules for trust management of a unit investment fund - 60 000 roubles;

for registering amendments to be made in the rules for trust management of a unit investment fund - 10 000 roubles;

57) for committing registration actions connected with exercising activities in the securities market:

for registering amendments and addenda to be made in the documents of a trade promoter in the securities market, a stock exchange or in the rules for exercising clearing activity - 20 000 roubles;

for registering the regulations of a specialized custodian for mortgage coverage, of joint-stock investment funds, unit investment funds and non-governmental pension funds, of a specialized depository handling pension savings transferred to non-governmental pension funds exercising the activities of the insurer under obligatory pension insurance or the regulations of a specialised depository handing the pension savings transferred by the Pension Fund of the Russian Federation to private management companies and to a state management company or the regulations of a specialised depository handling savings for provision of housing to military servicemen - 10 000 roubles;

for registering amendments to be made in the regulations of a specialized custodian for mortgage coverage, of joint-stock investment funds, unit investment funds and non-governmental pension funds, of a specialized depository handling pension savings transferred to non-governmental pension funds exercising the activities of the insurer under obligatory pension insurance or in the regulations of a specialised depository handing the pension savings transferred by the Pension Fund of the Russian Federation to private management companies and to a state management company or in the regulations of a specialised depository handling savings for provision of housing to military servicemen - 2 000 roubles;

for registering the rules for keeping the register of owners of investment shares of unit investment funds - 10 000 roubles;

for registering the amendments to be made in the rules for keeping the register of owners of investment shares of unit investment funds - 2 000 roubles;

for registering the rules for arranging and exercising internal control of a management company, specialized custodian and non-governmental pension fund - 10 000 roubles;

for registering the amendments to be made in the rules for arranging and exercising internal control of a management company, specialized custodian and non-governmental pension fund - 2 000 roubles;

58) for granting:

the licence for exercising the activity of trade promotion in the securities market, the licence of a stock exchange, the licence for exercising clearing activity - 200 000 roubles for each licence;

the licence for exercising the activity of managing investment funds, unit investment funds and non-governmental pension funds, the licence for exercising the activity of a specialized custodian of investment funds, unit investments funds and non-governmental pension funds - 20 000 roubles for each licence;

the licence for exercising other kinds of activities (professional activities) in the securities market - 20 000 roubles for each licence;

59) for the state registration in the State Ship's Register, ship book or bareboat charter register:

of sea ships - 6 000 roubles;

of inland water ships - 2 000 roubles;

of mixed navigation (river - sea) ships - 3 000 roubles;

of recreation vessels, including sail vessels, with capacity of up to 12 passengers irrespective of the main engine power rating and tonnage used for navigation purposes - 1 000 roubles;

of launches featuring main engines with power rating under 55 kW, motorboats with outboard-engines with power rating exceeding 10 h.p., jet ski craft (hydrocycles), non-self propelled vessels with tonnage under 80 tons - 500 roubles;

of motorboats with outboard engines with power rating up to 10 h.p., rowing boats,



canoe, inflatable non-engine powered craft - 100 roubles;

60) for the state registration of amendments to be made in the State Ship's Register, ship book or bareboat charter book:

of sea ships - 1 200 roubles;

of inland water ships - 500 roubles;

of mixed navigation (river-sea) ships - 600 roubles;

of small-sized vessels - 100 roubles;

61) for issuing a certificate of ownership of, or for the state registration of limitations (encumbrances) of rights to:

a sea ship - 6 000 roubles;

of an inland water ship - 2 000 roubles;

of a mixed navigation (river-sea) ship - 3 000 roubles;

of small-sized vessel - 500 roubles;

62) for issuing the certificate of the right of navigation under the National Flag of the Russian Federation:

for sea ships - 6 000 roubles;

for inland water ships - 2 000 roubles;

for mixed navigation (river-sea) ships - 3 000 roubles;

63) for issuance of the document proving a small-sized vessel's fitness for navigation - 60 roubles;

64) for issuance of the pilotage certificate - 200 roubles;

65) for issuance of the certificate proving a ship's fitness for navigation - 200 roubles;

66) for issuance of the ship's letter - 500 roubles, except for issuance of the ship's letter for a small-size vessel; for issuance of the ship's letter for a small-size vessel - 100 roubles;

67) for issuance of a duplicate of the ship's letter for a small-size vessel instead of the lost or decayed one - 100 roubles;

68) for reissuance of the driving licence for a small-size vessel - 400 roubles;

69) for granting the licence to a ship's radio station or to a on-board radio station - 2 000 roubles;

70) for issuing a ship sanitary certificate of the right of sailing - 1 000 roubles;

71) for the right to use the denomination "Russia", "Russian Federation" and words and word combinations built on the basis of them in the names of legal entities - 50 000 roubles;

72) for the following actions committed by authorised bodies when effecting certification, where such certification is provided for by the laws of the Russian Federation:

for issuing a testimonial, certificate or other document proving qualifications - 800 roubles;

for amending a testimonial, certificate or other document proving qualifications in connection with changing the surname, first name or patronymic - 200 roubles;

for issuing a duplicate of the testimonial, certificate or other document proving qualifications in connection with the loss thereof - 800 roubles;

for extending the validity of (renewing) the testimonial, certificate or other document proving qualifications where it is provided for by law - 400 roubles;

73) for issuance of the document proving accreditation (the state accreditation) of organisations, except for the actions cited in **Subitems 74, 75, 127 - 131** of this Item - 3 000 roubles;

74) for accreditation of organisations engaged in certification of natural persons, as regards professional activities in the securities market, in the form of arranging qualification examinations and issuance of qualification certificates - 60 000 roubles;

75) for issuance of the document proving accreditation of organisations and individual

businessmen as to carrying out the works and/or rendering the services involving technical regulation and measurement dissemination - 2 000 roubles;

76) for issuance of the certificate of endorsement of a type of standard samples or a type of measurement means - 1 000 roubles;

77) for issuance of a duplicate of the document proving accreditation (the state accreditation) - 200 roubles;

78) for issuance of the permit:

for transfrontier movement of hazardous waste - 200,000 roubles;

for transfrontier movement of ozone-depleters and of the products containing them - 100,000 roubles;

importation to the territory of the Russian Federation of poisonous substances - 200,000 roubles;

79) for issuing permits for exportation from the territory of the Russian Federation, as well as for importation into the territory of the Russian Federation, of the species of animals and plants, their parts and derivatives that come within the operation of the Convention on International Trade in the Species of Natural Flora and Fauna under Threat of Extinction - 2,000 roubles;

80) for the state registration of aircraft in the State Register of Civil Aircraft of the Russian Federation:

of I class aircraft - 4,000 roubles;

of II and III class aircraft - 3,000 roubles;

of IV class aircraft - 2,000 roubles;

81) for the state registration in the appropriate state registers:

of A, B and C-class civil airdrome - 80,000 roubles;

of D, E and F-class civil airdrome - 40,000 roubles;

of an airport - 10,000 roubles;

82) for extending the validity of the certificate of the state registration and fitness for use of airports and civil airdromes - 50 per cent of the rate of the state duty paid for the state registration thereof;

83) for registering high and low intensity lighting systems, as well as for extending the validity of the certificate of fitness for use of the said lighting equipment:

with high intensity lights - 10,000 roubles;

with low intensity lights - 1,400 roubles;

84) for making amendments in the state registers cited in **Subitems 80** and **81** of this Item, as well as in the certificate of fitness for use of the equipment cited in **Subitem 83** of this Item - 200 roubles;

85) for the state registration of basic manufacturing equipment for making ethyl alcohol and (or) alcohol products - 10,000 roubles per unit of the basic manufacturing equipment;

86) for the state registration of a new food product, material or article - 3 000 roubles;

87) for the state registration of an individual kind of products potentially hazardous for human beings, as well as a kind of products that is brought into the territory of the Russian Federation for the first time - 3 000 roubles;

88) for amending certificates of the state registration that is envisaged by **Subitems 85 - 87** of this Item - 200 roubles;

89) for considering the petition envisaged by the **antimonopoly legislation** - 20 000 roubles;

90) for considering the petition provided for by the **legislation** on natural monopolies - 10 000 roubles;

91) for issuing a distribution certificate in respect of films and video films - 2 000 roubles;

92) for the following actions of authorised bodies connected with licensing, except for the actions cited in **Subitems 93 - 95** and **110** of this Item:

granting a licence - 2 600 roubles;

re-drawing up the document proving the availability of a licence and/or an annex to such document in connection with making amendments and addenda in the data on the addresses of the places of exercising the kind of activities to be licenced, on the works carried out and the services rendered within the composition of the kind of activities to be licenced, in particular on the implemented educational programmes - 2-600 roubles;

re-drawing up of the document proving the availability of the licence and/or an annex to such document in other cases - 200 roubles;

granting a temporary licence for the exercise of educational activities - 200 roubles;

issuance of a duplicate of the document proving the availability of the licence - 200 roubles;

extension of a licence - 200 roubles;";

93) for granting the licence for making banking transactions when establishing a bank - 0.1 per cent of the declared authorised capital of the bank to be established but at most 80, 000 roubles;

94) for the following actions of authorised bodies connected with licencing the activity of manufacture and turnover of ethyl alcohol, alcoholic and alcohol-containing products:

for granting the licence for manufacture, storage and supply of the ethyl alcohol made (including methylated one) - 6 000, 000 roubles;

for granting the licence for manufacture, storage and supply of alcoholic products made (except for wine) - 6 000, 000 roubles;

for granting the licence for manufacture, storage and supply of the wine made - 500 000 roubles;

for granting the licence for manufacture, storage and supply of alcohol-containing food products - 500 000 roubles;

for granting the licence for manufacture, storage and supply of alcohol-containing non-food products (including those with methylated alcohol) - 500 000 roubles;

for granting the licence for purchasing, storage and supply of alcoholic products - 500 000 roubles;

for granting the licence for storage of ethyl alcohol, alcoholic and alcohol-containing food products - 500 000 roubles;

for granting the licence for purchase, storage and supply of alcohol-containing products - 50, 000 roubles;

for re-issuance of a licence when re-organising a legal entity (except when legal entities are re-organised in the form of merger and when each legal entity has the licence for exercising the same kind of activities as of the date of the state registration of the legal successor of the reorganised legal entities) - at the rate established by this subitem for granting an appropriate kind of licence;

for re-issuance of a licence when legal entities are re-organised in the form of merger and when each legal entity has the licence for exercising the same kind of activities as of the date of the state registration of the legal successor of the reorganised legal entities - 2 000 roubles;

for re-issuance of a licence in connection with alteration of the denomination of a legal entity (without its re-organisation), of its location, the place of exercising its activities cited in a licence or other data stated in a licence, as well as in connection with the loss of a licence - at the rate of 2 000 roubles;

for extending the licence - at the rate established by this subitem for issuance of an appropriate kind of licence;

for granting the licence for retail sale of alcoholic products - 40 000 roubles for each year of the licence's validity time;

95) for the following actions of authorised bodies connected with licencing the activities which involve the right to carry out works connected with the use of atomic energy:

for granting the licence for nuclear plants' placement, erection, operation and taking out of operation - 20 000 roubles;

for granting the licence for placement, erection, operation and taking out of operation of a radiation source, for handling nuclear materials and radioactive substances, in particular when exploring and extracting uranium ore, when making, using, processing, carrying and storing nuclear materials and radioactive substances, for handling radioactive waste, as regards their storage, processing, carriage and disposal, for designing and making equipment for nuclear plants, radiation sources, storage facilities for nuclear materials and radioactive substances and radioactive waste repositories - 10 000 roubles;

for granting the licence for placement, erection, operation and taking out of operation of storage facilities, for designing and constructing nuclear plants, radiation sources, storage facilities for nuclear materials and radioactive substances, radioactive waste repositories - 15 000 roubles;

for granting the licence for using nuclear materials and/or radioactive substances when carrying out scientific research and development works, for making an expert examination of project, design, production documentation and the documents which substantiate securing nuclear and radiation safety of nuclear plants, radiation sources, storage facilities for nuclear materials and radioactive substances and radioactive waste repositories, for exercising the activity of handling nuclear materials, radioactive substances and waste - 5 000 roubles;

for re-issuance of the document proving the availability of a licence - 1 000 roubles;

for issuance of a duplicate of the document proving the availability of a licence - 200 roubles;

for extending the validity term of the document proving the availability of a licence - 200 roubles;

96) for granting a permit to take animal kingdom items - 400 roubles;

97) for granting a permit to take (catch) aquatic biological resources:

to organisations - 500 roubles;

to natural persons - 200 roubles;

98) for issuance of a duplicate of a permit to take animal kingdom items - 200 roubles;

99) for amending a permit to take (catch) aquatic biological resources:

for organisations - 200 roubles;

for natural persons - 100 roubles;

100) for the state registration of the denominations of ethyl alcohol and alcohol-containing solutions made of non-edible raw materials, of ethyl alcohol made of edible raw materials, of alcohol and alcohol-containing food-stuff and other alcohol-containing products, of alcohol-containing perfume and cosmetic products (means) - 2 000 roubles;

101) for the state registration of medical purpose articles and medical equipment - 3 000 roubles;

102) for the state registration of pesticides and agricultural chemicals, of potentially hazardous chemical and biological substances - 3 000 roubles;

103) for amending certificates of the state registration provided for by **Subitems 15, 100 - 102** of this Item - 200 roubles;

104) for issuance of the document proving satisfaction of the requirements for obligatory certification in civil aviation - 400 roubles;

105) for issuing a permit to instal an advertising construction - 3 000 roubles;

106) for a communication operator's receiving a numeration resource:

for one telephone number from the numeration plan of the seventh zone of the world numeration for general use telephone communication system, except for the provision of numeration from the codes of access to electric communication services - 20 roubles;

for one identification code of mobile radio-telephone communication and mobile radio-communication from the numeration resource of identification codes of communication networks, their elements and terminal equipment - 2 000 000 roubles;

for one number of the codes of access to electric communication services from the numeration plan of the seventh zone of the telephone communication network of the world numeration for the general use communication system - 20 000 roubles;

for one number from the numeration plan of a fixed network of the uniform electric communication system of the Russian Federation - 20 roubles;

for one long-haul routing index of telegraph network units - 20 000 roubles;

for one identification code of data network - 20 000 roubles;

for one identification code for key components and terminal equipment from the code numbering resource of the signaling network OKS No. 7 for stationary telephone communication, mobile radiotelephone communication, mobile radio communication and mobile satellite radio communication in the international indicator - 200 000 roubles;

for one identification code for key components and terminal equipment from the code numbering resource of stations of the signaling network OKS No. 7 for stationary telephone communication, mobile radiotelephone communication, mobile radio communication and mobile satellite radio communication in the inter-city indicator - 20 000 roubles;

for one identification code for key components and terminal equipment from the code numbering resource of stations of the signaling network OKS No. 7 for stationary telephone communication, mobile radiotelephone communication, mobile radio communication and mobile satellite radio communication in a local indicator - 2,000 roubles;

107) for registering the declaration of compliance with the requirements for communication means and communication services - 2 000 roubles;

108) for ships' registration in the Russian International Register of Ships:

when the gross tonnage of a ship is from 80 gross tonnage units to 3 000 gross tonnage units inclusive - 52 000 roubles plus 9.4 roubles for each gross tonnage unit;

when the gross tonnage of a ship is from over 3 000 gross tonnage units to 8 000 gross tonnage units inclusive - 54 000 roubles plus 8.8 roubles for each gross tonnage unit;

when the gross tonnage of a ship is over 8 000 gross tonnage units to 20 000 gross tonnage units inclusive - 96 000 roubles plus 5.0 roubles for each gross tonnage unit;

when the gross tonnage of a ship is over 20 000 gross tonnage units - 134 000 roubles plus 3.2 roubles for each gross tonnage unit;

109) for yearly confirmation of a ship's registration in the Russian International Register of Ships:

when the gross tonnage of a ship is from 80 gross tonnage units to 8 000 gross tonnage units inclusive - 14 000 roubles plus 22.4 roubles for each gross tonnage unit;

when the gross tonnage of a ship is from over 8 000 gross tonnage units to 20 000 gross tonnage units inclusive - 104 000 roubles plus 14.2 roubles for each gross tonnage unit;

when the gross tonnage of a ship is from over 20 000 gross tonnage units up to 45 000 gross tonnage units inclusive - 204 000 roubles plus 9.2 roubles for each gross tonnage unit;

when the gross tonnage of a ship is over 45 000 gross tonnage units - 260 000 roubles plus 8 roubles for each gross tonnage unit;

110) for the following actions made by duly authorised bodies connected with issuance of licences to conduct the activities associated with organisation of and carrying on gambling at

book-maker's offices and totalizers:

for granting a licence - 10 000 roubles;;

for re-issuance of a licence - 3 000 roubles;

for extension of a licence - 3 000 roubles;

111) for issuance of a special permit to movement on a motor road of a transport vehicle carrying the following (except for a transport vehicle engaged in international motor carriage):

hazardous cargo - 800 roubles;

heavy-weight and/or large-size cargo - 1 000 roubles;

112) for the following actions of authorised bodies connected with issuance of the identification card of a private security guard:

issuance of the identification card (duplicate of the identification card) of a private security guard - 1 200 roubles;

re-issuance of the identification card of a private security guard in connection with prolongation of the identification card's validity term - 400 roubles;

making amendments in the identification card of a private security guard in connection with changing the place of residence or other data stated in the identification card - 200 roubles;

113) for issuance of the permit to hold all-Russia lotteries - 6 000- roubles;

114) for issuance of the permit to apply technological devices at hazardous industrial facilities - 2000 roubles;

115) for issuance of the permit to operate hydraulic engineering structures - 2 000 roubles;

116) for issuance of the permit to airborne emission of harmful substances (pollutants) - 2 000 roubles;

117) for issuance of the permit to making harmful physical effects upon the atmospheric air - 2 000 roubles;

118) for issuance of the permit to environmental discharge of pollutants - 2 000 roubles;

119) for issuance of the permit to put railways into operation on a permanent basis:

those of public use - 120 000 roubles;

those of non-public use - 60 000 roubles;

120) for issuance of the permit to develop areas of mineral deposits, as well as to place in such arrears underground structures within the boundaries of a mine allotment - 2 000 roubles;

121) for issuance of the permit to take measures aimed at acclimatization, resettlement and hybridization, to keep and breed the animal kingdom items classified as hunting objects and aquatic biological resources under semi-free conditions and in artificial habitat - 400 roubles;

122) for issuance of a duplicate of the permit to take measures aimed at acclimatization, resettlement and hybridization, to keep and breed the animal kingdom items classified as hunting objects and aquatic biological resources under semi-free conditions and in artificial habitat - 200 roubles;

123) for adopting decisions in a prejudicial procedure on disputes connected with fixing and applying controllable prices (tariffs) in compliance with the **legislation** of the Russian Federation on natural monopolies - 100 000 roubles;

124) for adoption of decisions in respect of fixed tariffs and surcharges, as regards the differences between executive state power bodies of constituent entities of the Russian Federation in the field of state tariffs control, the organisations engaged in controllable kinds of activities and consumers, as well as between executive state power bodies of constituent entities of the Russian Federation engaged in regulation of tariffs of commodities and services of organisations of the public utilities complex, local authorities engaged in regulation of tariffs and surcharges of organisations of the public utilities complex and organisations of the public utilities complex - 50 000 roubles;

125) for issuance of the document concerning the approval of normative standards of formation of industrial and consumption waste, as well as of their disposal limits - 1 000 roubles;

126) for re-issuance of the document concerning the approval of normative standards of formation of industrial and consumption waste, as well as of their disposal limits and for issuance of a duplicate thereof - 200 roubles.

**Federal Law** No. 293-FZ of November 8, 2010 supplemented Item 1 of Article 333.33 of this Code with Subitem 127. The Subitem shall **enter into force** from January 1, 2011

127) for issuance of the state accreditation certificate:

of an educational institution of higher vocational education - 130 000 roubles plus 70 000 roubles for every aggregative group of training directions and specialties of higher professional education at an educational institution and each branch thereof;

of an educational institution of supplementary vocational education or of a scientific organisation - 120 000 roubles;

of an educational institution of secondary vocational education - 50 000 roubles;

of an educational institution of primary vocational education - 40 000 roubles;

of other educational institution - 10 000 roubles;

**Federal Law** No. 293-FZ of November 8, 2010 supplemented Item 1 of Article 333.33 of this Code with Subitem 128. The Subitem shall **enter into force** from January 1, 2011

128) for re-drawing up the state accreditation certificate of an educational institution in connection with the establishment of a different state status in respect of the following:

an educational institution of higher vocational education - 70 000 roubles;

an educational institution of supplementary vocational education - 50 000 roubles;

an educational institution of secondary vocational education - 25 000 roubles;

an educational institution of primary vocational education - 15 000 roubles;

other educational institution - 3 000 roubles;

**Federal Law** No. 293-FZ of November 8, 2010 supplemented Item 1 of Article 333.33 of this Code with Subitem 129. The Subitem shall **enter into force** from January 1, 2011

129) for re-drawing up the state accreditation certificate of an educational institution or scientific organisation in connection with the state accreditation of curricula, aggregative groups of training and specialties:

of each aggregative group of training directions and specialties of higher vocational education - 70 000 roubles;

of aggregative groups of training directions and specialties of post-graduate vocational education and of supplementary vocational education curricula for which the federal state requirements are established - 60 000 roubles;

of aggregative groups of training directions and specialties of secondary vocational education and primary vocational education - 25 000 roubles;

of basic general education curricula - 7 000 roubles;

**Federal Law** No. 293-FZ of November 8, 2010 supplemented Item 1 of Article 333.33 of this Code with Subitem 130. The Subitem shall **enter into force** from January 1, 2011

130) for re-drawing up the state accreditation certificate of an educational institution or scientific organisation in other cases - 2 000 roubles;

**Federal Law** No. 293-FZ of November 8, 2010 supplemented Item 1 of Article 333.33 of this Code with Subitem 131. The Subitem shall **enter into force** from January 1, 2011

131) for issuance of the temporary state accreditation certificate of an educational

institution or scientific organisation - 2 000 roubles.

**Federal Law** No. 245-FZ of July 19, 2011 supplemented Item 1 of Article 333.33 of this Code with Subitem 132. The Subitem shall enter into force from January 1, 2012

132) for repeated issuance of the certificate proving registration with tax authority - 200 roubles.

133) for the consideration of an application for signing an agreement for the price formation, and of an application for the introduction of amendments into a price formation agreement - 1,500,000 roubles.

**2.** The provisions of this Article shall apply subject to the provisions of **Article 333.34** of this Code.

**Article 333.34.** The Specifics of Paying the State Duty for the State Registration of an Issue of Securities, of Mass Media, for the Right to Exportation (Temporary Exportation) of Cultural Valuables, for the Right to Use the Denominations "Russia", "the Russian Federation", Words and Word Combinations Derived from Them in the Denominations of Legal Entities, for Receiving a Numeration Resource

**1. Abrogated.**

**2.** For estimating the state duty for the right of exportation (temporary exportation) of cultural valuables shall be taken the market value of the cultural valuables shown in the application of the person petitioning for exportation thereof. Where the state power body in charge of issuing the certificate of the right to export cultural valuables evaluates the cost of cultural valuables differently, a higher price shall be taken for estimating the state duty for the right of exportation (temporary exportation) of the cultural valuables.

The state duty for the right of exportation (temporary exportation) of cultural valuables shall be paid subject to the price of all cultural valuables concurrently exportable by a single person.

In the event of exportation (temporary exportation) of cultural valuables by persons who have presented to the Russian Federation cultural valuables in respect of which it has been decided to enter them in state protective lists or registers, the price of exportable cultural valuables, when estimating the rate of the state duty for the right of exportation (temporary exportation) of cultural valuables, shall be decreased by the price of the gifted cultural valuables.

**3.** The state duty for the state registration of mass media shall be paid subject to the following specifics:

1) when registering advertising mass media, the rate of the state duty for an appropriate mass medium shall be five times as much;

2) for registering mass media of an erotic nature the rate of the state duty for the appropriate mass medium shall be 10 times as much;

3) for registering mass media specialized in making products for children, teenagers and disabled persons, as well as of mass media of educational and cultural purpose the rate of the state duty for the appropriate mass medium shall be reduced to a fifth part thereof.

**4.** Mass media shall be defined as those of an advertising and erotic nature, as those specialised in making products for children, teenagers and disabled persons, as well as those of an educational and cultural nature in compliance with the **laws** of the Russian Federation.

**5.** The state duty for the right of using the denominations "Russia", "Russia Federation",



words and word combinations derived from them in the names of legal entities shall be paid when effecting state registration of a newly-established legal entity or the state registration of the appropriate amendments of the constituent documents of a legal entity.

**6.** The state duty for receiving a numeration resource shall be paid subject to the following specifics:

1) in the event of changing the numeration the state duty for receiving the numeration resource shall not be payable. In the event of a complete or partial withdrawal of the numeration resource provided to a communication operator the state duty paid by it shall not be returned;

2) when reorganising an organisation in the form of a merger, joining, transformation or redrawing up the right-proclaiming documents in respect of the numeration resource provided to it, the state duty for the previously provided numeration resource shall not be payable;

3) when reorganising an organisation in the form of separation or detachment and redrawing the right-proclaiming documents in respect of the provided numeration resource, the state duty for the previously provided numeration resource shall not be payable.

### **Article 333.35.** Privileges for Some Categories of Natural Persons and Organisations

**1.** There shall be relieved of paying the state duty established by this Chapter:

1) managerial bodies of state off-budget funds of the Russian Federation, treasury institutions, the editorial offices of the mass media, except for mass media of an advertising or erotic nature, all-Russia public associations, religious associations and political parties - for the right of using the denominations "Russia", "Russian Federation", words and word combinations derived from them in the names of said organisations and associations;

1.1) the budget-supported institutions being beneficiaries of budget funds until July 1, 2012: for the right of using the names "Russia", "the Russian Federation" and the words and word combinations formed on the basis thereof in the names of said institutions;

2) courts of general jurisdiction, arbitration courts and justices of the peace - when directing (filing) inquiries to the Constitutional Court of the Russian Federation;

3) courts of general jurisdiction, arbitration courts and justices of the peace, state power bodies of a subject of the Russian Federation - when directing (filing) applications with constitutional (charter) courts of the subjects of the Russian Federation;

4) federal executive power bodies, state power bodies of constituent entities of the Russian Federation and local authorities when they apply for making the legally relevant actions established by this chapter, except as provided for by **Subitem 124 of Item 1 of Article 333.33** of this Code;

5) the Central Bank of the Russian Federation - when the state registration of issues (additional issues) of the emissive securities that are issued for the purpose of implementing the uniform state monetary and credit policy in compliance with the laws of the Russian Federation is effected;

6) organisations - when the state registration of issues (additional issues) of emissive securities that are issued by them for the purpose of restructuring their indebtedness in respect of budgets of all levels (within the term of validity of an agreement on restructuring such indebtedness) is effected, if such securities are transferred and (or) charged in favour of the authorised executive body on the basis of an agreement on repaying the arrears of payments to budgets of all levels;

7) organisations - when the state registration of issues (additional issues) of emissive securities put into circulation in case of an increase of the authorised capital by the amount of reappraisal of basic assets by decision of the Government of the Russian Federation is effected;

8) state and municipal museums, archives, libraries and other state and municipal

depositories of cultural values - for the right of temporary exportation of the cultural values that are kept by them on a permanent basis;

9) natural persons - authors of cultural valuables - for the right of exportation (temporary exportation) by them of cultural valuables;

10) state power bodies, local self-government bodies - for placing the apostille, as well as for the state registration of organisations and for the state registration of amendments made to the constituent documents of organisations, for the state registration of liquidation of organisations;

11) natural persons - Heroes of the Soviet Union, Heroes of the Russian Federation and Full Knights of the Order of Glory - in respect of cases tried by courts of general jurisdiction, justices of the peace, by the Constitutional Court of the Russian Federation, when applying to the agencies and (or) to the officials engaged in the commission of notarial actions and to the bodies engaged in the state registration of civil status acts;

12) natural persons - participants and invalids of the Great Patriotic War - in respect of cases tried by courts of general jurisdiction, justices of the peace, by the Constitutional Court of the Russian Federation, when applying to the agencies and (or) to the officials engaged in the commission of notarial actions and to the bodies engaged in the state registration of civil status acts;

13) **abrogated**;

14) a natural person - a citizen of the Russian Federation who is the only author of a computer programme, database, integrated-circuit diagram and the right owner in respect of it applying for the registration certificate issued in his name, if such natural person is a veteran of the Great Patriotic War, disabled, or a pupil (inmate) of an educational institution (regardless of its property form) - for committing the actions provided for by **Subitems 1 - 3, 5 and 6 of Item 1 of Article 333.30** of this Code.

The privilege provided for by this Subitem shall be likewise granted to the composite authors, or right owners where each member of it is disabled, or is a participant of the Great Patriotic War, or an invalid of the Great Patriotic War;

15) natural persons deemed low-income persons under the **Housing Code** of the Russian Federation: for the committal of the actions envisaged by **Subitem 22 of Item 1 of Article 333.33** of this Code except for the state registration of limitations (encumbrances) on rights to immovable property items.

**2.** The ground for granting privileges to the natural persons enumerated in **Subitems 11 and 12 of Item 1** of this Article shall be the identification card of the established type.

The privileges provided for by **Subitem 14 of Item 1** of this Article shall be granted on the petition of the author (authors). The ground for granting a privilege shall be copies of the appropriate documents: the identification card of a veteran of the Great Patriotic War (war participant), a certificate of the medico-social expert examination and a document issued by an educational institution. The petition for granting the said privileges shall be filed instead of the document proving payment of the state duty, if the privilege is the exemption of paying it, or together with the said document.

A document issued in the established procedure shall be deemed the ground for granting the privilege envisaged by **Subitem 15 of Item 1** of this Article.

**3.** The state duty shall not be payable in the following instances:

1) for issuing an invitation for a foreign citizen or a stateless person to enter the Russian Federation for the purpose of studying at an educational institution having the state accreditation;

2) **abrogated**;

2.1) for issuance of a labour permit to a foreign citizen who has made a labour or civil law contract for carrying out works (rendering services) with a person participating in the implementation of the project involving scientific research works, development and commercialization of their results in compliance with the Federal Law on the Skolkovo Innovation Centre and has arrived at the territory of the Skolkovo innovation centre;

2.2) for issuance of an invitation to enter the Russian Federation to a foreign citizen who has made a labour or civil law contract for carrying out works (rendering services) with a person participating in the implementation of the project involving scientific research works, development and commercialization of their results in compliance with the Federal Law on the Skolkovo Innovation Centre and has arrived at the territory of the Skolkovo innovation centre;

2.3) for issuance or extension of a visa to a foreign citizen who has made a labour or civil law contract for carrying out works (rendering services) with a person participating in the implementation of the project involving scientific research works, development and commercialization of their results in compliance with the Federal Law on the Skolkovo Innovation Centre and has arrived at the territory of the Skolkovo innovation centre;

3) for exportation of cultural valuables obtained on demand from the unlawful ownership of someone else and returned to the owner thereof;

4) **abrogated**;

4.1) for the state registration of a right of operative management of an immovable property deemed to be under state or municipal ownership;

4.2) for state registration of limitations (encumbrances) of rights to land plots used for northern reindeer breeding;

4.3) for the state registration of the right to permanent (termless) use of land plots which are under the state or municipal ownership;

4.4) for making amendments in the Uniform State Register of Rights to Immovable Property and Transactions There with, should the legislation of the Russian Federation be changed;

4.5) for making amendments in the Uniform State Register of Rights to Immovable Property and Transactions Therewith when the organisation (body) engaged in registration of immovable property items presents specified data on an immovable property item in the procedure established by **Article 17** of Federal Law No. 122-FZ of July 21, 1997 on the State Registration of Rights to Immovable Property and Transactions Therewith;

5) for the state registration of immovable property arrests, termination of arrests;

6) for the state registration of a mortgage rising on the basis of law, and also for cancellation of a registration entry concerning a mortgage;

7) for the state registration of an agreement changing the contents of a mortgage deed, including the introduction of appropriate amendments in the Uniform State Register of Rights to Immovable Property and Transactions Therewith;

8) for the state registration of the right to an immovable property unit that had risen prior to **putting into operation** Federal Law No. 122-FZ of July 21, 1997 on the State Registration of Rights to Immovable Property and Transactions with It, when the state registration of the lapse of this right or of a transaction of alienating the immovable property unit is effected. In other instances provided for by **Item 2 of Article 6** of the said Federal Law the state duty for the state registration of the right to an immovable property unit that had risen prior to **putting into operation** of the said Federal Law shall be recovered in the amount equal to half the state duty established by this Chapter for the state registration of rights to immovable property;

8.1) for the state registration of termination of rights in connection with liquidation of an immovable property item, waiver of the right of ownership to an immovable property item,

transfer of a right to a new right holder, transformation (reconstruction) of an immovable property item;

8.2) for the state registration of termination of limitation (encumbrance) of rights to immovable property;

9) for the issuance of a Russian Federation citizen's passport to orphan children and children left without parental care;

10) for the performance of actions relevant in law stipulated by **Item 2 of Part 1 of Article 5** of the Federal Law on the Organisation and Conduct of the Twenty Second Olympic Winter Games and the Eleventh Paralympic Winter Games of 2014 in the City of Sochi, the Development of the City of Sochi As a Mountain-Climate Health Resort and Amending Certain Legislative Acts of the Russian Federation;

10.1) for issuance of a work permit to a foreign citizen who has made a labour contract or civil law contract with a Russian organiser of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation and who has arrived on the territory of the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, which are fixed by **Article 2** of the cited Federal Law;

10.2) **abrogated**;

10.3) for issuance of an invitation to enter the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi which are fixed by **Article 2** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation for a foreign citizen who has made a labour contract or civil law contract with a Russian organiser of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi in compliance with **Article 3** of the cited Federal Law;

10.4) for issuance of a visa or its extension for a foreign citizen who has made a labour contract or civil law contract with a Russian organiser of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation and arrives in the territory of the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, which are fixed by **Article 2** of the cited Federal Law;

10.5) **abrogated**;

10.6) for issuance of an invitation to enter the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi which are fixed by **Article 2** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of

the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation for a foreign citizen who is attracted as a volunteer by the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi and who has made an appropriate civil law contract with this organisation;

10.7) for issuance of a visa (and for its extension) for a foreign citizen who is attracted as a volunteer by the autonomous non-profit organisation, the Organising Committee of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, who has made an appropriate civil law contract with this organisation and who arrives in the territory of the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, which are fixed by **Article 2** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation;

10.8) **abrogated**;

10.9) for issuance of an invitation to enter the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, which are fixed by **Article 2** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, for a foreign citizen participating in the organisation and/or holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi as temporary personnel in compliance with **Article 10.1** of the cited Federal Law;

10.10) for issuance of a visa or for its extension for a foreign citizen participating in the organisation and/or holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi as temporary personnel in compliance with **Article 10.1** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, who arrives in the territory of the Russian Federation within the period of organisation and/or the period of holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi, which are fixed by **Article 2** of the cited Federal Law;

11) for the state registration of the right of ownership of the Russian Federation to the motor roads transferred for trust administration to a legal entity formed in the organisational legal form of a state company and to the land plots leased to said legal entity, for the state registration of contracts of lease of the land plots transferred to said legal entity, and also for the state registration of the termination of rights to such motor roads and land plots;

12) for entering an apostil to the documents on registration of civil status acts and reference notes issued by archival agencies on the basis of applications of natural persons residing outside the Russian Federation vindicated at the requests of diplomatic missions and consular offices of the Russian Federation.

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 13. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from

September 1, 2010

13) for the state registration of medicinal preparations for medical application presented for the state registration before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents **enters into effect**;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 14. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from September 1, 2010

14) for the state registration of medicinal preparations for medical application presented for an expert examination of medicinal agents before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents **enters into effect**;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 15. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from September 1, 2010

15) for confirming the state registration of medicinal preparations for medical application presented for confirmation of the state registration before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents **enters into effect**;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 16. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from September 1, 2010

16) for confirming the state registration of medicinal preparations for medical application presented for an expert examination of medicinal agents before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents **enters into effect**;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 17. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from September 1, 2010

17) for adoption of the decision on amending the documents contained in the registration case-file in respect of a registered medicinal preparation for medical application and filed before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents **enters into effect**;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 18. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from September 1, 2010

18) for adoption of the decision on amending the documents contained in the registration case-file in respect of a registered medicinal preparation for medical application and filed for an expert examination of medicinal agents before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents **enters into effect**;

**Federal Law** No. 306-FZ of November 27, 2010 supplemented Item 3 of Article 333.35 of this Code with Subitem 19. The Subitem shall **enter into force** from the day of the official publication of the said Federal Law and shall **extend** to the legal relations arising from

September 1, 2010

19) for issuance of permits to carry out clinical testing of medicinal preparations for medical use on the basis of applications filed before the date of **entry into force** of Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents, as well as on the basis of applications filed after the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents enters into effect, on the basis of expert examinations held before the date when Federal Law No. 61-FZ of April 12, 2010 on Turnover of Medicinal Agents enters into effect.

**Article 333.36.** Privileges When Applying to Courts of General Jurisdiction, as Well as to Justices of the Peace

1. There shall be relieved of paying the state duty in respect of cases tried by courts of general jurisdiction, as well as by justices of the peace:

1) plaintiffs - when instituting actions for the recovery of wages (salary) and other claims arising from labour relations, as well as when instituting actions for recovery of allowances;

2) plaintiffs - when instituting actions for the recovery of alimony;

3) plaintiffs - when instituting actions for the repair of damages caused by mutilation or other damage to health, as well as by the death of the breadwinner;

4) plaintiffs - when instituting actions for the repair of material and (or) moral damages caused by a crime;

5) organisations and natural persons - for issuing to them documents in connection with criminal cases and cases on the recovery of alimony;

6) the parties - when filing appeals and cassational appeals in respect of divorce actions;

7) organisations and natural persons - when filing with court:

applications for postponement (spreading) of decisions' execution, for changing the way of, or the procedure for, executing decisions, for turning back the execution of a decision, restoration of missed terms, review of a court's decision or ruling in view of newly discovered facts, review of a default judgement by the court that has rendered it;

complaints against the actions (omission to act) of a bailiff, as well as complaints against decisions in respect of cases on administrative offences issued by authorised bodies;

private appeals against court rulings, including those on the security of a claim or on replacing one type of security by another, on termination or suspension of a case, on the refusal to add or reduce the amount of a fine imposed by court;

8) natural persons - when filing cassational appeals in respect of criminal cases where the validity of recovering material damages caused by a crime is disputed;

9) prosecutors - on the application for the protection of rights, freedoms and legitimate interests of citizens, of an indefinite circle of persons or interests of the Russian Federation, of the subjects of the Russian Federation or municipal formations;

10) plaintiffs - when initiating actions for the repair of material and (or) moral damage resulting from criminal prosecution, and also as regards the restoration of rights and freedoms;

11) rehabilitated persons and persons recognised as victims of political repression - when they apply in connection with issues related to the application of the legislation on rehabilitation of victims of political repression, except for disputes between these persons and heirs thereof;

12) forced migrants and refugees - when filing complaints against the refusal to register petitions for recognising them as forced migrants and refugees;

13) the authorised federal executive body in charge of control (supervision) in the field of protection of consumer rights (territorial agencies thereof), as well as other federal executive body exercising the functions of control and supervision in the field of protection of consumers'

rights and safety of goods (works and services) (territorial agencies thereof), local self-government bodies, public societies of consumers (their associations and unions) - in respect of claims raised in the interests of a consumer, a group of consumers, an indefinite circle of consumers;

14) natural persons - when filing an application with court for adopting a child;

15) plaintiffs - when cases on the protection of legitimate interests of a child are tried;

16) the Plenipotentiary in the Field of Human Rights in the Russian Federation - when filing an application for verifying an effective decision, sentence, ruling or decision of a court or decision of a judge;

17) plaintiffs - in respect of non-material actions connected with the protection of rights and legitimate interests of disabled persons;

18) applicants in respect of cases on forced hospitalization of a citizen in psychiatric in-patient clinics and (or) on forced psychiatric medical examination;

19) state bodies and local authorities acting in the cases tried by courts of law, as well as by justices of the peace, as plaintiffs and defendants;

20) natural persons serving sentences in the form of deprivation of liberty - when filing applications for repeated issuance of copies of decisions, sentences, court orders, court rulings, decisions of the presidium of a court of supervisory instance and copies of other documents included in a case-file which may be issued by court, as well as when filing an application for issuance of duplicates of writs of execution.

**2.** There shall be relieved of paying the state duty in respect of the cases tried by courts of law, as well as by justices of the peace, subject to the provisions of **Item 3** of this Article:

1) public associations of disabled persons acting as plaintiffs and defendants;

2) plaintiffs - invalids of the I and II groups;

3) veterans of the Great Patriotic War, veterans of combat operations, military service veterans applying for the protection of rights established by the legislation on veterans;

4) plaintiffs - in respect of the actions connected with violations of consumer rights;

5) plaintiffs - pensioners who receive pensions granted in the procedure established by the pension **legislation** of the Russian Federation - in respect of material claims against the Pension Fund of the Russian Federation, non-governmental pension funds or federal executive bodies providing pensions to the persons who have carried out military service.

**3.** When filing with courts of general jurisdiction, as well as with justices of the peace, statements of material claim and (or) statements of claim containing both material and non-material claims, the payers indicated in **Item 2** of this Article shall be relieved of paying the state duty, if the cost of a claim does not exceed 1 000 000 roubles. Where the cost of a claim exceeds 1 000 000 roubles, the said payers shall pay the state duty in the amount estimated in compliance with **Subitem 1 of Item 1 of Article 333.19** of this Code and reduced by the amount of the state duty payable when the cost of the claim is equal to 1 000 000 roubles.

#### **Article 333.37.** Privileges When Applying to Arbitration Courts

**1.** There shall be relieved of paying the state duty in respect of the cases tried by arbitration courts:

**1)** prosecutors and other bodies applying to arbitration courts in instances provided for by law for the protection of state and (or) public interests;

1.1) state bodies, bodies of local self-government appearing in cases considered at arbitration courts as plaintiffs or defendants;

2) claimants in respect of claims connected with violations of rights and legitimate



interests of a child.

2. There shall be relieved of paying the state duty in respect of the cases tried by arbitration courts subject to the provisions of **Item 3** of this Article;

- 1) public associations of invalids acting as claimants and respondents;
- 2) claimants - invalids of the I and II groups.

3. When filing with arbitration courts statements of material claim and (or) statements of claim containing both material and non-material claims, the payers indicated in **Item 2** of this Article shall be relieved of paying the state duty if the cost of claim does not exceed 1 000 000 roubles. If the cost of claim exceeds 1 000 000 roubles, the said taxpayers shall pay the state duty in the amount estimated in compliance with **Subitem 1 of Item 1 of Article 333.21** of this Code and decreased by the amount of the state duty payable when the cost of the claim is equal to 1 000 000 roubles.

#### **Article 333.38. Privileges When Applying for the Commission of Notarial Actions**

There shall be relieved of paying the state duty for the commission of notarial actions:

1) state power bodies and local self-government bodies when they apply for the commission of notarial actions in the instances provided for by law;

2) invalids of groups I and II by 50 per cent in respect of all types of notarial actions;

3) natural persons - for certifying testaments under which some property is bequeathed to the benefit of the Russian Federation, subjects of the Russian Federation and (or) municipal formations;

4) public associations of disabled persons - in respect of all types of notarial actions;

5) natural persons - for issuing a certificate of the right to inheritance in case of inheriting: of a dwelling house, as well as of the land plot where the dwelling house is located, of a flat or room or a share of the said immovable property item, if these persons resided together with the testator on the date of the testator's decease and continue to reside in this house (in this flat or room) after the decease thereof;

the property of persons who have perished in connection with their discharge of state or public duties or in connection with their discharge of the duty of a citizen of the Russian Federation related to saving a human life, protection of governmental property, law and order, as well as the property of persons who have become victims of political repression. There shall likewise pertain to deceased persons those who have died prior to the expiry of one year as a result of a wound (contusion) or illness caused by the aforementioned circumstances;

deposits made with banks, monetary funds kept on bank accounts of natural persons, insurance payments under contracts of personal and property insurance, amounts of wages, of copyright and amounts of author's fee provided for by the laws of the Russian Federation on intellectual property and pensions.

The heirs that have not come of age by the date of inheritance commencement, as well as persons with mental disorders who are placed under guardianship in the procedure determined by the **laws** shall be relieved of paying the state duty upon receiving the certificate of the right to inheritance in all instances, regardless of the type of property to be inherited;

6) heirs of the employees who have been insured at the expense of organisations in case of death and have perished as a result of an accident at the working place (the place of service) - for issuing the certificate of the right to inheritance proving the right of inheriting insurance payments;

7) financial and tax bodies - for issuing thereto the certificates of the right to inheritance of the Russian Federation, of the subjects of the Russian Federation or municipal formations;

8) boarding schools - for making execution inscriptions for recovering from parents arrears of payment for keeping their children in such schools;

9) special teaching and educational institutions for children with deviant (socially

dangerous) behavior of the federal executive body authorised in the area of education - for making execution inscriptions for recovering from parents arrears of payments for keeping their children in such institutions;

10) military units, organisations of the Armed Forces of the Russian Federation, and of other troops - for making executive inscriptions for recovering arrears for the purpose of repairing damage;

11) persons who have been wounded while defending the USSR, the Russian Federation and discharging official duties in the Armed Forces of the USSR and the Armed Forces of the Russian Federation - for proving the accuracy of copies of the documents that are necessary for granting privileges;

**Federal Law** No. 284-FZ of November 29, 2007 reworded Item 12 of Article 333.38 of this Code. The new wording of the Item shall **enter into force** from January 1, 2008 but not earlier than upon the expiry of one month from the day the official publication of the said Federal Law and **cover** the legal relations arising from January 1, 2008 **STYLE V 1 72 1 See the Item in the previous wording**

12) the natural persons recognised in the established order as needy of improvement of housing conditions - for the certification of transactions of acquiring living accommodation, fully or partially paid from the payments made from the federal budget resources, the budgets of the constituents of the Russian Federation and the local budgets;

13) heirs of internal affairs officers, of military servicemen of internal affairs troops of the federal executive body authorised in the area of internal affairs and of military servicemen of the Russian Federation insured by way of obligatory state personal insurance who have perished in connection with discharging their official duties or who have deceased prior to the expiry of one year as of the date of their discharge as a result of a wound (contusion) or illness incurred within the period of their carrying out service - for issuing certificates of the right to inheritance proving the right to inherit insurance payments under obligatory state personal insurance.

14) natural persons: for the certification of a power of attorney for the receipt of pensions and allowances.

#### **Article 333.39.** Privileges When Effecting the State Registration of Civil Status Acts

There shall be relieved of paying the state duty for the state registration of civil status acts and other legally relevant actions made by civil registration agencies and other authorised bodies:

1) natural persons:

for issuing certificates in case of correcting and (or) amending acts of birth in connection with the adoption of a child, establishment paternity;

for correcting and (or) amending civil status acts and for issuing certificates in connection with errors made when effecting the state registration of civil status acts through the fault of employees engaged in the state registration of civil status acts;

for issuing certificates of registration of civil status acts for their presentation to authorised bodies in respect of awarding or re-estimating pensions and (or) allowances;

for issuing death certificates when correcting and changing acts of death of persons who have been unreasonably subject to repression and rehabilitated afterwards on the basis of the law on the rehabilitation of victims of political repression, as well as for issuing repeated death certificates in respect of persons of this category;

for issuing notices on the absence of legal status acts for restoring missing civil status acts in the established procedure;

for the state registration of birth, death, including the issuance of certificates;

**abrogated;**

2) administrative bodies of education, custody and guardianship and commissions for affairs of minors and for the protection of their rights:

for issuing repeatedly birth certificates for children who are without parents' custody, for issuing repeatedly death certificates (reference notes) in respect of their parents, on changing the name, on making and dissolving marriage by deceased parents, as well as for vindication of the cited documents from the territory of foreign states;

for correcting and/or amending entries on civil status acts drawn up in respect of orphan children and for children left without parental care, and in respect of their deceased parents, including the issuance of certificates.

**Article 333.40.** Grounds and Procedure for Returning or Setting-Off the State Duty

**1.** The state duty paid shall be subject to a return in whole or in part in the event of:

1) paying the state duty at the rate higher than that established by this Chapter;

2) return of the application, complaint or other address or a court's refusal to accept them, or refusal to commit notarial actions by the bodies or officials authorised to do it. If the state duty is not returned, its amount shall be entered into the account of paying the state duty when repeatedly bringing the suit, if a three-year term has not expired since the date of rendering the previous decision and the initial document concerning payment of the state duty is attached to the suit;

**3)** termination proceedings in respect of a case or shelving an application by a court of general jurisdiction or arbitration court.

When making an amicable agreement prior to rendering a decision by an arbitration court, 50 per cent of the amount of the state duty paid by the plaintiff shall be returnable to him/her. This provision shall not apply, if an amicable agreement was made in the course of executing a judicial act of an arbitration court.

The state duty paid in the event of the defendant's voluntary satisfaction of the plaintiff's claims after the latter's application to an arbitration court and issuing the ruling on taking over the statement of claim, as well as when endorsing an amicable agreement by a court of general jurisdiction, shall not be returned;

4) the refusal of the persons who have paid the state duty to commit legally relevant actions before applying to the authorised body (the official) engaged in the commission of this legally relevant action;

5) the refusal to issue the passport of the Russian Federation citizen for exit from the Russian Federation and entry to the Russian Federation certifying in the instances provided for by the **laws** the identity of the Russian Federation citizen outside the Russian Federation and in the territory of the Russian Federation or the refugee's traveling document;

6) forwarding to an applicant a notice of acceptance of the petition thereof for withdrawal of the application for the state registration of a computer programme, database or integrated-circuit layout before the date registration thereof (in respect of the state duty provided for by **Item 1 of Article 330.30** of this Code).

**2.** Not subject to return shall be the state duty paid for the state registration of marriage, dissolution of marriage, change of the name, the introduction of corrections and (or) amendments in civil status acts, if afterwards the state registration of the appropriate civil status act is not effected or corrections and amendments into civil status acts are not introduced.

**3.** An application for refund of a state duty amount paid (collected) in excess shall be filed by the payer of the state duty amount with a body (official) empowered to commit the legally significant actions for which state duty has been paid (collected).

The application for refund of a state duty amount paid (collected) in excess shall be filed together with original payment documents of the state duty amount is subject to refund in full or copies of the said payment documents if it is subject to refund only in part.

A decision on refund to a payer of a state duty amount paid (collected) in excess shall be taken by the body (official) committing the actions for which the state duty amount has been paid (collected).

The refund of a state duty amount paid (collected) in excess shall be effected by a federal treasury body.

An application for refund of a state duty amount paid (collected) in excess for cases heard by a court or by a justice of the peace shall be filed by the payer of the state duty amount with the tax body at the place where the court where the case was heard is located.

The application for refund of a state duty amount paid (collected) in excess for cases heard by a general jurisdiction court, an arbitration court, the Constitutional Court of the Russian Federation, and the constitutional (charter) court of a subject of the Russian Federation, a justice of the peace shall be filed together with the decisions, rulings and statements of the courts concerning the circumstances deemed the ground for the refund, in full or in part, of the state duty amount paid (collected) in excess, and the original payment documents if the state duty amount is subject to refund in full, or copies of the payment documents if it is subject to partial refund only.

An application for refund of a state duty amount paid (collected) in excess may be filed within three years after the payment of the said amount.

The refund of a state duty amount paid (collected) in excess shall be effected within one month after the filing of the refund application.

**4.** The state duty for the state registration of rights, limitation (charging) of rights to immovable property and transactions with it, in the event of denial of the state registration, shall not be subject to return.

In the event of termination of the state registration of a right, limitation (charging) of a right to immovable property or a transaction with it on the basis of the appropriate applications of the parties to the contract, half of the paid state duty shall be returned.

**5. Abrogated** from January 1, 2007.

**6.** A payer of the state duty shall be entitled to the set-off of the state duty paid (recovered) in excess on account of the amount of state duty payable for committing a similar action.

The said set-off shall be effected on the application of a payer presented to the authorised body (official) where he/she has applied for committing a legally relevant action. The application for setting off the amount of state duty paid (recovered) in excess may be filed within three years as of the date of rendering the appropriate court decision on the return of the state duty from the budget or of the date of paying this amount to the budget. The following shall be attached to the application for setting off the amount of state duty paid (recovered) in excess: decisions, rulings and certificates of courts, bodies or officials exercising actions for which the state duty is to be paid, on the circumstances serving as a basis for the complete return of the state duty, as well as payment orders or receipts bearing the authentic note of a bank proving the return of the state duty.

**7.** The return or set-off of the state duty paid (recovered) in excess shall be carried out in the procedure established by **Chapter 12** of this Code.

#### **Article 333.41.** Specifics of Allowing to Postpone Payment of the State Duty or to Pay It by Installments

**1.** The payment of state duty shall be postponed or it shall be allowed to pay it in

installments on the application of the person concerned within the term established by **Item 1 of Article 64** of the present Code.

**2.** Interest shall not be accrued on the amount of the state duty, whose payment is allowed to be postponed or to be made in installments for the whole time period for which the postponement of payment or payment in installments is allowed.

#### **Article 333.42.** Ensuring Observance of Provisions of this Chapter

Tax bodies shall verify the correctness of charging and paying the state duty at the state notary's offices, civil registration offices and other bodies and organisations exercising in respect of payers actions for which the state duty is recoverable under this Chapter.

The bodies and officials indicated in **Item 1 of Article 333.16** of this Code shall submit to the customs bodies information about the performance of legally significant actions in the procedure established by the Ministry of Finance of the Russian Federation.

*Federal Law No. 126-FZ of August 8, 2001 supplemented Part 2 of this Code with Chapter 26 "The Mineral Resource Extraction Tax". The Chapter shall **enter into force** from January 1, 2002*

### **Chapter 26. The Mineral Resource Extraction Tax**

*See the **Methodological Recommendations** for the Application of Chapter 26 on the Mineral Resource Extraction Tax of the Tax Code of the Russian Federation, approved by **Order** of the Ministry of Taxation of the Russian Federation No. BG-3-21/170 of April 2, 2002*

*See the **Methodological Instructions** for the exertion of tax control over the taxpayers of the tax on the extraction of minerals resources given by **Letter** of the Ministry of Taxation of the Russian Federation No. AS-6-21/337 of March 22, 2002*

#### **Article 334.** Taxpayers

Taxpayers of the mineral resource extraction tax (hereinafter in the present Chapter referred to as "taxpayers") shall be deemed organisations and individual entrepreneurs recognised as users of subsoil under Russian **law**.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 335 of this Code*

*The amendments **shall enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the **previous text of the Article***

#### **Article 335.** Registration as a Taxpayer of the Mineral Resource Extraction Tax

**1.** Taxpayers shall be registered as taxpayers of the mineral resources extraction tax (hereinafter referred to as "the tax") at the location of the tract of subsoil granted to the taxpayer for use under Russian **law**, except as otherwise required under Item 2 of this Article within 30 calendar days as of the moment of state registration of a licence (permit) for using a tract of subsoil. With this, for the purposes of this Chapter, as the location of the tract of subsoil granted to a taxpayer for use there shall be recognised the territory of the subject (subjects) of the Russian Federation where the tract of subsoil is situated.

**2.** Taxpayers performing mineral resource extraction on the continental shelf of the

Russian Federation, in the exclusion economic zone of the Russian Federation and also outside the territory of the Russian Federation if the extraction is being pursued on territories under the jurisdiction of the Russian Federation (or rented from foreign states or used under an international treaty) in a tract of subsoil granted to the taxpayer for use shall be subject to registration as taxpayers of the tax at the location of an organisation or at the place of residence of a natural person.

**3.** The specifics of the tax registration of taxpayers as payers of a tax shall be determined by the Ministry of Finance of the Russian Federation.

*Federal Law No. 57-FZ of May 29, 2002 amended Article 336 of this Code*

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Article*

#### **Article 336.** Tax Basis

**1.** The tax basis for the purposes of the mineral resources extraction tax (hereinafter in this Chapter referred to as "the tax") shall be as follows, except as otherwise required by Item 2 of this article:

1) mineral resources extracted from subsoil on the territory of the Russian Federation in a subsoil tract granted to a taxpayer for use under Russian **law**;

2) mineral resources extracted from production waste (lost rock) if such an extraction is subject to a separate licensing under the Russian **legislation** on subsoil;

3) mineral resources extracted from subsoil outside the territory of the Russian Federation if the extraction is done on territories under the jurisdiction of the Russian Federation (and also rented from foreign states or used under an international treaty) in a tract of subsoil granted to a taxpayer for use.

**2.** For the purposes of this Chapter the following shall not be deemed taxable:

**1)** commonly occurring mineral resources extracted by an individual entrepreneur and used by him directly for his personal consumption;

**2)** mineralogical, paleontological and other geological collectors items extracted (collected);

**3)** mineral resources extracted from subsoil in the case of formation, use, re-construction and repair of specially-protected geological objects having scientific, cultural, aesthetic, sanitary or another public significance. The procedure for the recognition of geological objects as specially-protected geological objects having scientific, cultural, aesthetic, sanitary or another public significance shall be established by the Government of the Russian Federation;

4) mineral resources extracted from a mining/extraction processing facility's or mining/extraction-related processing facility own dump or waste (lost rock) if they were generally taxable before when extracted.

5) drainage underground water not included into the state balance sheet of mineral resources extracted when developing mineral deposits or when constructing and operating underground structures.

*In as much as gas condensate from gas-condensate fields is concerned the provisions of **Article 337** of this Code (in the wording of this Federal Law) cover the legal relations that have arisen since January 1, 2002, without a review of settlements of accounts with the budget, and in as much as it concerns gas condensate from all other types of fields they cover the legal relations that have arisen since January 1, 2004 without a review of settlements of*

*accounts with the budget*

**See the previous text of the Article**

## **Article 337.** Extracted Mineral Resources

**Federal Law** No. 248-FZ of July 19, 2011 amended Item 1 of Article 337 of this Code. The amendments shall **enter into force** upon the expiry of 90 days after the day of the **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for tax on extraction of mineral resource

**1.** For the purposes of this Chapter the mineral resources specified in **Item 1 Article 336** of this Code shall be called extracted mineral resources. Here "mineral resource" shall mean an output of mineral resource industry and of quarrying (if not otherwise provided for by **Item 3** of this Article) contained in a mineral raw material (rock, fluid and another form) actually obtained (extracted) from subsoil (waste, lost rock), the former being in compliance with the national standard, regional standard, international standard or, in the absence of the cited standards in respect of a specific mineral resource, in compliance with an organisation's standard.

The products received as a result of further processing (dressing, technological process) of a mineral which are products of manufacturing industry may not be deemed a mineral.

**2.** Below are the types of mineral resources:

1) combustible shale;

1.1) coal (in compliance with the classification established by the Government of the Russian Federation):

anthracite;

coking coal;

lignite;

coal, except for anthracite, coking coal and lignite;

2) peat;

3) hydrocarbon raw material:

water-free, salt-free and stabilized oil;

gas condensate from all types of hydrocarbon raw material deposits that has undergone the recovery preparation technology in accordance with the technical design for developing the deposit before it was dispatched for processing. For the purposes of this Article the "processing of gas condensate" means the separation of helium, sulphur and other components and admixtures, if any, the production of a stable condensate, a broad fraction of light hydrocarbons and of the products of processing thereof;

combustible natural gas (solute gas or the mixture of solute gas and casing-head gas) from all types of hydrocarbon raw material deposits extracted from oil wells (hereinafter referred to as accompanying gas);

combustible natural gas from all types of hydrocarbon raw material deposits, save for accompanying gas);

4) commodity ores:

of ferrous metals (iron, manganese, chromium);

non-ferrous metals (aluminium, copper, nickel, cobalt, lead, zinc, tin, tungsten, molybdenum, antimony, mercury, magnesium and other nonferrous metals which are not stipulated in other groupings);

rare metals occurring in their own deposits (titanium, zirconium, niobium, rare earths, strontium, lithium, beryllium, vanadium, germanium, caesium, scandium, selenium, zirconium, tantalum, bismuth, rhenium, rubidium);

multi-component complex ores;

5) useful components of a multi-component complex ore extracted from it, in the case of their being sent within an organisation for further processing (dressing, technological process).

6) mining chemical non-metal raw materials (apatite-nephelinic and phosphorite ores, potassium, magnesium and rock salts, boron ores, sodium sulphate, natural sulphur and sulphur in gas, iron pyrite and complex ore deposits, barite, asbestos, iodine, bromine, fluorspar, earth dyes (mineral pigments), carbonaceous rock and other types of non-metal mineral resources for the chemical and mineral fertiliser industries);

7) mining non-metal raw materials (abrasive rocks, vein quartz (except special-purity quartz and piezo-optical raw materials), quartzite, carbonaceous rock for metallurgy, quartz-feldspar and siliceous raw materials, glass sands, natural graphite, talcum (steatite), magnesite, talcummagnesite, pyrophyllite, mica-muscovite, mica-phlogopite, vermiculite, refractory clay for the production of drilling slurries and sorbents, other mineral resources not included in other groups);

8) bituminous rocks (except for those indicated in **Subitem 3** of this Item);

9) rare metal raw materials (trace elements) (in particular, indium, cadmium, tellurium, thallium, gallium) and also other recovered mineral resources being associated components in the ores of other mineral resources;

10) non-metal raw materials basically used in the construction industry (gypsum, anhydrite, natural chalk, dolomite, limestone fusion agents, limestone, calcareous rock for the manufacture of lime and cement, natural building sand, pebbles, gravels, sand and gravel blends, building stone, facing stone, marl, clay, other non-metal mineral resources used in the construction industry);

11) quality piezo-optical raw materials, special-purity quartz raw materials and fine gem raw materials (topaz, nephrite, jadeite, rhodonite, lazurite, amethyst, turquoise, agate, jasper and others);

12) natural diamonds, other precious stones from bedrock, gravel and man-made deposits, in particular, rough, graded and classified stones (natural diamonds, ruby, emerald, sapphire, alexandrite, amber);

13) concentrated and other semi-products containing precious metals (gold, silver, platinum, palladium, iridium, rhodium, ruthenium, osmium) obtained at the extraction of precious stones, i.e. the extraction of precious metals from bedrock (ore), gravel and man-made deposits;

14) natural salt and pure sodium chloride;

15) underground waters containing mineral resources (industrial water) and/or natural medical treatment resources (mineral water), as well as thermal water;

16) raw stuff of radioactive metals (in particular, uranium and thorium).

3. As a mineral resource there shall be likewise deemed the products being the results of developing a deposit which are received mineral raw material by means of processing technologies which are special types of extraction works (in particular, underground gasification and leaching, dredging and hydraulic excavation in gravel deposits, hydraulicking) and also the processes classified in compliance with mineral licences as special type of extraction works (in particular, mineral resource extraction from overburden or ore dressing tailings, oil-spill collection by means of special-purpose machines).

**Federal Law No. 57-FZ of May 29, 2002 amended Article 338 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**



### **Article 338. Tax Base**

1. The taxpayer shall be responsible for determining his tax base in respect of every extracted mineral resource (in particular, useful components extracted from subsoil in association with the extraction of a main mineral resource).

2. The tax base shall be determined as the value of extracted mineral resources, except for coal, dry, desalinized and stabilized oil, accompanying gas and combustible natural gas from all types of hydrocarbon raw material deposits. The value of extracted mineral resources shall be determined in compliance with **Article 340** of the present Code.

The tax base, when extracting coal, dry, desalinized and stabilized oil, accompanying gas and combustible natural gas, from all types of hydrocarbon raw material deposits, shall be determined as the quantity of extracted mineral resources in kind.

3. The quantity of extracted mineral resources shall be determined in compliance with **Article 339** of this Code.

4. A tax base shall be determined separately for each an extracted mineral resource defined under **Article 337** of this Code.

5. In respect of the extracted mineral resources for which different tax rates are established or the tax rate is calculated subject to a coefficient, the tax base shall be determined as applied to each tax rate.

### **Federal Law No. 57-FZ of May 29, 2002 amended Article 339 of this Code**

*The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

**See the previous text of the Article**

### **Article 339. Procedure for Determining the Quantity of an Extracted Mineral Resource**

1. The taxpayer shall be responsible for determining the quantity of an extracted mineral resource. Depending on the extracted mineral resource its quantity shall be determined in weight or volume units.

The quantity of extracted oil which is dehydrated, desalted and stabilised shall be determined in net mass units.

For the purposes of this Chapter as net mass shall be deemed an oil quantity less the separated water, associated petroleum gas and contaminants, as well as less the water, chlorous salts and mechanical impurities detected by laboratory tests.

2. The quantity of an extracted mineral resource shall be determined directly (through the application of metering means and devices) or indirectly (by means of calculations, by the data on the content of extracted mineral resource in a mineral raw material (waste, lost rock) extracted from subsoil, except as otherwise required by this Article. If it is impossible by a direct method an indirect method shall be applied.

The method applied by the taxpayer to determine the quantity of an extracted mineral resource shall be subject to approval within the accounting philosophy of the taxpayer for taxation purposes and it shall be applied by the taxpayer during the whole period of extraction of the mineral resource. The mineral resource quantity assessment method approved by the taxpayer may be changed only if changes are introduced in the technical design of mineral deposit mining in connection with changes in the applied technology of mineral resources extraction.

3. Here, if the taxpayer applies a direct mineral resource quantity assessment method the quantity of an extracted mineral resource shall be determined with account taken of actual loss

of the mineral resource.

As the actual loss of a mineral there shall be recognised the difference between the estimated quantity of the mineral resource by which the mineral reserve is decreased and the quantity of the actually extracted mineral determined on the completion of the full technological cycle of the mineral extraction. The actual losses of a mineral resource shall be accounted when determining the quantity of the extracted mineral resources in the tax period in which the measurement thereof was made, in the amount determined on the basis of the results of the measurements made.

**4.** When precious metals are extracted from bedrock (ore), gravel and man-made deposits the quantity of an extracted mineral resource shall be determined according to the data from the recovery compulsory records kept under the legislation of the Russian Federation on precious metals and precious stones.

Precious metal nuggets not intended for processing shall be recomineral resource mentioned in Paragraph 1 of this Item. Furthermore, a tax base shall be determined separately in respect of such nuggets.

**5.** When precious stones are extracted from bedrock, gravel and man-made deposits the quantity of an extracted mineral resource shall be determined after the primary grading, primary classification and primary valuation of rough stones. Here, unique precious stones shall be recorded separately and a tax base shall be determined separately in respect of such stones.

**6.** The quantity of an extracted mineral defined in compliance with **Article 337** of this Code as useful components contained in extracted multi-component complex ore shall be determined as the quantity of the ore component in chemically pure form.

**7.** When determining the quantity of a mineral extracted in a tax period, there shall be accounted the mineral in respect of which a complex of manufacturing operations (processes) related to the extraction of the mineral from subsoil (waste, spoil) was completed in the tax period, unless otherwise provided for by **Item 8** of this Article.

With this, when developing a mineral deposit under a licence (permit) for extraction of the mineral, the whole complex of manufacturing operations (processes) stipulated by the preliminary design of developing the deposit of the mineral shall be taken into account.

**8.** When selling and (or) using mineral raw materials prior to completing the development of a mineral deposit, the quantity of a mineral extracted in a tax period shall be determined as the quantity of the mineral contained in the said mineral raw stuff sold or used for one's own needs in the given tax period.

**Federal Law No. 57-FZ of May 29, 2002 amended Article 340 of this Code**

**The amendments shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law and shall cover the legal relations arising from January 1, 2002**

**See the previous text of the Article**

#### **Article 340. Procedure for Valuing Extracted Mineral Resources When the Tax Base Is Calculated**

**1.** The taxpayer shall be responsible for valuing extracted mineral resources by one of the below methods:

1) on the basis of the taxpayer's prevailing selling prices in a relevant tax period with no account taken of subsidies;

**2)** on the basis of the taxpayer's selling prices of an extracted mineral resource prevailing in a relevant tax period;

3) on the basis of the rated value of the extracted mineral resources.

**2.** If the taxpayer applies the assessment method specified in Subitem 1 Item 1 of this Article the value of unit of extracted mineral resource shall be assessed on the basis of proceeds determined with the taxpayer's selling prices of the extracted mineral resource prevailing in the current tax period (or in the absence thereof, in the preceding tax period) with no account taken of subsidies from the budget aimed at reimbursing the difference between wholesale price and rated value.

In such a case proceeds from the sale of an extracted mineral resource shall be determined on the basis of selling prices (less the sum of subsidies from the budget) determined with due regard to the provisions of **Article 105.3** of this Code, less the value-added tax (in the case of sale on the territory of the Russian Federation and to the member states of the Commonwealth of Independent States) and excise tax reduced by the sum of the taxpayer's delivery expenses depending on delivery terms.

Where the proceeds from the sale of an extracted mineral resource are received in foreign currency, it shall be converted into roubles at the exchange rate established by the Central Bank of the Russian Federation as on the date of sale of the extracted mineral resource determined depending on the method of recognising incomes selected by a taxpayer in compliance with **Article 271** or **Article 273** of this Code.

For the purposes of this Chapter the sum of delivery expenses shall include expenses incurred towards customs duties and fees relating to foreign trade transactions, the expenses incurred through the delivery (transportation) of the extracted mineral resource from finished-product warehouse (recording centre, main pipeline entry, a centre for shipping to a consumer or for processing, consignee network partition points and other similar conditions) to the consignee and also compulsory cargo insurance expenses calculated under Russian law.

For the purposes of this Chapter the delivery (transportation) expenses relating to the movement of an extracted mineral resource to the consignee, in particular include the expenses of delivery (transportation) by means of main pipelines, railway, waterway and other means of transport, the expenses of drainage, filling, loading, unloading and transshipment, charges of services at ports and transportation/forwarding charges.

The assessment shall be done separately for each type of extracted mineral resource on the basis of the selling prices for a relevant extracted mineral resource.

The value of an extracted mineral resource shall be determined as the quantity of the extracted mineral resource calculated under **Article 339** of this Code times the unit value of the extracted mineral resource calculated under this Item.

The unit value of an extracted mineral resource shall be calculated as the ratio of proceeds from the sale of the extracted mineral resource calculated under this Item to the quantity of the sold extracted mineral resource.

**3.** If there are no subsidies for the selling prices of an extracted mineral resource the taxpayer shall apply the assessment method specified in **Subitem 2 Item 1** of this Article. In such a case the valuation of a unit of the extracted mineral resource shall be effected on the basis of proceeds from the sale of the extracted mineral resource calculated on the basis of selling prices with due regard to the provisions of **Article 105.3** of this Code less the value-added tax (in the case of sale on the territory of the Russian Federation and to the member states of the Commonwealth of Independent States) and excise tax reduced by the sum of the taxpayer's delivery expenses depending on the delivery terms.

Where the proceeds from the sale of an extracted mineral are received in foreign currency, it shall be converted into the currency of the Russian Federation at the exchange rate established by the Central Bank of Russian Federation as on the date of sale of the extracted mineral resources determined depending on the method of recognising incomes selected by a

taxpayer in compliance with **Article 271** or **Article 273** of this Code.

For the purposes of this Chapter the sum of delivery expenses shall include expenses incurred towards customs duties and fees relating to foreign trade transactions, the expenses incurred through the delivery (transportation) of the extracted mineral resource from finished-product warehouse (recording centre, main pipeline entry, a centre for shipping to consumers or for processing, consignee network partition points and other similar conditions) to the consignee and also compulsory cargo insurance expenses calculated under Russian law.

For the purposes of this Chapter the delivery (transportation) expenses relating to the movement of an extracted mineral resource to the consignee, include, in particular, the expenses of delivery (transportation) by means of main pipelines, railway, waterway and other means of transport, the expenses of drainage, filling, loading, unloading and transshipment, charges of services at ports and transportation/forwarding charges.

The assessment shall be done separately for each type of extracted mineral resource on the basis of the selling prices for a relevant extracted mineral resource.

The value of an extracted mineral resource shall be determined as the quantity of the extracted mineral resource calculated under **Article 339** of this Code times the unit value of the extracted mineral resource calculated under this Item.

The unit value of an extracted mineral resource shall be calculated as the ratio of the proceeds from the sale of the extracted mineral resource calculated under this Item to the quantity of the sold extracted mineral resource.

**4.** Where a taxpayer does not sale an extracted mineral resource, he shall apply the method of assessment indicated in **Subitem 3 of Item 1** of this Article.

In such a case the taxpayer shall be responsible for assessing the rated value of an extracted mineral resource according to tax record data. Here, the taxpayer shall apply the incomes and expenses recognition procedure he uses for calculating the tax base for the purposes of the tax on profits of organisations.

The following types of expenses incurred by the taxpayer in the tax period shall be taken into account in the determination of the rated value of an extracted mineral resource:

1) material expenses calculated in keeping with **Article 254** of the present Code, save material expenses incurred in the course of storage, transportation, packing and other preparation (in particular, pre-sale preparation), and sale of the extracted mineral resources (including material expenses, as well as except for the outlays made by the taxpayer in the manufacture and sale of other types of products, goods (works, services);

2) remuneration for labour calculated in compliance with **Article 255** of this Code, save expenses towards remuneration for the labour of workers not engaged in the extraction of mineral resources;

3) accrued depreciation calculated in compliance with the procedure established by **Articles 256 - 259.2** of this Code, save the sums of accrued depreciation on depreciated assets not relating to extraction of mineral resources;

4) fixed asset repair expenses calculated in compliance with the procedure established by **Article 260** of this Code, save fixed asset repair expenses not relating to extraction of minerals;

5) natural resource mining expenses calculated in compliance with **Article 261** of this Code;

6) the expenses stipulated in **Subitems 8 and 9** of Article 265 of the present Code, save the expenses indicated therein as not relating to extraction of mineral resources;

7) other expenses calculated in compliance with **Articles 263, 264 and 269** of this Code, save other expenses not relating to extraction of mineral resources.

When the rated value of an extracted mineral resource is determined the expenses

specified in **Articles 266, 267** and **270** of this Code shall not be taken into account.

The direct expenses made by a taxpayer in the tax period shall be distributed among extracted mineral resources and work-in-process as of the end of the tax period. The work-in-process balance shall be determined and assessed with due regard to the peculiarities specified in **Item 1 Article 319** of this Code. When determining the estimated cost of an extracted mineral resource there shall be likewise accounted the indirect outlays determined in compliance with **Chapter 25** of this Code. With this, the indirect outlays made by a taxpayer during a reporting (tax) period shall be distributed between the outlays on the extraction of minerals and the outlays on other activities of a taxpayer in proportion to the share of the direct expenses pertaining to the extraction of minerals in the total amount of direct expenses. The total amount of the outlays made by a taxpayer in a tax period shall be distributed between extracted minerals in proportion to the share of each extracted mineral in the total quantity of extracted minerals in this tax period. The sum of indirect expenses relating to the mineral resources extracted in the tax period shall be included in full in the rated value of the mineral resources extracted in the relevant tax period.

**5.** Assessment of the cost of the precious metals extracted from ledge (ore), gravel and man-caused deposits shall be made reasoning from a taxpayer's selling prices of chemically pure metal in an appropriate tax period without taking into account the value-added tax, decreased by the outlays of a taxpayer on the affinage and delivery (transportation) thereof to the recipient (and in the absence of such prices - from those in the nearest of the previous tax periods).

With this, the cost of one unit of the said extracted mineral shall be determined as the product of the share (in natural indicators) of a chemically pure metal in one unit of the extracted mineral and the cost of one unit of the chemically pure metal.

**6.** Assessment of the cost of extracted precious stones shall be made proceeding from their initial assessment made in compliance with the laws of the Russian Federation on precious metals and precious stones.

Assessment of the cost of extracted unique precious stones and unique nuggets of precious metals which are not subject to processing shall be made proceeding from their selling prices without taking into account the value-added tax decreased by the amounts of a taxpayer's outlays on the delivery (transportation) thereof to the recipient.

*According to **Federal Law No. 110-FZ of July 24, 2002 Article 341** of this Code in the wording of **Federal Law No. 57-FZ of May 29, 2002** shall be put into effect from January 1, 2003*

**See the previous text of the Article**

#### **Article 341.** Tax Period

A calendar month shall be deemed a tax period.

#### **Article 342.** Tax Rate

**1.** Taxation shall be effected at zero tax rate (0 roubles, where the tax base in respect of an extracted mineral is determinable in compliance with **Article 338** of this Code as the quantity of extracted minerals in kind) in the case of extraction of:

1) mineral resources in as much as rated mineral resource loss is concerned.

For the purposes of this Chapter the "rated losses of mineral resources" means the actual losses of mineral resources occurring during extraction which are technologically related to the accepted deposit mining scheme and technology, within the maximum limits on rated losses endorsed in compliance with the **procedure** established by the Government of the Russian Federation;

If at maturity of the tax payment on the basis of the results of the first tax period of a regular calendar year a taxpayer has no approved normative standards for losses for the regular calendar year, pending the approval of said normative standards for losses the normative standards of losses previously approved in the procedure established by Paragraph Two of this Subitem or, in respect of a deposit being mined, the normative standards for losses established by a preliminary design shall apply;

2) accompanying gas;

3) underground waters containing mineral resources (industrial waters) the extraction of which is connected with the mining of other types of mineral resources and which are extracted in the course of mineral deposit mining and in the case of construction and operation of underground structures;

4) mineral resources in the case of mining of low-quality (remaining low-quality) mineral deposits or mineral deposits written off earlier (except for the cases of a deterioration in the quality of a mineral deposit as the result of a selective mining). Mineral deposits shall be classified as "low-quality" in the manner established by the Government of the Russian Federation;

5) the mineral resources remaining in overburdens, diluting (impoverishing) rock, processing facility dumps or waste in connection with the lack of know-how in the Russian Federation for extracting them and also mineral resources mined from overburdens and diluting (impoverishing) rock, mining facility waste and mining-related facility waste (in particular, resulting from oil slurry processing) within the maximum limits on the content of mineral resources in the said rock and waste endorsed in the manner established by the Government of the Russian Federation;

6) mineral waters used by a taxpayer exclusively for medical treatment and health rehabilitation purposes without a direct sale thereof (in particular, treatment, preparation, processing and bottling into containers);

7) underground waters used by a taxpayer exclusively for agricultural purposes, in particular, in irrigation of agricultural-purpose land, water supply to animal farms, comprehensive animal facilities, poultry farms, fruit and vegetable gardening and animal-breeding associations of citizens;

8) oil on the subsoil plots located in full or in part within the bounds of the Republic of Sakha (Yakutia), the Irkutsk Region, the Krasnoyarsk Territory up to achieving the total oil production volume of 25 million tons on a subsoil plot and on condition that the time period for mining deposits of the subsoil plot does not exceed 10 years or is equal to 10 years in respect of the licence for subsoil use, aimed at exploration and extraction of minerals, and does not exceed 15 years or is equal to 15 years in respect of the licence for subsoil use concurrently aimed at geological investigation (search and exploration) and extraction of minerals, as of the date of the state registration of the appropriate licence for subsoil use.

In respect of using subsoil plots for which the licence is issued prior to January 1, 2007 and whose degree of resource working (Sv) of January 1, 2007 is less than, or equal to, 0.05, the tax rate of 0 roubles in respect of the quantity of a mineral produced on a specific subsoil plot shall apply pending achievement of the total oil production volume of 25 million tons on the subsoil plots located in full or in part within the bounds of the Republic of Sakha (Yakutia), the Irkutsk Region, the Krasnoyarsk Territory and on condition that the time period for mining deposits on a subsoil plot does not exceed 10 years or is equal to 10 years, starting from January 1, 2007.

**abrogated** from January 1, 2012;

9) superviscous oil produced on the subsoil plots containing oil with a viscosity of over 200 mPa x S (in stratal conditions);

10) oil on subsoil plots located to the north of the Arctic Circle fully or partially within the

boundaries of internal sea waters and the territorial sea, on the continental shelf of the Russian Federation pending the attainment of the accumulated volume of oil production 35 million tons on a subsoil plot and on condition that the time period of developing mineral reserves does not exceed 10 years or is equal to 10 years for the licence for the right to use subsoil for the purpose of prospecting and extraction of minerals and does not exceed or is equal to 15 years for the licence for the right to use subsoil concurrently for geological investigation (exploration and prospecting) and extraction of minerals as of the date of the state registration of an appropriate licence for using subsoil.

In respect of the subsoil plots for which the licence for use thereof is issued prior to January 1, 2009 and whose degree of reserves' working-out (Sv) as of January 1, 2009 is less than or equal to 0.05, the tax rate of 0 roubles in respect of the quantity of the mineral extracted on a specific subsoil plot shall apply before attaining the accumulated volume of oil extraction 35 million tons on subsoil plots located to the north of the Arctic Circle fully or partially within the boundaries of the internal sea waters and the territorial sea or on the continental shelf of the Russian Federation and on condition that the time period of developing mineral reserves of a subsoil plot does not exceed or is equal to 10 years starting from January 1, 2009;

11) oil on the subsoil plots located fully or partially in the Azov and Caspian Seas before attaining the accumulated oil extraction volume 10 million tons on a subsoil plot and on condition that the time period of developing the reserves of a subsoil plot does not exceed or is equal to seven years for the licence for using subsoils for prospecting and extraction of minerals and does not exceed or is equal to 12 years for the licence for using subsoil concurrently for geological investigation (exploration and prospecting) and extraction of minerals as of the date of the state registration of an appropriate licence for using subsoil.

In respect of the subsoil plots for which the licence for using them is issued before January 1, 2009 and whose degree of reserves' working out (Sv) as of January 1, 2009 is less or equal to 0.05, the tax rate of 0 roubles in respect of the quantity of the mineral extracted on a specific subsoil plot shall apply before attaining the accumulated volume of oil extraction 10 million tons on subsoil plots located fully or partially in the Azov or Caspian Seas and on condition that the time period of developing mineral reserves of a subsoil plot does not exceed or is equal to 7 years starting from January 1, 2009;

12) oil on the subsoil plots located fully or partially on the territory of the Nenets Autonomous Area, the Yamal Peninsula in the Yamal-Nenets Autonomous Area before attaining the accumulated oil extraction volume of 15 million tons on a subsoil plot and on condition that the time period of developing reserves of a subsoil plot does not exceed or is equal to seven years for the licence for using subsoil for prospecting and extraction of minerals and does not exceed or is equal to 12 years for the licence for using subsoil concurrently for geological investigation (exploration and prospecting) and extraction of minerals as of the date of the state registration of an appropriate licence for using subsoil.

In respect of the subsoil plots for which the licence for using them is issued before January 1, 2009 and whose degree of reserves' working out (Sv) as of January 1, 2009 is less or equal to 0.05, the tax rate of 0 roubles in respect of the quantity of the mineral extracted on a specific subsoil plot shall apply before attaining the accumulated volume of oil extraction 15 million tons on subsoil plots located fully or partially on the territory of the Nenets Autonomous Area, the Yamal Peninsula in the Yamal-Nenets Autonomous Area and on condition that the time period of developing mineral reserves of a subsoil plot does not exceed or is equal to 7 years from January 1, 2009.

13) natural combustible gas (except for accompanying gas) injected into a seam for maintaining the seam pressure when extracting gas condensate within the limits of a single subsoil plot in compliance with a technical mining project. The quantity of natural combustible

gas injected in a seam for maintaining the seam pressure which is taxable at the 0 per cent rate shall be estimated by a tax payer independently on the basis of the data shown in the forms of the federal state statistical observation approved in the established procedure.

14) oil on the subsoil plots located in full or in part in the Black Sea, pending the attainment of the accumulated oil production volume of 20 million tons on a subsoil plot and on condition that the time period of development of mineral resources at the subsoil plot does not exceed or is equal to 10 years in respect of the licence for subsoil use for the purpose of exploration and extraction of minerals and does not exceed or is equal to 15 years in respect of the licence for subsoil use simultaneously for geological investigation (exploration) and extraction of minerals from the date of the state registration of an relevant licence for subsoil use.

As regards the subsoil plots in respect of which the licence for using them is issued before January 1, 2012 and whose reserves' exhaustion degree (Sv) as of January 1, 2012 is less than or equal to 0.05, the tax rate of 0 roubles in respect of the quantity of the mineral extracted on a specific subsoil plot shall apply pending the attainment of the accumulated oil production volume of 20 million tons on the subsoil plots located in full or in part in the Black Sea and on condition that the time period of development of mineral resources on a subsoil plot does not exceed or is equal to 10 years starting from January 1, 2012;

15) oil on the subsoil plots located in full or in part in the Sea of Okhotsk, pending the attainment of the accumulated oil production volume of 30 million tons on a subsoil plot and on condition that the time period of development of mineral resources at the subsoil plot does not exceed or is equal to 10 years in respect of the licence for subsoil use for the purpose of exploration and extraction of minerals and does not exceed or is equal to 15 years in respect of the licence for subsoil use simultaneously for geological investigation (exploration) and extraction of minerals from the date of the state registration of the relevant licence for subsoil use.

As regards the subsoil plots in respect of which the licence for using them is issued before January 1, 2012 and whose reserves' exhaustion degree (Sv) as of January 1, 2012 is less than or equal to 0.05, the tax rate of 0 rubles in respect of the quantity of the mineral extracted on a specific subsoil plot shall apply pending the attainment of the accumulated oil production volume of 30 million tons on the subsoil plots located in full or in part in the Sea of Okhotsk and on condition that the time period of development of mineral resources on a subsoil plot does not exceed or is equal to 10 years starting from January 1, 2012;

16) oil on the subsoil plots located in full or in part to the north of latitude 65 degrees North in full or in part within the boundaries of the Yamal Nenets Autonomous Area, except for the subsoil plots located in full or in part in the territory of the Yamal peninsula within the boundaries of the Yamal-Nenets Autonomous Area, pending the attainment of the accumulated oil production volume of 25 million tons on a subsoil plot and on condition that the time period of development of mineral resources at the subsoil plot does not exceed or is equal to 10 years in respect of the licence for subsoil use for the purpose of exploration and extraction of minerals and does not exceed or is equal to 15 years for the licence for subsoil use simultaneously for geological investigation (exploration) and extraction of minerals from the date of the state registration of the relevant licence for subsoil use.

As regards the subsoil plots in respect of which the licence for using them is issued before January 1, 2012 and whose reserves' exhaustion degree (Sv) as of January 1, 2012 is less than or equal to 0.05, the tax rate of 0 roubles in respect of the quantity of the mineral extracted on a specific subsoil plot shall apply pending the attainment of the accumulated oil



production volume of 25 million tons on the subsoil plots located in full or in part to the north of latitude 65 degrees North in full or in part within the boundaries of the Yamal Nenets Autonomous Area, except for the subsoil plots located in full or in part in the territory of the Yamal peninsula within the boundaries of the Yamal-Nenets Autonomous Area, and on condition that the time period of development of mineral resources on a subsoil plot does not exceed or is equal to 10 years starting from January 1, 2012;

17) conditioned tin ore extracted on subsoil plots located in full or in part in the territory of the Far Eastern federal circuit for the time period from January 1, 2012 until December 31, 2017 inclusive;

18) combustible natural gas on the subsoil plots located in full or in part on the Yamal peninsula in the Yamal Nenets Autonomous Area which is used solely for making liquefied natural gas pending the attainment of the accumulated volume of combustible natural gas production of 250 milliard cubic meters on a subsoil plot and on condition that the time period of developing the resources of a subsoil plot does not exceed 12 years starting from the first day of the month in which the production of combustible natural gas used solely for making liquefied natural gas was started;

19) gas condensate jointly with combustible natural gas used exclusively for making liquefied natural gas on the subsoil plots located in full or in part on the Yamal peninsula in the Yamal Nenets Autonomous Area pending the attainment of the accumulated volume of gas condensate production of 20 million tons on a subsoil plot and on condition that the time period of developing the resources of a subsoil plot does not exceed 12 years starting from the first day of the month in which the production of gas condensate jointly with combustible natural gas used solely for making liquefied natural gas was started;

**1.1.** The degree of resources' exhaustion (Sv) of a specific subsoil plot for the purpose of applying the tax rate of 0 roubles for the reasons provided for in **Subitems 8, 10-12 and 14-16 of Item 1** of this article shall be independently calculated by a taxpayer on the basis of the data of the approved state balance sheet of mineral resources in compliance with **Item 4** of this article.

In so doing, the initial recoverable oil reserves shall be determined as the sum of the reserves belonging to Categories A, B, C1 and C 2 for a specific subsoil plot in compliance with the data of the state balance sheet of mineral resources: on the subsoil plots cited in **Subitems 10-12 of Item 1** of this article - as of January 1, 2008, on the subsoil plots cited in **Subitems 14-16 of Item 1** of this article - as of January 1, 2011.

**2.** Unless otherwise established by **Item 1** of this Article, taxes shall be levied at the tax rate of:

- 1) 3.8 per cent, as regards the extraction of potassium salts;
- 2) 4.0 per cent, as regards the extraction of:
  - peat;
  - shale oil;
  - apatite-nipheline, apatite and phosphorite ores;
- 3) 4.8 per cent for the extraction of conditioned ferrous metal ore;
- 4) 5.5 per cent for the extraction of:
  - radioactive metal raw materials;
  - non-metal mining chemical raw materials (except for potassium salts, apatite-niphelomic, apatite and phosphorite ores);

- non-metal raw materials used mainly in the construction industry;  
natural salt and pure sodium chloride;  
underground industrial and thermal waters;  
nephelines and bauxites;
- 5) 6.0 per cent for the extraction of:  
non-metal mining raw materials;  
bituminous rocks;  
concentrates and other intermediate products containing gold;  
other minerals which are not included into other groupings;
- 6) 6.5 per cent for the extraction of:  
concentrates and other intermediate products containing precious metals (except for gold);  
precious metals which are useful components of multi-component complex ore (except for gold);  
quality piezo-optical raw material, high-purity quartz raw material and gem raw material products;
- 7) 7.5 per cent for the extraction of mineral water and therapeutic muds;
- 8) 8.0 per cent for the extraction of:  
conditioned non-ferrous metal ores (safe for nephelines and bauxites);  
rare metals either occurring in their own deposits or present in ores with other mineral resources;  
multi-component complex ores, as well as useful components of complex ores, except for precious metals;  
natural diamonds, other precious and semi-precious stones;
- 9) 446 roubles (for the period from January 1 through December 31, 2012, inclusive and 470 roubles (starting from January 1, 2013) per 1 ton of dry, desalinized and stabilized oil produced. For this, the said tax rate shall be multiplied by the coefficient showing the dynamics of world oil prices (Kts), by the coefficient showing the degree of reserves' exhaustion in respect of a specific subsoil plot (Kv) and by the coefficient showing the value of reserves of a specific subsoil plot (Kz) which shall be determined in compliance with **Items 3, 4 and 5** of this Article;
- 10) 556 roubles (for the period from January 1 up to December 31, 2012 inclusive), 590 roubles (for the period from January 1 to December 31, 2013 inclusive), 647 roubles (starting from January 1, 2014) for 1 ton of gas condensate recovered from all kinds of deposits of hydrocarbon materials;

**Federal Law** No. 338-FZ of November 28, 2011 reworded Subitem 11 of Item 2 of Article 342 of this Code. The new wording shall **enter into force** from January 1, 2012 but at the earliest upon the expiry of a month from the day of the **official publication** of the said Federal Law and at the earliest on the first day of a regular **tax period** for tax on extraction of minerals

11) 509 roubles (for the period from January 1 up to December 31, 2012 inclusive), 582 roubles (for the period from January 1 up to December 31, 2013 inclusive), 622 roubles (starting from January 1, 2014) for 1 000 cubic meters of gas when extracting combustible natural gas from all kinds of hydrocarbon materials' deposits. With this, taxation shall be carried out at the rate fixed by this subitem which is multiplied by the coefficient of 0.493 (for the period from January 1 up to December 31, 2012 inclusive), 0.455 (for the period from January 1 up to December 31, 2013 inclusive) and 0.447 (starting from January 1, 2014) when extracting combustible natural gas from all kinds of hydrocarbon materials' deposits by the following categories of taxpayers:

taxpayers which are not within the whole tax period the owners of the facilities forming part of the Unified Gas Supply System;

taxpayers which are not within the whole tax period the organizations in which the owners of the facilities forming part of the Unified Gas Supply System participate and the total share of such participation exceeds 50 per cent.

The tax rate subject to the cited coefficient shall be rounded to the whole rouble in compliance with the effective rounding procedure;

12) 47 roubles per 1 ton of extracted anthracite;

13) 57 roubles per 1 ton of extracted coking coal;

14) 11 roubles per 1 ton of extracted lignite;

15) 24 roubles per 1 ton of extracted coal, except for anthracite, coking coal and lignite.

The tax rates cited in **Subitems 12-15** in respect of coal shall be multiplied by the deflating coefficients which are fixed for each kind of coal cited in **Subitem 1.1 of Item 2 of Article 337** of this Code on a quarterly basis for every following quarter with the account taken of the fluctuation of coal prices in the Russian Federation for the previous quarter, as well as by the deflating coefficients that have been applied earlier in compliance with this paragraph. Deflating coefficients shall be fixed and subject to official publication in the procedure established by the Government of the Russian Federation.

Taxpayers that have conducted at their own expense prospecting and exploration of the mineral deposits/fields they are mining or which have reimbursed the state in full for the expenses incurred towards the prospecting and exploration of an appropriate quantity of reserves of such minerals and which have been relieved as of July 1, 2001 under federal law from their duty to make deductions towards renewal of mineral and raw material reserves in respect of exploitation of such deposits/fields shall pay tax on the minerals extracted in a specific licence tract with the co-efficient of 0.7 being applied.

**3.** The coefficient showing the dynamic of world oil prices (Kts) shall be determined by a taxpayer independently on an annual basis by multiplying the average level of the Urals oil price within the **tax period** shown in US dollars per barrel (Ts), decreased by 15, by the average value of the US dollar exchange rate within the tax period in respect of the rouble of the Russian Federation established by the Central Bank of the Russian Federation (R) and divided by 261:

$$Kts = (Ts - 15) \times \frac{R}{261} .$$

The average level of Urals oil prices within an expired tax period shall be determined as the sum of simple averages of purchasing and selling prices in world crude oil markets (in the Mediterranean and Rotterdam markets) for all days of sales divided by the number of days of sales in the relevant tax period. Average levels of Urals crude oil prices in world crude oil markets for an expired month (in the Mediterranean and Rotterdam markets) shall become public through official sources of information at the latest on the 15th day of the following month in the procedure established by the Government of the Russian Federation. In the absence of said information in reports of the official sources of information, the average level of Urals crude oil prices in world crude oil markets within an expired month (in the Mediterranean and Rotterdam markets) shall be determined by a taxpayer independently.

The average value of the exchange rate of the US dollar against the rouble of the Russian Federation established by the Bank of Russia shall be determined by a taxpayer independently as the simple average of the exchange rate of the US dollar against the rouble of the Russian Federation established by the Central Bank of the Russian Federation for all days

of the relevant tax period.

The Kts coefficient estimated in the procedure determined by this Item shall be approximated to the 4th digit in compliance with the effective approximation procedure.

**4.** The coefficient showing the degree of resource working on a specific subsoil plot (Kv) shall be determined by a taxpayer in the procedure established by this Item.

If the degree of resource working on a specific subsoil plot, exceeds or is equal to 0.8 and is less or equal to 1, the Kv coefficient shall be estimated on the basis of the following formula:

$$Kv = 3.8 - 3.5 \times \frac{N}{V},$$

Where N - is the total oil production volume on a specific subsoil plot (including losses in the production thereof) according to the data of the state balance sheet of mineral resources approved in the year, preceding the year of the tax period;

V - is the initial unit oil resources endorsed in the established procedure subject to oil resource increment and writing-off (except for writing off resources produced oil and losses in the production thereof) and determined as the total of resources pertaining to Categories A, B, C1 and C2 on a specific subsoil plot in compliance with data of the state balance sheet of mineral resources from January 1, 2006.

Where the degree of resource working on a specific subsoil plot exceeds 1, the Kv coefficient shall be taken as equal to 0.3.

In other cases which are not specified by **paragraphs two** and **six** of this Item, the Kv coefficient shall be taken as equal to 1.

The degree of resource working on a specific subsoil plot (Sv) shall be estimated by a taxpayer independently on the basis of data from the approved state balance sheet of mineral resources as the quotient of dividing the total oil production volume on a specific subsoil plot (including losses in the production thereof) (N) by the initial unit oil resources (V). For this, the initial unit oil resources endorsed in the established procedure subject to oil resources' increment and writing off (except for writing off produced oil resources and losses in the productuin thereof) shall be determined as the total resources pertaining to Categories A, B, C1

and C2 in respect of a specific subsoil plot in compliance with data of the state balance sheet of mineral resources as of January 1, 2006.

**Abrogated** from January 1, 2009.

paragraphs 10 - 13 are **abrogated** from April 1, 2011.

The Kv coefficient estimated in the procedure determined by this Item shall be approximated to the 4th digit in compliance with the effective approximation procedure.

**5.** The coefficient showing the value of reserves of a specific subsoil plot (Kz) shall be determined by a taxpayer in the procedure established by this item.

Where the value of initial recoverable oil reserves (Vz) at a specific subsoil plot is below 5 million tons and the degree of reserves' exhaustion of a specific subsoil plot estimated in the procedure established by this item is below or equal to 0.05, the KZ ratio shall be calculated according to the following formula:

$$Kz=0,125 \times Vz+0,375,$$

Where Vz stands for the initial recoverable oil reserves in million tons accurate to the third decimal place after the dot, endorsed in the established procedure subject to the oil reserves' increment and writing off (except for writing off reserves of produced oil and extraction loss) and estimated as the sum of the reserves pertaining to Categories A, B, S1 and S2 in respect of a specific subsoil plot according to the data of the state balance sheet of minerals endorsed in the year preceding the year of the tax period.

The degree of reserves' exhaustion for a specific subsoil plot (Svz) in respect of which the licence for using it is granted before January 1, 2012 shall be determined as of January 1, 2012 on the basis of data of the state balance sheet of minerals' reserves, endorsed in 2011, as the quotient of dividing the sum of accumulated resources of produced oil on a specific subsoil plot (N) by the initial recoverable oil reserves (Vz) of the specific subsoil plot.

The degree of reserves' exhaustion for a specific subsoil plot (Svz) in respect of which the licence for using it is granted starting from January 1, 2012 shall be determined as of January 1 of the year in which the licence for using subsoil is granted on the basis of data of the state balance sheet of minerals' reserves endorsed in the year preceding the year, when the licence for subsoil use is received, as the quotient of dividing the sum of accumulated resources of produced oil on a specific subsoil plot (N) by the initial recoverable oil reserves (Vz) of a specific subsoil plot.

If oil reserves are inserted in the state balance sheet of mineral reserves in the year preceding the year of the tax period or in the year of the tax period, the sum of accumulated resources of produced oil on a specific subsoil plot (N) and the initial recoverable oil reserves (Vz) for applying the Kz ratio shall be independently determined by a taxpayer on the basis of an opinion of the state expert examination of oil reserves endorsed by the federal executive power body engaged in keeping in the established procedure the state balance sheet of mineral reserves, and after endorsement of the state balance sheet of mineral reserves shall be specified in the procedure established by this item.

Where the value of the initial recoverable reserves (Vz) of a specific subsoil plot exceeds or is equal to 5 million tons and/or the degree of reserves' exhaustion (Svz) of a specific subsoil plot determined in the procedure established by this item exceeds 0.05, the Kz coefficient shall be taken as equal to 1.

Where the sum of accumulated resources of produced oil in respect of a specific subsoil plot (N) exceeds the initial recoverable oil reserves (Vz) applied in estimating the Kz ratio according to the formula shown in this item, the Kz ratio equal to 1 shall be applied to the excessive sum.

The Kz ratio estimated in the procedure determined by this item shall be rounded to the fourth character in compliance with the effective rounding procedure.

The procedure for determining the Kz ratio cited in this item shall not apply to oil taxable at the rate of 0 roubles fixed by **Item 1** of this article. In so doing, the Kz ratio shall be taken as equal to 1.

#### **Article 343.** Procedure for Calculating and Paying the Tax

**1.** The amount of tax on extracted mineral resources, if not otherwise provided for by this Article, shall be calculated as an appropriate percentage share of a tax base corresponding to the tax rate.

The amount of the tax on dry, desalinized and stabilized oil, accompanying gas, combustible natural gas from all types of hydrocarbon raw material deposits and coal shall be estimated as the product of the appropriate tax rate and the amount of the tax base.

**2.** The sum total of the tax shall be calculated in respect of the results of each tax period for each type of extracted mineral resources, if a different procedure for tax estimation is not established by this article. The tax shall be payable to the budget at the location of each tract of subsoil a taxpayer is allowed to use in compliance with the laws of the Russian Federation. With this, if the amount of tax is not estimated in compliance with this article for each subsoil plot on which a mineral is being extracted, the amount of payable tax shall be calculated proceeding from the share a mineral extracted at each tract of subsoil in the total quantity of the extracted mineral of an appropriate type.

**3.** The amount of tax calculated with regard to the mineral resources extracted beyond the territory of the Russian Federation shall be payable to the budget at the location of an organisation or the place of residence of an individual businessmen.

**4.** When a taxpayer applies the tax deduction established by **Article 343.1** of this Code, the amount of tax on coal shall be estimated for each subsoil plot on which coal is being extracted as the product of the appropriate tax rate and the amount of the tax base which is reduced by the sum of the cited tax deduction.

**5.** When a taxpayer applies the tax deduction established by **Article 343.2** of this Code, the tax amount estimated by the taxpayer in compliance with this article on the basis of the results of the tax period for dehydrated, desalted and stabilized oil produced at the subsoil plots cited in **Item 2 or 3 of Article 343.2** of this Code shall be reduced by the sum of the cited tax deduction. Should the sum of the tax deduction estimated for the tax period in respect of the subsoil plots cited in Items 2 and 3 of Article 343.2 of this Code exceed the tax amount estimated in respect of these subsoil plots in compliance with this article on the basis of the results of this tax period, the rate of the tax deduction shall be taken as being equal to the tax amount estimated in respect of these subsoil plots.

#### **Article 343.1.** Procedure for Reducing the Amount of Tax Estimated When Extracting Coal by the Expenses Connected with the Provision of Safe Conditions and Protection of Labour

**1.** Taxpayers, at their choice there, may reduce the amount of tax estimated for a tax period when extracting coal on a subsoil plot by the sum of the expenses being economically sound and proved by documents that have been made (incurred) by a taxpayer in a tax period and which are connected with the provision of safe conditions and protection of labour while extracting coal on the given subsoil plot (tax deduction) in the procedure established by this article or may account the cited expenses when estimating the tax base for tax on organisations' profit in compliance with **Chapter 25** of this Code.

The procedure for recognising the expenses cited in this item must be shown in the accounting policy for taxation purposes. It is allowed to change the cited procedure at most once every five years.

2. The ceiling value of the tax deduction applicable in compliance with this article shall be independently estimated by a taxpayer as the product of the sum of tax estimated when extracting coal on each land plot for a tax period and the  $K_t$  ratio determined in the procedure established by this article.

3. The  $K_t$  ratio shall be estimated for each subsoil plot in compliance with the procedure established by the Government of the Russian Federation subject to the degree of methane concentration on the subsoil plot where coal is extracted, as well as subject to the inflammability property of coal in the bed of the subsoil plot where coal is extracted. The value of the  $K_t$  ratio estimated in compliance with this article for each subsoil plot shall be fixed in the accounting policy of a taxpayer for taxation purposes. The value of the  $K_t$  ratio may not exceed 0.3.

4. If the actual sum of the expenses made (incurred) by a taxpayer in a tax period and connected with the provision of safe conditions and protection of labour in coal mining exceeds the ceiling sum of the tax deduction estimated in compliance with **Item 2** of this article, the amount of such excess shall be accounted for when determining the tax deduction within 36 tax periods after the tax period in which such expenses were made (incurred) by the taxpayer.

5. The tax deduction shall comprise the following kinds of the expenses made (incurred) by a taxpayer and connected with the provision of safe conditions and protection of labour in coal mining (according to the list established by the Government of the Russian Federation):

1) the taxpayer's material outlays determined in the procedure provided for by **Chapter 25** of this Code;

2) the taxpayer's outlays on acquisition and/or creation of depreciable property;

3) the expenses made (incurred) by the taxpayer in case of fitting out, additional equipping, reconstruction, modernization and technical upgrading of fixed assets.

6. The kinds of expenses connected with the provision of safe conditions and protection of labour in coal mining accounted for in estimation of the tax deduction in compliance with this article shall be established in the accounting policy for taxation purposes.

7. The taxpayers that do not have the amount of tax estimated for a tax period may account the expenses provided for by **Item 5** of this article when determining the tax deduction in the procedure established by this article starting from the tax period in which they become bound to estimate tax.

**Article 343.2.** A Procedure for Reduction of the Tax Amount Estimated for Production of Dehydrated, Desalted and Stabilised Oil by the Sum of the Tax Deduction in Connection with Oil Production at the Subsoil Plots Which Are Located in Full or in Part within the Boundaries of the Republic of Tatarstan (Tatarstan) or within the Boundaries of the Republic of Bashkortostan

1. A taxpayer is entitled to reduce the sum total of tax estimated in compliance with **Article 343** of this Code for production of dehydrated, desalted and stabilized oil by the tax deductions established by this article.

2. When producing oil on the subsoil plots located in full or in part within the boundaries of the Republic of Tatarstan (Tatarstan) or within the boundaries of the Republic of Bashkortostan in respect of which the licence for their use had been issued before July 1, 2011 and whose initial recoverable reserves of oil are equal to 2 500 million tons or more as of January 1, 2011 per each of them, the sum of the tax deduction for a tax period shall be estimated in the aggregate in respect of the subsoil plots cited in this item in million roubles on

the basis of the following formula:

$$630,6 \times K_p$$

The tax deduction estimated in compliance with this item shall apply in respect of the tax periods from January 1, 2012 up to December 31, 2016 inclusive.

**3.** As for oil production on the subsoil plots located in full or in part within the boundaries of the Republic of Bashkortostan, in respect of which the licence for their use was issued before July 1, 2011 and whose initial recoverable reserves of oil are equal to 200 million tons or more as of January 1, 2011 per each of them, the sum of the tax deduction for a tax period shall be estimated in the aggregate in respect of the subsoil plots cited in this item in million roubles on the basis of the following formula:

$$193,5 \times K_p$$

The tax deduction estimated in compliance with this item shall apply in respect of the tax periods from January 1, 2012 up to December 31, 2015 inclusive.

**4.** For the purposes of application of **Items 2** and **3** of this article, the ratio showing the rate of the customs tax duty for crude oil ( $K_p$ ) shall be estimated in the following procedure:

1) the ratio  $K_p$  shall be taken as being equal to 1, if in the tax period where the tax deduction is applied, the rate of the export customs duty for crude oil is applied whose integral part does not exceed the sum of 229.2 US dollars for 1 ton and 60 per cent of the difference between the average price of Urals crude oil formed within the monitoring period in the world oil stock markets (Mediterranean and Rotterdam ones) in US dollars per 1 ton and 182.5 US dollars;

2) the ratio  $K_p$  shall be taken as being equal to 0 in the event of failure to satisfy the terms provided for by **Subitem 1** of this item.

**5.** If there is no information about the average price of Urals crude oil formed within the monitoring period in the world oil stock markets (Mediterranean and Rotterdam ones) from official sources, a taxpayer shall independently estimate the average price of Urals crude oil for the monitoring period in the world oil stock markets (Mediterranean and Rotterdam ones) for the purpose of determining the tax deduction.

**6.** If within the tax period various rates of the export customs duty for crude oil are applied, for the purposes of this article shall be used the average weighted rates of the established export customs duty for the tax period estimated subject to the number of calendar days in the tax period in which the cited rates of the export customs duty were applied.

**7.** For the purposes of this article, the code of crude oil in compliance with the Commodity Classification of Foreign Economic Activities shall be defined by the Ministry of Finance of the Russian Federation.

*According to **Federal Law No. 110-FZ of July 24, 2002 Article 344 of this Code in the wording of Federal Law No. 57-FZ of May 29, 2002 shall be put into effect from January 1, 2003***

**See the previous text of the Article**

#### **Article 344.** Terms for Payment of Tax

The amount of tax payable according to the results of a tax period shall be paid at the latest on the 25th day of the month following the expired tax period.



## **Article 345. Tax Return**

*Federal Law No. 57-FZ of May 29, 2002 amended Item 1 of Article 345 of this Code*

*The amendments **shall enter into force** upon the expiry of one month from the day of the **official publication** of the said Federal Law and shall cover the legal relations arising from January 1, 2002*

*See the previous text of the Item*

**1.** The taxpayer's duty to file a **tax return** occurs beginning from the tax period in which the actual extraction of mineral resources commenced.

A tax declaration shall be submitted by a taxpayer to the tax agencies at the location (place of residence) of the taxpayer.

**2.** The **tax return** shall be filed not later than the last date of the month following the past tax period.

### **Article 345.1. Procedure for Providing Data by the Managerial Bodies of the State Subsoil Fund, as well as by the Authorities Exercising Control over the Use of Natural Resources**

**1.** The federal executive power body keeping in the established procedure the state balance sheet of mineral resources shall forward to the tax authorities data of the state balance sheet of mineral resources as of the first day of every calendar year, including the following information:

1) denomination of a subsoil user;

2) requisite elements of the licence for subsoil use;

3) information about the cumulative production of oil (including production loss thereof) and about the initial recoverable reserves of oil endorsed in the established procedure, subject to the oil reserves increment and writing off (except for writing off produced oil reserves and production loss) all categories thereof for each specific subsoil plot;

4) data on the extraction of anthracite, coking coal and lignite and actual loss in the extraction thereof (from the angle of beds).

**2.** The data shall be provided after issuance of the balance sheet of mineral reserves as of the first day of every calendar year but at latest on the first day of the following calendar year.

### **Article 346. Abrogated.**

*Federal Law No. 187-FZ of December 29, 2001 supplemented this Code with Section VIII.1. This Section shall enter into force from January 1, 2002 but not earlier than upon the expiry of one month from the day of the **official publication** of the said Federal Law*

## **Section VIII.1. Special Tax Regimes**

*Federal Law No. 147-FZ of November 11, 2003 reworded Chapter 26.1 of this Code. The new wording shall enter into force from **January 1, 2004***

*See the previous text of the Chapter*

### **Chapter 26.1. A Taxation System for Agricultural Producers (Uniform Agricultural Tax)**

**Article 346.1.** The General Terms for Application of the Taxation System for Agricultural Producers (Uniform Agricultural Tax)

1. A taxation system for agricultural producers (uniform agricultural tax) (hereinafter referred to in this Chapter as the uniform agricultural tax) is established by this Code and shall be applicable along with other taxation procedures provided for by the legislation of the Russian Federation on taxes and fees.

2. Organisations and individual businessmen that are agricultural commodity producers in compliance with this Article shall be entitled to switch over voluntarily to payment of uniform agricultural tax in the procedure provided for by this Chapter.

3. Organisations that are payers of uniform agricultural tax shall be relieved of the duty to pay tax on the profits of organisations (except for tax paid on income taxable at the tax rates provided for by **Items 3 and 4 of Article 284** of this Code), tax on the property of organisations. Organisations which are payers of uniform agricultural tax shall not be deemed payers of value-added tax (except for value-added tax payable in compliance with this **Code** when importing commodities into the territory of the Russian Federation and other territories under its jurisdiction, as well as the value-added tax payable in compliance with **Article 174.1** of this Code).

**Abrogated** from January 1, 2010.

Other taxes and fees shall be payable by the organisations, which have switched over to paying the uniform agricultural tax, in compliance with other taxation procedures provided for by the legislation of the Russian Federation on taxes and fees.

Individual businessmen who are payers of uniform agricultural tax shall be relieved of the duty to pay tax on incomes of natural persons (in respect of the incomes derived from business activities, except for tax paid on income taxable at the tax rates provided for by **Items 2, 4 and 5 of Article 224** of this Code), tax on the property of natural persons (in respect of the property used for the exercise of business activities). Individual businessmen who are payers of agricultural tax shall not be deemed payers of value-added tax (except for value-added tax payable in compliance with this **Code** when importing commodities into the territory of the Russian Federation and other territories under its jurisdiction, as well as the value-added tax payable in compliance with **Article 174.1** of this Code).

**Abrogated** from January 1, 2010.

Other taxes and fees shall be payable by individual businessmen, which have switched over to paying the uniform agricultural tax, in compliance with other taxation procedures provided for by the legislation of the Russian Federation on taxes and fees.

4. Organisations and individual businessmen paying the uniform agricultural tax shall not be discharged from the duties of tax agents provided for by this Code.

5. The rules provided for by this Chapter shall be extendable to peasant (individual) farms.

#### **Article 346.2. Taxpayers**

1. Organisations and individual businessmen known as agricultural commodity producers and paying the uniform agricultural tax in the order established by this Chapter shall be deemed to be the payers of the uniform agricultural tax (hereinafter referred to in this Chapter as taxpayers).

2. For the purposes of this Chapter, as agricultural commodity producers shall be deemed organisations and individual businessmen producing agricultural products, engaged in their primary and subsequent (industrial) processing (including using rented fixed assets) and selling these products, provided that in the total incomes from the sale of goods (works, services) of such organisations and individual businessmen the share of income from the sale of their agricultural produce, including the produce of its primary processing made by them from

their own agricultural raw materials, makes up not less than 70 per cent, and also agricultural consumer cooperatives (processing, marketing (trading), supplying, truck gardening, vegetable gardening and stock-raising cooperatives) recognised as such in conformity with **Federal Law No. 193-FZ of December 8, 1995 on Agricultural Cooperation**, whose share of incomes from the sale of agricultural products of members of these cooperatives, including preprocessed products made by these cooperatives of agricultural raw materials made by members of these cooperatives, and also from performed works (services) for members of these cooperatives constitutes in the total income derived from the sale of commodities (works, services) at least 70 per cent.

**2.1.** For the purposes of this Chapter, as agricultural commodity producers shall likewise be deemed:

1) town-forming and settlement-forming Russian fishing organisations whose number of workers taking account of their family members residing together with them is at least half of the population of an appropriate inhabited locality and which satisfy the conditions established by Paragraphs Three and Four of Subitem 2 of this Item;

2) fishing organisations and individual businessmen, if they meet the following conditions: their average number of workers determined in the procedure established by the federal executive power body in charge of statistics does not exceed 300 persons per tax period;

in the total incomes derived from the sale of commodities (works or services) the share of income from selling their catches of aquatic biological resources and/or fish and other products made by their own forces from aquatic biological resources constitutes at least 70 per cent per tax period;

they are engaged in fishing with the use of fishing vessels which they own or use under contract of freight (of bare bout charter and time-charter).

**2.2.** For organisations and individual businessmen engaged in subsequent (industrial) processing of preprocessed products which are made by them from the agricultural raw materials produced by them or of agricultural raw materials produced by members of agricultural consumer cooperatives the share of incomes from selling preprocessed products made by them of the agricultural raw materials of their own production and the share of income from selling the preprocessed products made by members of agricultural consumer cooperatives from agricultural raw materials of their own production in the total incomes from selling products made by them of agricultural raw materials produced by them or of agricultural raw materials produced by members of agricultural consumer cooperatives shall be determined on the basis of correlation of outlays on making the agricultural products and preprocessing of the agricultural products and of the total outlays on making products of the agricultural raw materials produced by them.

**3.** For the purpose of this Chapter agricultural products include products of plant-growing in agriculture, forestry and lock-farming (including products as a result of breeding fish and other water biological resources), the concrete types of which are determined by the Government of the Russian Federation in a accordance with the All-Russia Classifier of Products. With this, agricultural products shall include catches of aquatic biological resources, fish and other products made of the aquatic biological resources cited in **Items 4 and 5 of Article 333.3** of this Code, as well as catches of aquatic biological resources extracted (caught) outside the exclusive economic zone of the Russian Federation in compliance with international treaties made by the Russian Federation in the field of fishery and preservation of aquatic biological resources, fish and other products made on fishing vessels from the aquatic biological resources extracted (caught) outside the exclusive economic zone of the Russian Federation in

compliance with international treaties made by the Russian Federation in the field of fishery and preservation of aquatic biological resources.

4. The procedure for attributing products to primary processing products obtained from the internal agricultural raw material shall be established by the Government of the Russian Federation.

5. The agricultural commodity producers cited below are entitled to move over to payment of the uniform agricultural tax, provided that they meet the following conditions:

1) agricultural commodity producers (except for the agricultural producers cited in Subitems 2-4 of this Item), if on the basis of the working results for the calendar year preceding the year when an organisation or an individual businessman files an application for transfer to payment of the uniform agricultural tax the share of income from selling agricultural products made by them, including preprocessed products made by them of the agricultural raw materials of their own production in the total incomes from selling commodities (works or services) constitutes at least 70 per cent;

2) agricultural commodity producers that are agricultural consumer cooperatives, if on the basis of the results for the calendar year preceding the calendar year when they file an application for transfer to payment of the uniform agricultural tax in the total incomes from selling commodities (works and services) the share of income from the sale of agricultural products made by members of the agricultural consumer cooperatives, including preprocessed products made by these cooperatives of agricultural raw materials of members of these cooperatives, as well as from carried out works (services), constitutes at least 70 per cent for members of these cooperatives;

3) agricultural commodity producers being fishing organisations which are town-forming and settlement-forming Russian fishing organisations, if they meet the following conditions:

in the total incomes from selling commodities (works and services) for the calendar year preceding the calendar year when these organisations file applications for transfer to payment of the uniform agricultural tax the share of income from selling their catches of aquatic biological resources and/or fish and other products made by their own forces of aquatic biological resources constitutes at least 70 per cent;

they are engaged in fishery with the use of fishing vessels which they own or use under contracts of freight (of bare boat charter and time-charter);

4) agricultural commodity producers that are fishing organisations (except for those cited in Subitem 3 of this Item) and individual businessman from the start of the following calendar year, if they meet the following conditions:

the average number of workers determined in the procedure established by the federal executive body in charge of statistics for each of the two calendar years preceding the calendar year when an organisation or an individual businessman files an application for transfer to payment of the uniform agricultural tax does not exceed 300 persons;

in the total incomes from selling commodities (works and services) for the calendar year preceding the calendar year when an application for transfer to payment of the uniform agricultural tax is filed the share of income derived from selling their catches of aquatic biological resources and/or fish and other products made by them from aquatic biological resources by their own forces constitutes at least 70 per cent;

5) organisations newly established in the current year (except for the organisations cited in Subitems 6 and 7 of this Item) from the start of the following calendar year, if in the total incomes from selling commodities (works and services) on the basis of the results of the last accounting period in the current calendar year determined in connection with application of a different tax treatment the share of income from selling the agricultural products made by these organisations, including preprocessed products made by them of agricultural raw materials of

their own production, constitutes at least 70 per cent;

6) agricultural consumer cooperatives newly established in the current calendar year from the start of the following calendar year, if in the total incomes from selling commodities (works and services) for the last accounting period in the current calendar year determined in connection with application of a different tax treatment the share of income from selling agricultural products made by members of the agricultural consumer cooperatives, including preprocessed products made by these cooperatives of agricultural raw materials of members of these cooperatives, as well as from carried out works (services) for members of these cooperatives constitutes at least 70 per cent;

7) fishing organisations newly established in the current calendar year or newly registered individual businessmen are entitled to file an application for transfer to payment of the uniform agricultural tax from the start of the next calendar year, provided that they meet the following conditions:

on the basis of the results of the last accounting period in the current calendar year the average number of workers determined in the procedure established by the federal executive body in charge of statistics does not exceed 300 persons (this standard does not extend to town-forming and settlement-forming Russian fishing organisations);

in the total amount of incomes from selling commodities (works and services) for the last accounting period in the current calendar year determined in connection with application of a different tax treatment, the share of income from selling fish and/or objects of aquatic biological resources, including products of their primary processing made by their own forces from the fish and/or objects of aquatic biological resources caught by them constitutes at least 70 per cent;

If they are engaged in fishing with the use of fishing vessels which they own or use on the basis of contracts of freight (of bare boat charter and time-charter);

8) newly registered in the current calendar year individual businessmen (except for the individual businessmen cited in Subitem 7 of this Item) from the start of the following calendar year, if for the period before October 1 of the current year in the total incomes from selling commodities (works and services) in connection with the exercise of business activities by such individual businessmen the share of income from selling agricultural products made by them, including preprocessed products made by them of the agricultural raw material of their own production constitutes at least 70 per cent.

*On the transfer to payment of the uniform agricultural tax by fishing economic organisations and individual businessmen from January 1, 2009, see **Federal Law No. 314-FZ of December 30, 2008***

For the purposes of this Item, incomes derived from sale shall be determined in the procedure provided for by **Articles 248 and 249** of this Code and the incomes cited in **Article 251** of this Code shall not be taken into account.

**6.** The following bodies shall have no right to change-over to the payment of the uniform agricultural tax:

- 1) **abrogated** from January 1, 2009;
- 2) the organisations and individual businessmen engaged in the production of excisable goods;
- 3) the organisations and individual businessmen carrying out business activity in the sphere of gambling games;
- 4) treasury, budget-financed and autonomous institutions.

**7.** The organisations and individual businessmen, transferred in keeping with **Chapter**

**26.3** of this Code to the payment of the uniform tax on the imputed income for particular types of activity in one or several types of business, shall have the right to change-over to the payment of the uniform agricultural tax in respect of other types of their business activity. The restrictions introduced by **Item 5** of the present Article as regards the volume of income from the sale of their agricultural products, including products of primary processing, put out from their own agricultural raw material and the amount of income derived from the sale of agricultural products made by members of agricultural consumer cooperatives, as well as from works (services) carried out for members of these cooperatives, shall be determined on the basis of all the types of activity of these organisations and individual businessmen.

As regards the sale by the taxpayers of the uniform agricultural tax of their agricultural products, including products of primary processing, obtained by them from their own agricultural raw material or of agricultural products made by members of agricultural consumer cooperatives, including preprocessed products made by these cooperatives of agricultural raw materials produced by members of these cooperatives, through their shops, trade outlets, dining-rooms and cook-houses, the taxation system in the form of a uniform tax on imputed income from particular types of activity shall not be used in conformity with **Chapter 26.3** of this Code.

#### **Article 346.3.** Procedure for, and Terms of, Starting and Finishing the Application of Uniform Agricultural Tax

**1.** Agricultural commodity producers wishing to switch over to payment of the uniform agricultural tax shall file an application with the tax body at their location (place of residence) within the period from October 20 to December 20 of the year preceding the year, from which agricultural commodity producers switch over to paying the uniform agricultural tax. With this, agricultural commodity producers shall indicate in the application for switching over to payment of the uniform agricultural tax the data on the share of income derived from the sale of the agricultural products made by them, including the preprocessed products made by them of agricultural raw materials of their own production or the data on the share of income derived from the sale of agricultural products made by members of agricultural consumer cooperatives, including preprocessed products made by these cooperatives of agricultural raw materials produced by members of these cooperatives, as well as from carrying out works (rendering services) for members of these cooperatives, in the total income from the sale of commodities (works, services) derived on the basis of the results of the calendar year preceding the year when an organisation or individual businessman file an application for switching over to payment of the uniform agricultural tax.

**2.** A newly established organisation or a newly registered individual businessman shall be entitled to file an application in respect of switching over to payment of uniform agricultural tax within a five-day term as of the date of registration with a tax authority stated in the certificate of registration with the tax authority issued in compliance with **Item 2 of Article 84** of this Code. In that case, the organisation or individual businessman shall be deemed switched over to payment of uniform agricultural tax in the current tax period as of the date of registration with a tax authority stated in the certificate of registration with the tax authority.

**3.** Taxpayers, that have switched over to paying the uniform agricultural tax, shall not be entitled to switch over to other taxation procedures prior to the end of the **tax period**.

**4.** If on the basis of the results of the tax period a taxpayer does not meet the conditions established by **Items 2, 2.1, 5 and 6 of Article 346.2** of this Code, he shall be deemed having lost the right to apply the uniform agricultural tax from the start of the tax period when the said

limitation is not observed and/or the non-compliance with the established conditions is detected.

For this the restrictions in respect of the amount of income derived from the sale of agricultural products made by a taxpayer, in particular from the sale of agricultural products made by members of agricultural consumer cooperatives, including preprocessed products made by the taxpayer from agricultural raw materials produced by him, in particular preprocessed products made by an agricultural consumer cooperative of agricultural raw materials produced by members of this cooperative, as well as from carrying out works (rendering services) for members of these cooperatives, shall be defined on the basis of all kinds of activities exercised by them.

A taxpayer that has lost the right to application of the uniform agricultural tax shall be obliged within one month after the expiry of the tax period in which the restriction, specified in **Paragraph One** of this Item, was not observed and (or) in which there was non-compliance with the requirements, established by **Items 2, 2.1, 5 and 6 of Article 346.2** of this Code, to recalculate for the total tax period the tax obligations in respect of value-added tax, tax on profits of organisations, tax on income of natural persons, tax on the property of organisations and tax on the property of natural persons in the procedure provided for by the legislation of the Russian Federation on taxes and fees for newly established organisations or newly registered individual businessmen. The taxpayer specified in this Paragraph shall pay penalties for untimely payment of the said taxes and advance payments in respect of them in the following procedure:

if, according to the results of a tax period, a taxpayer has violated the requirements established by **Items 2 and 2.1 of Article 346.2** of this Code and has not recalculated the payable tax amounts in the procedure established by **paragraph three** of this Item, then penalties shall be charged for each calendar day of the delay of performing the duty of paying the relevant tax starting from the next day after the time established by paragraph three of this Item for recalculating the payable tax amounts;

if an organisation or an individual businessman has violated the requirements established by **Items 5 and 6 of Article 346.2** of this Code for switching to payment of the uniform agricultural tax and has groundlessly applied the said tax, then penalties shall be charged for each calendar day of the delay of performing the duty of paying the tax (making an advance tax payment) which should have been paid in accordance with the general taxation regime starting from the day following the day established by the legislation on taxes and fees for paying the relevant tax (making an advance tax payment) in the tax period for which the uniform agricultural tax was groundlessly applied.

**5.** A taxpayer shall be obliged to notify the tax authority of his switch over to another taxation procedure effected in compliance with **Item 4** of this Article within fifteen days after the expiry of a reporting (tax) period.

**6.** Payers of the uniform agricultural tax shall be entitled to switch over to other taxation procedure from the start of a calendar year upon notifying on it the tax body at the location of an organisation (at the place of residence of an individual businessman) at the latest on January 15 of the year when they plan to switch over to other general taxation procedure.

**7.** Taxpayers that have switched from paying the uniform agricultural tax to other taxation procedure, shall be entitled to switch over to paying the uniform agricultural tax once more at earliest in one year, as of forfeiting the right to pay the uniform agricultural tax.

**8.** The amounts of the value-added tax accepted for deduction by agricultural commodity producers in the procedure stipulated by **Chapter 21** of this Code prior to the transfer to the payment of the uniform agricultural tax for goods (works, services), including the fixed assets and intangible assets, acquired for the performance of operations deemed to be objects of taxation for the value-added tax, shall not be subject to restoration (payment to the budget) in the transfer to the payment of the uniform agricultural tax.

If an organisation or individual businessman that have switched over from payment of

uniform agricultural tax to another taxation procedure are recognised to be payers of value-added tax in compliance with **Chapter 21** of this Code, the amounts of value-added tax allocated to them in respect of commodities (works, services), including the fixed assets and intangible assets acquired before switching to other taxation procedure, shall not be deductible when estimating value-added tax.

#### **Article 346.4.** Object of Taxation

The object of taxation shall be the incomes decreased by the amount of expenditures.

#### **Article 346.5.** Procedure for Determining and Recognising Incomes and Expenditures

**1.** When determining the object of taxation, the following incomes shall be taken into account:

incomes derived from sale, which are determined in compliance with **Article 249** of this Code;

non-sale incomes determined in compliance with **Article 250** of this Code.

When determining the object of taxation, the following shall not be taken into account: the income cited in **Article 251** of this Code;

incomes of organisations taxable with the tax on profits of organisations at the tax rates provided for by **Items 3 and 4 of Article 284** of this Code in the procedure established by **Chapter 25** of this Code;

incomes of an individual businessman taxable with the tax on incomes of natural persons at the tax rates provided for by **Items 2, 4 and 5 of Article 224** of this Code in the procedure established by **Chapter 23** of this Code.

**2.** When determining the object of taxation, taxpayers shall decrease their incomes by the following outlays:

1) outlays on acquisition, construction and production of fixed assets, as well as completion of construction and of equipment, reconstruction, updating and technological re-equipment of fixed assets (subject to the provisions of **Item 4** and **Paragraph Six of Subitem 2 of Item 5** of this Article);

2) outlays on acquisition of intangible assets and creation of intangible assets by a taxpayer proper (subject to the provisions of **Item 4** and **Paragraph Six of Subitem 2 of Item 5** of this Article);

3) outlays on repairing fixed assets (including leasehold ones);

4) rental payments (including leasing ones) for tenement (including those for leased property);

5) tangible expenditures, including outlays on acquisition seeds, seedlings, planting stock and other seeding, fertilizers, fodder, medicines, biological preparations and plant protectants;

6) outlays on labour wages, compensation, temporary disability benefits in compliance with laws of the Russian Federation;

6.1) outlays on taking the occupational safety measures provided for by normative legal acts of the Russian Federation and outlays connected with maintenance of premises and equipment of the health units which are located directly in the territory of organisations;

7) outlays on obligatory and voluntary insurance which include insurance premiums under all types of obligatory insurance, including insurance premiums for obligatory pension insurance, obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory professional illnesses, as well as under the following types of voluntary insurance:



voluntary insurance of transport vehicles (including those held on lease);  
voluntary freight insurance;  
voluntary insurance of fixed assets of a production purpose (including those held on lease), intangible assets, non-completed capital construction projects (including those held on lease);  
voluntary insurance of risks connected with building and assembly works;  
voluntary insurance of inventory holdings;  
voluntary insurance of agricultural crop and animals;  
voluntary insurance of other property used by a taxpayer in the exercise of activities aimed at deriving profit;  
voluntary insurance of liability for causing damage, if such insurance is a condition of a taxpayer exercising activities in compliance with international obligations of the Russian Federation or generally accepted international requirements;

*See the **Instructions** on the Procedure for Accounting and Spending Assets of Obligatory Social Insurance endorsed by **Decision** of the Social Insurance Fund of the Russian Federation No. 22 of March 9, 2004*

8) amounts of value-added tax in respect of the commodities (works, services), acquired and paid for by a taxpayer, the outlays on their acquisition or payment for them to be included into composition of outlays in compliance with this Article;

9) the amount of interest payable for the provision and use of monetary funds (credits, loans), as well as outlays connected with paying for services rendered by credit organisations, in particular, connected with the sale of foreign currency when collecting tax, fees, penalties or fines in the procedure provided for by **Article 46** of this Code;

10) outlays on ensuring fire safety in compliance with laws of the Russian Federation, outlays on the services related to guarding property, servicing fire alarm systems, outlays on acquiring fire prevention and other guarding services;

**Federal Law** No. 306-FZ of November 27, 2010 and **Federal Law** No. 395-FZ of December 28, 2010 amended Subitem 11 of Item 2 of Article 346.5 of this Code. The amendments shall **enter into force** from January 1, 2011

11) the amount of customs payments made, when importing (exporting) commodities onto the territory of the Russian Federation, which are not returnable to taxpayers in compliance with the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation;

12) outlays on the maintenance of official transport vehicles, as well as outlays on compensation for using private passenger cars and motor-cycles for official trips at the **rates** established by the Government of the Russian Federation;

13) outlays on business trips, especially:

on covering an employee's travelling expenses to the place of destination and back to the place of his permanent work;

on renting living quarters. As regards this expense item, there shall be likewise reimbursable an employee's outlays on paying for additional services rendered at hotels (safe for the outlays on services at bars and restaurants, outlays on services rendered at hotel rooms and outlays on using recreational and health improving facilities);

on per diem allowances or field allowances;

on formalization and issuance of visas, passports, vouchers, invitations and other similar documents;

on consular and airfield fees, fees for the right of entry, passage and transit of motor and

other transport vehicles, for using sea channels and other similar structures, as well as other similar payments and fees;

14) outlays on paying to a notary for the notarial legalization of documents. With this, such outlays shall be acceptable within the limits of the tariffs endorsed in the established **procedure**;

15) outlays on accounting, audit and legal services;

16) outlays on publishing accounting reports, as well as on publishing and other disclosing of different information, where the duty of such publicizing (disclosure) is placed on a taxpayer under laws of the Russian Federation;

17) outlays on office supplies;

18) outlays on paying for postal, telephone, telegraph and other similar services, outlays on paying for communication services;

19) outlays connected with acquiring the right to use software and databases under contracts made with the right owners. To said outlays there shall likewise pertain those on updating software and databases;

20) outlays on advertising produced (acquirable) and (or) sellable commodities (works, services), on the trademark and service mark;

21) outlays on preparation and mastering of new production lines, work-shops and units;

22) outlays on catering the personnel engaged in agricultural works;

22.1) outlays on catering for the crews of sea and river vessels at the rate established by the Government of the Russian Federation;

23) amounts of the taxes and fees payable in compliance with the laws of the Russian Federation on taxes and fees;

24) outlays on covering the cost of the commodities acquired for their further sale (decreased by the amount of the expenditures shown in **Subitem 8** of this Item), including outlays connected with acquisition and sale of the said commodities, including outlays on storage, servicing and transportation;

25) outlays on informational and consultative services;

26) outlays on training and re-training of persons on the staff of a taxpayer on a contractual basis in the procedure provided for by **Item 3 of Article 264** of this Code;

27) court costs and arbitration fees;

28) outlays in the form of fines, penalties and (or) other sanctions, paid on the basis of an effective court decision for failure to discharge contractual or debtor's obligations, as well as outlays on repair of damage;

29) outlays on training at educational institutions of secondary professional and higher professional education of specialists for taxpayers. The said outlays shall be accountable for the purposes of taxation on condition that training agreement (contracts) shall be made with the natural persons trained at the said educational institutions which provide for their professional work for a taxpayer within at least three years after graduating from the appropriate educational institution;

30) outlays in the form of negative difference in exchange, rising in the course of reappraisal of property in the form of currency values and claims (obligations) whose value is shown in foreign currency, and also with respect to foreign currency bank accounts, which is carried out in connection with changes in the official exchange rate of foreign currency with respect to the rouble of the Russian Federation established by the Central Bank of the Russian Federation;

31) outlays on acquisition of property rights to land plots, including outlays on acquiring the right to make a contract of lease of land plots on condition of making the said contract of lease, including the following:

to land plots from among land of agricultural purpose;

to land plots that are under state or municipal ownership where buildings, structures and constructions used for making agricultural products are located;

32) outlays on acquisition of cattle calves for subsequent formation of the main flock, productive cattle, poultry chicks and fry;

33) outlays on maintenance of camps and temporary settlements connected with agricultural production, as regards pasture cattlebreeding;

34) outlays on payment of commission fees, broker's fees and remunerations under agency contracts;

35) outlays on products' certification;

36) periodical (current) payments for enjoying the rights to the results of intellectual activities and individualization means (in particular, the rights arising from industrial patents, patents for a design and other types of intellectual property);

37) outlays on carrying out (in the instances established by the legislation of the Russian Federation) an obligatory assessment for the purpose of the exercise of control over the correctness of paying taxes, if there is a dispute as to the estimation of the tax base, as well as outlays on the appraisal of property when determining its market value for the purpose of pledging it;

38) payment for supplying information about registered rights;

39) outlays on payment for the services of specialized organisations related to the issue of cadastral and technical registration documents (inventory) in respect of immovable property units (including right-proclaiming documents in respect of land plots and documents related to survey of land plots);

40) outlays on payment for the services of specialised organisations related to carrying out an expert examination, inspection and issue of opinions and to provision of other documents that must be available when applying for a licence (permit) to exercise a specific type of activity;

41) outlays connected with participation in sales (tenders, auctions) held when placing orders to supply the agricultural products cited in **Item 3 of Article 346.2** of this Code;

42) outlays in the form of losses caused by mortality of poultry and cattle within the limits of the standards endorsed by the Government of the Russian Federation;

43) amounts of port dues, outlays on paying for pilots' services and other similar expenses;

44) outlays in the form of losses caused by natural disasters, fires, accidents, epizootics and other emergency situations, including outlays connected with prevention and liquidation of their consequences.

**3.** The outlays, indicated in **Item 2** of this Article, shall be recognised on condition of their compliance with the criteria stated in **Item 1 of Article 252** of this Code.

The outlays indicated in **Subitems 5, 6, 7, from 9 to 21, 26 and 30 of Item 2** of this Article shall be recognised in conformity to the procedure provided for calculating the value-added tax on organisations in compliance with **Articles 254, 255, 263, 264, 265 and 269** of this Code.

**4.** Outlays on acquiring (erecting, manufacturing, completion of construction and equipment, reconstruction, updating and technological re-equipment) fixed assets, as well as outlays on acquisition (creation by a taxpayer proper) of intangible assets, shall be recognisable in the following procedure:

1) in respect of outlays on acquisition (construction, manufacture) during the application of the uniform agricultural tax of fixed assets, as well as in respect of outlays on completion of construction and of equipment, reconstruction, updating and technological re-equipment of fixed

assets done within the said period - as of the time of putting these fixed assets into operation;  
in respect of intangible assets acquired (created by a taxpayer proper) when applying uniform agricultural tax - from the time of entering these intangible assets into account books;

2) in respect of the acquired (erected, manufactured) fixed assets, as well as intangible assets acquired (created by a taxpayer proper) prior to switching over to payment of uniform agricultural tax, the cost of the fixed assets and intangible assets shall be includable into outlays in the following procedure:

with regard to the fixed assets and intangible assets having a useful life up to three years inclusive - within the first calendar year of the applying uniform agricultural tax;

with regard to the fixed assets and intangible assets having a useful life from three to 15 years inclusive: within the first calendar year of applying the uniform agricultural tax - 50 per cent of the cost thereof, within the second calendar year of applying it - 30 per cent of the cost of it and within the third calendar year of applying it - 20 per cent of its cost;

with regard to fixed assets having a useful life of over 15 years - within the first 10 years after switching over to payment of uniform agricultural tax in equal shares of the cost of the fixed assets and intangible assets.

For that, within a **tax period** these outlays shall be recognisable in equal shares.

If a taxpayer has switched over to payment of the uniform agricultural tax from the time of his registration with the tax authorities, the cost of fixed assets and intangible assets shall be recognisable on the basis of the initial cost of this property determined in the **procedure** established by the legislation of the Russian Federation on accounting.

If a taxpayer has switched over to payment of the uniform agricultural tax from another taxation procedure, the cost of fixed assets and intangible assets shall be accounted for in the procedure established by **Items 6.1 and 9 of Article 346.6** of this Code.

When determining the time of the useful life of fixed assets, one should follow the **Classification** of Fixed Assets Included in Depreciation Groups endorsed by the Government of the Russian Federation in compliance with **Article 258** of this Code. The useful life of the types of the fixed assets that are not shown in this **Classification** shall be established by taxpayers in compliance with specifications and recommendations of producing organisations.

Fixed assets, the rights to which are subject to state registration in compliance with the legislation of the Russian Federation, shall be accounted for within the composition of outlays in compliance with this Article from the time when the fact of filing documents for registration of the said rights, proved by documents, took place. The said provision, insofar as regards obligatory observance of the condition to prove the fact of filing documents for registration by documents, shall not extend to the fixed assets put into operation prior to January 31, 1998.

The terms of useful life of intangible assets shall be determined in compliance with **Item 2 of Article 258** of this Code.

In the event of selling (transferring) fixed assets and intangible assets acquired (erected, manufactured, created by a taxpayer proper) prior to the expiry of three years as of the time of accounting outlays on their acquisition (erection, manufacture, completion of construction and of equipment, reconstruction, updating and technological re-equipment, as well as creation by a taxpayer proper) within the composition of outlays in compliance with this Chapter (as regards fixed assets and intangible assets with a term of useful life over 15 years - prior to the expiry of 10 years as of the time of their acquisition (erection, manufacture, completion of construction and of equipment, reconstruction, updating and technological re-equipment, as well as creation by a taxpayer proper), the taxpayer shall be obliged to re-estimate the tax base for the whole period of use of such fixed assets and intangible assets from the time of their registration within the composition of outlays on acquisition (erection, manufacture, completion of construction and of equipment, reconstruction, updating and technological re-equipment, as well as creation by a taxpayer proper) to the date of sale (transfer) subject to the provisions of **Chapter 25** of this

Code and to pay an additional amount of tax and penalties.

The fixed assets and intangible assets recognised as depreciable property in compliance with **Chapter 25** of this Article subject to the provisions of this Chapter shall be includable into the composition of fixed assets and intangible assets for the purposes of this Chapter, while outlays on completion of construction and equipment, reconstruction, updating and technological re-equipment of fixed assets shall be determined subject to the provisions of **Item 2 of Article 257** of this Code.

**4.1.** Outlays on acquisition of property rights to land plots shall be evenly accountable within the composition of outlays in the time period determined by a taxpayer but at least within seven years. Amounts of outlays shall be accounted in equal shares for the **reporting and tax periods**.

Sums of outlays on acquisition of property rights to land plots are subject to inclusion into the composition of outlays, after the taxpayer actually pays for property rights to the land plots, in the amount of paid sums and if the fact of filing documents for the state registration of the said rights is proved by documents where it is provided for by the legislation of the Russian Federation.

For the purposes of this Item, proving the fact of filing documents for the state registration of property rights documentally means a notice of receipt by the body engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions therewith of the documents for the state registration of the said rights.

The said outlays shall be shown as of the last day of an accounting (tax) period and shall only be taken into account in respect of land plots used for exercising business activities.

**5.** A taxpayer's incomes and outlays shall be recognised in the following procedure:

1) for the purposes of this Chapter, the date of receiving incomes shall be deemed the date of funds entering bank accounts and (or) to the cashier's office, of receipt of other property (works, services) and (or) property rights, as well as of repayment of debts in another way (the cash method).

In the event of the purchaser using bills of exchange in settlements concerning the commodities (works, services) and (or) property rights acquired by him, the date of receiving incomes by the taxpayer shall be deemed the date of paying a bill of exchange (the date of receiving monetary funds from the drawer of a bill of exchange or from other person liable under said bill of exchange) or the date of transfer by the taxpayer of said bill of exchange to a third person on the basis of an endorsement;

The sums of payment received for rendering assistance to self-employment of unemployed citizens and for promoting the creation by unemployed citizens who have started their own businesses of additional jobs for job placement of unemployed citizens on account of budgets of the budget system of the Russian Federation in compliance with the programmes endorsed by the appropriate state power bodies shall be accounted in the composition of incomes within three tax periods with concurrent showing of appropriate sums in the composition of expenses within the limits of actually made expenses of each tax period which are provided for by the terms under which the cited sums of payment are received.

In the event of breaking the terms under which the payments provided for by Paragraph Three of this Subitem are received, the sums of received payments shall be shown in full within the composition of incomes of the tax period in which the terms are broken. If upon the expiry of the third tax period the amount of the received payments cited in Paragraph Three of this subitem exceeds the sum of the expenses accounted in compliance with this item, the remaining sums which are not accounted shall be shown in full within the composition of

incomes of this tax period.

Financial support assets received in the form of subsidies in compliance with the **Federal Law** on Developing Small and Medium Scale Entrepreneurship in the Russian Federation shall be shown within the composition of receipts in proportion to the expenditures actually made on account of this source but at most within two tax periods as from the date when they are received. If upon the end of the second tax period the amount of received financial support assets cited in this item exceeds the amount of the admitted expenditures actually made on account of this source, the difference between the cited amounts shall be shown in full within the composition of receipts of this tax period;

2) a taxpayer's outlays shall be deemed spendings after their actual making. For the purposes of this Chapter, as payment for commodities (works, services) and (or) property rights shall be deemed termination of obligations of the taxpayer acquiring the said commodities (works, services) and (or) property rights with respect to the seller which is directly connected with the supply of these commodities (carrying out the works or rendering services) and (or) the transfer of the property rights.

For this outlays shall be accountable within the composition of outlays subject to the following specifics:

material outlays, including outlays on acquisition of raw materials (including outlays on acquisition of seeds, seedlings, planting stock and other seeding, fertilizers, fodder, medicines, biological preparations and plant protectants), as well as outlays on labour wages, shall be accountable within the composition of outlays at the time of paying off debts by way of deducting monetary funds from a taxpayer's settlement account or making payment by the cashier's office or, in the event of paying off debts in some other way, at the time of such paying off. A similar procedure shall apply in respect of paying interest for using borrowed assets (including bank credits) and payment for services rendered by third persons;

outlays on payment for commodities acquired for their further sale, including the outlays connected with acquisition and sale of the said commodities, in particular outlays on their storage, servicing and carriage, shall be accountable for within the composition of outlays after their actual making;

outlays on paying taxes and fees shall be accountable for within the composition of outlays in the amount actually paid by a taxpayer. If there are arrears in payment of taxes and fees, the outlays on their paying off shall be accountable for within the composition of outlays within the limits of actually paid-off arrears during the reporting (tax) periods when a taxpayer pays off the said arrears;

outlays on acquisition (erection, manufacture), completion of construction and equipment, reconstruction, updating and technological reequipment of fixed assets, as well as outlays on acquisition (creation by a taxpayer proper) of intangible assets, accountable for in the procedure, provided for by **Item 4** of this Article, shall be shown on the last day of the reporting (tax) period at the rate of paid amounts. For this the said outlays shall be only accountable for with respect to the fixed assets and intangible assets used in the exercise of business activities;

In the event of a taxpayer issuing a bill of exchange to pay for acquired commodities (works, services) and (or) property rights, outlays on acquisition of the said commodities (works, services) and (or) property rights shall be accountable for after paying the said bill of exchange. A taxpayer when transfers to the seller as payment for acquired commodities (works, services) and (or) property rights a bill of exchange issued by a third person, outlays on acquisition of the said commodities (works, services) and (or) property rights shall be accountable for on the date of transferring the said bill of exchange for the acquired commodities (carried out works or rendered services) and (or) property rights. The outlays, specified in this Subitem, shall be accountable for on the basis of the contract price but at most in the amount of debt stated in the

bill of exchange;

3) taxpayers, determining incomes and outlays in compliance with this Chapter, shall not take account within the composition of incomes and outlays of summational differences, if under the terms of a contract an obligation (claim) is shown in conditional monetary units.

**6. Abolished** from January 1, 2006.

**7. Abolished** from January 1, 2006.

**8.** Organisations shall be obliged to register their activities' indices required for calculating the tax base and the amount of the uniform agricultural tax on the basis of accounting data subject to the provisions of this Chapter.

Individual businessmen shall register incomes and outlays for the purpose of estimation of the tax base for uniform agricultural tax in the register of incomes and outlays of individual businessmen applying the taxation procedure for agricultural commodity producers (uniform agricultural tax) the **form** and **procedure** for filling out which shall be endorsed by the Ministry of Finance of the Russian Federation.

#### **Article 346.6. Tax Base**

**1.** As the tax base there shall be deemed incomes in money terms less the amount of expenditures.

**2.** Incomes and expenditures, shown in foreign currency, shall be accountable in the aggregate with the incomes and expenditures shown in roubles. With this, incomes and expenditures, shown in foreign currencies, shall be recalculated in roubles on the basis of the official exchange rate of the Central Bank of the Russian Federation established on the date of receiving incomes and (or) incurring expenses.

**3.** Incomes derived in kind shall be taken into account while determining the tax base on the basis of the contract price subject to the market prices determinable in a procedure similar to that for determining the market prices established by **Article 105.3** of this Code.

**4.** When determining the tax base, incomes and expenditures shall be determined as the accrued total from the start of a **tax period**.

**5.** Taxpayers are entitled to decrease the tax base for a **tax period** by the amount of the losses incurred within the previous tax periods. With this, for the purposes of this Chapter, losses shall mean the excess of expenditures over incomes determined in compliance with **Article 346.5** of this Code.

Taxpayers are entitled to transfer losses to future tax periods within 10 years following the tax period when these losses are suffered.

Taxpayers are entitled to transfer to the current tax period the amount of loss incurred in the previous tax period.

Losses that are not transferred to the next year may be transferred in full or in part to any year from among the following nine years.

If taxpayers have suffered losses within more than one tax period, such losses may be only transferred to future tax periods in the order of suffering them.

In the event of termination by taxpayers of their activities because of re-organisation, the taxpayers that are legal successors thereof are entitled to reduce the tax base in the procedure and under the terms provided for by this Item by the amount of losses incurred by re-organised companies before the time of re-organisation thereof.

Taxpayers are obliged to keep the documents proving the amount of incurred losses and the amount by which the tax base for each tax period has been decreased within the total time period of enjoying the right to decrease the tax base by the amount of loss.

The losses incurred by taxpayers, when applying other taxation procedures, shall not be

recognised when switching over to payment of the uniform agricultural tax.

The losses incurred by taxpayers, when paying the uniform agricultural tax, shall not be recognised, when switching over to other taxation procedures.

**6.** Organisations, which prior to switching over to payment of the uniform agricultural tax had used the accruals method of estimation of tax on the profits of organisations, shall observe the following rules when switching over to payment of the uniform agricultural tax:

1) there shall be included into the tax base, as on the date of switching over to payment of the uniform agricultural tax, the amounts of monetary funds gained prior to switching over to payment of the uniform agricultural tax as payments under the contracts which are carried out by taxpayers after switching over to payment of the uniform agricultural tax;

2) **abolished** from January 1, 2007;

3) there shall not be included into the tax base the monetary funds gained after switching over to payment of the uniform agricultural tax, if under the accounting rules with the use of the accruals method said amounts were included into incomes, when estimating the tax base for the profit tax of organisations in compliance with **Chapter 25** of this Code;

4) the outlays, made by organisations after switching over to payment of the uniform agricultural tax, shall be deemed the expenditures deductible from the tax base on the date, when they are incurred, if such expenses were covered prior to switching over to payment of uniform agricultural tax, or on the date of covering, if such expenses were covered after organisations' switching over to payment of the uniform agricultural tax;

5) there shall not be deductible from the tax base the monetary funds paid after switching over to payment of the uniform agricultural tax to cover organisations' expenditures, if prior to switching over to payment of the uniform agricultural tax such expenditures had been lost, when estimating the tax base for the profit tax of organisations in compliance with **Chapter 25** of this Code;

6) material outlays and outlays on labour wages pertaining to incomplete production as of the date of switching over to payment of the uniform agricultural tax, which are paid prior to switching over to payment of the uniform agricultural tax, shall be taken into account when determining the tax base for uniform agricultural tax in the reporting (tax) period when finished products are made;

7) outlays on acquisition of quotas (shares) of procurement (catching) of aquatic biological resources, which are actually paid before the transfer to payment of uniform agricultural tax and which are not charged to expenditures when determining the tax base, shall be included into the tax base as of the date of transfer to payment of uniform agricultural tax.

**6.1.** When an organisation transfers to payment of the uniform agricultural tax, there shall be accounted on the date of such transfer the residual value of acquired (erected, manufactured) fixed assets and acquired (created by an organisation proper) intangible assets, paid prior to switching over to payment of the uniform agricultural tax, in the form of a difference between the price of acquisition (erection, manufacture, creation by the organisation proper) of the fixed assets and intangible assets and the amount of charged depreciation in compliance with the requirements of **Chapter 25** of this Code.

When transferring to payment of uniform agricultural tax, an organisation, applying the simplified taxation procedure in compliance with **Chapter 26.2** of this Code, shall show in its accounts as of the date of such transfer the residual value of acquired (erected, manufactured) fixed assets and of acquired (created by the organisation proper) intangible assets determined in compliance with **Item 3 of Article 346.25** of this Code.

When transferring to payment of the uniform agricultural tax, an organisation, applying the taxation system in the form of uniform tax on imputed earnings for some types of activity in compliance with **Chapter 26.3** of this Code, shall show in the accounts as of the date of such



transfer the residual value of the acquired (erected, manufactured) fixed assets and acquired (created by the organisation proper) intangible assets, paid prior to switching over to payment of the uniform agricultural tax, in the form of the difference between the price of acquisition (erection, manufacture, creation by the organisation proper) of fixed assets and intangible assets and the amount of depreciation charged in the procedure, established by the **legislation** of the Russian Federation on accounting, for the period of applying the taxation system in the form of the uniform tax on imputed earnings for certain types of activities.

**7.** Organisations which have paid the uniform agricultural tax shall observe the following rules when switching over to estimation of the tax base for tax on the profits of organisations by using the accruals method:

1) incomes in the amount of proceeds from the sale of commodities (carrying out of works, rendering of services, transfer of property rights) gained within the period of application of the uniform agricultural tax which are not paid for (partially paid for) before the date of switching over to estimation of the tax base for profit tax on the basis of the accruals method shall be recognised within the composition of incomes;

2) outlays on acquisition within the period of application of uniform agricultural tax of commodities (works, services, property rights) which had not be paid (partially paid) by a taxpayer before the date of switching over to estimation of the tax base for profit tax on the basis of the accruals method shall be recognised within the composition of expenses, unless otherwise provided for by **Chapter 25** of this Code.

**7.1.** The incomes and expenses cited in **Subitems 1 and 2 of Item 7** of this Article shall be recognised as incomes (expenses) of the month when switching to estimation of the tax base for tax on profit of organisations with application of the accruals method took place.

**8.** If an organisation switches over from payment of uniform agricultural tax to other taxation procedures (except for the taxation system in the form of uniform tax on imputed earnings for certain types of activities) and has the fixed assets and intangible assets, in respect of which outlays on their acquisition (erection, manufacture, creation by the organisation proper) are not fully included into the outlays within the period of applying the uniform agricultural tax in the procedure provided for by **Subitem 2 of Item 4 of Article 346.5** of this Code, the residual value of these fixed assets and intangible assets in the accounts as of the date of such transfer shall be determined by decreasing the residual value of these fixed assets and intangible assets, determined as of the time of switching over to payment of the uniform agricultural tax, by the amount of the outlays made within the period of application of the uniform agricultural tax which are determinable in the procedure provided for by **Subitem 2 of Item 4 of Article 346.5** of this Code.

**9.** Individual businessmen, when switching over from other taxation procedures to payment of the uniform agricultural tax and from the uniform agricultural tax to other taxation procedures, shall apply the rules provided for by **Items 6.1 and 8** of this Article.

**10.** Taxpayers, transferred in respect of some types of activity to payment of the uniform tax on imputed earnings for certain types of activities in compliance with **Chapter 26.3** of this Code, shall keep separate accounts of incomes and outlays for different special taxation procedures. If it is impossible to separate incomes while estimating the tax base for taxes calculated under different special tax procedures, these outlays shall be distributed in proportion to shares of incomes in the total volume of incomes derived while applying the said special taxation procedures.

Incomes and outlays pertaining to the types of activity, in respect of which the taxation system in the form of uniform tax on imputed earnings for individual types of activities is applied in compliance with **Chapter 26.3** of this Code (subject to the provisions established by this

Chapter), shall not be taken into account when estimating the tax base for the uniform agricultural tax.

**Article 346.7.** Tax Period. Report Period

1. The tax period shall be a calendar year.
2. The report period shall be six months.

**Article 346.8.** Tax Rate

The tax rate shall be established in the amount of 6 per cent.

**Article 346.9.** Procedure for Estimating and Paying the Uniform Agricultural Tax. Entry of the Amount of the Uniform Agricultural Tax

1. The uniform agricultural tax shall be estimated as a percentage of the tax base corresponding to the tax rate.

2. Taxpayers shall estimate, subject to the results of a **report period**, the amount of the advance payment of the uniform agricultural tax on the basis of the tax rate and actually derived incomes decreased by the amount of expenses estimated as the accrued total from the start of the **tax period** through the six-month period.

The advance payments on the uniform agricultural tax shall be made not later than 25 calendar days from the day of the expiry of the reporting period.

3. Advance payments of the uniform agricultural tax made shall be entered on account of the uniform agricultural tax payment on the basis of the results of the **tax period**.

4. The uniform agricultural tax and an advance payment of the uniform agricultural tax shall be payable by taxpayers at the location of an organisation (the residence place of an individual businessman).

5. Uniform agricultural tax, payable on the basis of the results of a **tax period**, shall be paid not later than the time established by **Item 2 of Article 346.10** of this Code for filing the tax declaration in respect of the relevant tax period.

6. The amount of the uniform agricultural tax shall be entered to accounts of the Federal Treasury body for their further distribution in compliance with the budget **legislation** of the Russian Federation.

**Article 346.10.** Tax Declaration

1. Taxpayers upon the expiry of a tax period shall file tax declarations with tax authorities:
  - 1) organisations - at their location;
  - 2) individual businessmen - at their places of residence.

2. Taxpayers shall file tax declarations on the basis of the results of the **tax period** at the latest on March 31 of the year following the expired tax period.

**3. Abrogated.**

*Federal Law No. 104-FZ of July 24, 2002 supplemented Section VIII.1 of this Code with Chapter 26.2. This Chapter shall **enter into force** from January 1, 2003*

## **Chapter 26.2. The Simplified Taxation System**

**Article 346.11.** General Provisions

1. The simplified system of taxation shall be applied by organisations and individual businessmen together with other taxation regimes envisaged by the legislation of the Russian Federation on taxes and fees.

Transition to the simplified system of taxation or return to other taxation regimes shall be made by organisations and individual businessmen voluntarily, in accordance with the procedure, stipulated in this Chapter.

**2.** The application of a simplified taxation system by organisations means that they are relieved from the duty to pay organisations profit tax (except for tax paid on income taxable at the tax rates provided for by **Items 3 and 4 of Article 284** of this Code), organisations property tax. The organisations using the simplified taxation system shall not be deemed payers of value-added tax, except for the value-added tax payable under this **Code** in the case of importation of goods into the territory of the Russian Federation and other territories under its jurisdiction, as well as of value-added tax payable in compliance with **Article 174.1** of this Code.

**Abrogated** from January 1, 2010.

Other taxes shall be paid by organisations, applying the simplified system of taxation, in accordance with the legislation on taxes and fees.

**3.** The application of a simplified taxation system by individual entrepreneurs means that they are relieved from the duty to pay tax on income of natural persons (in respect of incomes derived from business activities, except for tax paid on incomes taxable at the tax rates provided for by **Items 2, 4 and 5 of Article 224** of this Code), personal property tax (on property used to pursue an entrepreneurial activity). Individual entrepreneurs using the simplified taxation system shall not be deemed payers of value-added tax, except for the value-added tax payable under this **Code** in the case of importation of goods into the territory of the Russian Federation and other territories under its jurisdiction, as well as of value-added tax payable in compliance with **Article 174.1** of this Code.

**Abrogated** from January 1, 2010.

Other taxes shall be paid by the individual businessmen, applying the simplified taxation system, in conformity with the legislation on taxes and fees.

**4.** For the organisations and individual businessmen, applying the simplified system of taxation, the currently operating procedure for making cash payments and for submitting statistical reports shall be retained.

**5.** The organisations and individual businessmen, applying the simplified system of taxation, shall not be relieved of their duties as tax agents, stipulated by the Code.

#### **Article 346.12.** Taxpayers

**1.** Organisations and individual businessmen, who have shifted to the simplified system of taxation and who have been applying it in the order laid down in this Chapter shall be recognised as taxpayers.

~~**2.** Organisations shall have the right to go over to the simplified system of taxation, if by the results of nine months of the year in which the organisation files an application for transition to the simplified system of taxation, the incomes defined by Article 248 of this Code did not exceed 15,000,000 roubles.~~

~~The maximum amount of incomes of an organisation specified in Paragraph 1 of this Item that limits the organisation's right to switch over to the simplified taxation system is subject to indexing by the deflator coefficient set every year for the next calendar year to take account of the variation of consumer prices for goods (works or services) in the Russian Federation over the preceding calendar year and also by the deflator coefficients that have been applied earlier in accordance with this Item. A deflator coefficient shall be determined and subject to official publication in the~~

## ~~procedure established by the Government of the Russian Federation.~~

**2.1.** An organisation may switch over to the simplified system of taxation if, on the results of nine months of the year in which the organisation files an **application** for switching over to the simplified system of taxation, the incomes determined in accordance with **Article 248** of this Code have not exceeded 45 million roubles.

**3.** The following have no right to apply the simplified system of taxation:

- 1) organisations with affiliates and (or) representations;
- 2) banks;
- 3) insurers;
- 4) non-governmental pension funds;
- 5) investment funds;
- 6) professional securities market makers;
- 7) pawnshops;
- 8) organisations and individual businessmen, engaged in the production of excisable commodities, as well as in the extraction and realization of useful minerals, with the exception of generally occurring useful minerals;
- 9) organisations and individual businessmen, engaged in the gambling business;
- 10) notaries engaged in private practice, the solicitors/barristers who have set up a solicitor's/barrister's office as well as other forms of solicitors'/barristers' entities;
- 11) organisations, who are the parties to production sharing agreements;
- 12) **Abolished** from January 1, 2004.

13) organisations and individual businessmen, passed over the taxation system for agricultural commodity producers (the uniform agricultural tax) in conformity with **Chapter 26.1** of this Code;

14) organisations for which the share of participation of other organisations exceeds 25 per cent. This restriction shall not extend:

to organisations whose authorised capital completely consists of contributions of social organisations of invalids if the average number of invalids among their personnel is not less than 50 per cent and their share in the fund of the remuneration of labour, not less than 25 per cent;

to non-commercial organisations, including consumer cooperatives carrying out their activity in accordance with **Law** of the Russian Federation No. 3085-I of June 19, 1992 on Consumer Cooperation (Consumer Societies, Their Unions) in the Russian Federation, and also to economic societies whose only founders are consumer societies and their unions carrying out their activity in accordance with the said Law;

to economic societies, established, in accordance with the Federal Law on Science and State Scientific-and-Technical Policy, by budgetary scientific institutions and by scientific institutions created by state academies of science, whose activity consists in practical application (introduction) of the results of intellectual activity (programs for electronic computers, data bases, inventions, utility models, industrial designs, selection achievements, topologies of integrated microcircuit chips, know-how, the exclusive rights to which belong to such scientific institutions;

to economic societies, established, in accordance with Federal Law No. 125-FZ of August 22, 1996 on Higher and Postgraduate Professional Education, by higher educational institutions which are budgetary educational institutions and by higher educational institutions created by state academies of sciences, whose activity consists in the practical application

(introduction) of the results of intellectual activity (programs for electronic computers, data bases, inventions, utility models, industrial designs, selection achievements, topologies of integrated microcircuit chips, know-how, the exclusive rights to which belong to such higher educational institutions;

15) organisations and individual businessmen, the average number of whose workers in the tax (reporting) period, defined in accordance with the procedure established by the federal executive body authorised in the sphere of statistics, exceeds 100 people;

16) the organisations whose balance value of fixed assets and intangible assets assessed under the accountancy legislation of the Russian Federation exceeds 100,000,000 roubles. For the purposes of the present Subitem account shall be taken of the fixed assets and intangible assets which are subject to depreciation and recognised as depreciable assets in accordance with **Chapter 25** of this Code;

17) treasury and budget-financed institutions;

18) foreign organisations.

**4.** Organisations and individual businessmen, transferred under **Article 26.3** of this Code to payment of the uniform tax on imputed earnings for individual types of activities in respect of one or several types of business activities, shall be entitled to apply the simplified system of taxation in respect of other types of business activities exercised by them. In doing this, limitations in respect of the personnel number and the value of fixed assets and non-pecuniary assets, established by this Chapter with regard to such organisations and individual businessmen, shall be determined on the basis of all types of activities exercised by them while the limit rate of incomes established by Items **2, 2.1** of this Article shall be determined in respect of the kinds of activities which are taxed in compliance with the general taxation regime.

#### **Article 346.13.** Procedure and Conditions for the Start and the Termination of Application of the Simplified Taxation System

**1.** The organisations and individual businessmen, which (who) have expressed their wish to go over to the simplified system of taxation, shall lodge an **application** in the period from October 1 to November 1 of the year, preceding the year, beginning with which the taxpayers go over to the simplified system of taxation, with the tax body at their location (at the place of their residence). In the application for transition to the simplified system of taxation the organisations shall report on the size of their incomes for nine months of the current year, as well as on the average listed number of employees for the said period and the residual value of fixed assets and intangible assets as of October 1 of the current financial year.

The selection of the taxation basis shall have been done by the taxpayer before the beginning of the tax period in which the simplified taxation system is used for the first time. If a change occurs in the chosen taxation basis after the filing of an **application** for switching to the simplified taxation system the taxpayer shall notify the tax body accordingly before December 20 of the year preceding the year in which the simplified taxation system is used for the first time.

*In accordance with **Federal Law No. 101-FZ of July 21, 2005** the taxpayers, that have switched to the simplified taxation system since January 1, 2003 and that have chosen incomes as tax object, are entitled to change - from January 1, 2006 - the tax object, with notification of the tax bodies no later than December 20, 2005*

2. A newly formed organisation and a newly registered individual entrepreneur is entitled to file an application asking to switch to the simplified taxation system within five days after the date of its/his/her registration with a tax body specified in its/his/her certificate of registration with the tax body issued in accordance with **Item 2 of Article 84** of this Code. In this case the organisation and the individual entrepreneur is entitled to apply the simplified taxation system starting from the date of its/his/her registration with the tax body specified in the certificate of registration with the tax body.

The organisations and individual entrepreneurs which in accordance with normative legal acts of representative bodies of municipal regions and urban circuits, laws of the cities of federal importance Moscow and Saint-Petersburg on the taxation system in the form of uniform tax on imputed earnings for certain kinds of activities have ceased to be payers of uniform tax on imputed income by the end of the current calendar year are entitled to switch over to the simplified taxation system starting from the beginning of the month in which their duty to pay uniform tax on imputed income ceased to exist.

3. Taxpayers, applying the simplified system of taxation, have no right to go over to another taxation regime until the end of the tax period, unless otherwise stipulated in this Article.

~~4. If, according to the results of an accounting (tax) period, the incomes of a taxpayer determined in accordance with **Article 346.15** and **Subitems 1 and 3 of Item 1 of Article 346.25** of this Code exceeded 20,000,000 roubles and/or if a breach of the requirements established by **Items 3 and 4 of Article 346.12** and **Item 3 of Article 346.14** of the present Code has occurred during the accounting (tax) period, such a taxpayer shall be deemed to have lost his right to practice the simplified taxation system starting from the quarter in which this excess and/or breach occurred.~~

~~In this case, the sums of taxes subject to payment if another taxation regime is applied, shall be computed and paid in the order, envisaged by the legislation of the Russian Federation on taxes and fees for the newly created organisations or the newly registered individual businessmen. The taxpayers specified in this paragraph shall not pay a penalty and fine for a late monthly payments within the quarter in which these taxpayers switched to another taxation regime.~~

~~Said in **Paragraph 1** of this Item maximum amount of taxpayer's incomes limiting his right to practice the simplified taxation system shall be subject to indexing in the procedure envisaged by **Item 2 of Article 346.12** of this Code.~~

4.1. If, on the results of a reporting (tax) period, the incomes of a taxpayer determined in accordance with **Article 346.15** and with **Subitems 1 and 3 of Item 1 of Article 346.25** of this Code, have exceeded 60 million roubles and/or during the reporting (tax) period there was inconformity to the requirements established by **Items 3 and 4 of Article 346.12** and **Item 3 of Article 346.14** of this Code, then such taxpayer shall lose the right to apply the simplified system of taxation from the beginning of the quarter in which there occurred the said excess and/or inconformity to the said requirements.

In this case the amounts of the taxes subject to payment in the use of another regime of taxation shall be calculated and paid in the procedure stipulated by the legislation of the Russian Federation on taxes and fees for newly created organisations or newly registered individual businessmen. The taxpayers mentioned in this paragraph shall not pay any penalties or fines for the untimely making of monthly payments during the quarter in which such taxpayers switched over to another taxation regime.

5. The taxpayer's duty is to inform the tax body of the taxpayer's switching to another taxation regime that has been completed in accordance with **Items 4** and **4.1** of this Article,

within 15 calendar days after the expiry of the accounting (tax) period.

**6.** A taxpayer, applying the simplified system of taxation, has the right to go over to another taxation regime as from the start of a calendar year, having **notified** the tax body to this effect not later than on January 15 of the year, in which he intends to move to another regime of taxation.

**7.** A taxpayer, who has passed over from the simplified system of taxation to another taxation regime, has the right to go back to the simplified system of taxation not earlier than one year after he has **lost the right** to apply the simplified system of taxation.

#### **Article 346.14.** Objects of Taxation

**1.** Recognised as an object of taxation are:

- incomes;
- incomes, reduced by the amount of outlays.

**2.** The choice of an object of taxation shall be made by the taxpayer himself, except for the case stipulated by Item 3 of this Article. The object of taxation may be changed by the taxpayer every year. The object of taxation may be changed from the beginning of the tax period if the taxpayer notifies thereof the tax body before December 20 of the year preceding the year in which the taxpayer proposes to change the object of taxation. During the tax period the taxpayer may not change the object of taxation.

**3.** The taxpayers being a party to a contract of simple partnership (contract of joint activity) or a contract of trust administration of property shall use incomes less expenses as their taxable object.

#### **Article 346.15.** Procedure for Defining Incomes

**1.** In defining the taxed items, taxpayers shall take into account the following incomes:

- incomes from sales defined in accordance with **Article 249** of the present Code;
- extra-realization incomes, defined in conformity with **Article 250** of this Code.

**Abrogated** from January 1, 2009.

**Abrogated** from January 1, 2009.

**1.1.** When determining an object of taxation, the following shall not be taken into account:

- 1) the incomes cited in **Article 251** of this Code;
- 2) incomes of organisations taxable with the tax on profits of organisations at the tax rates provided for by **Items 3 and 4 of Article 284** of this Code in the procedure established by **Chapter 25** of this Code;
- 3) incomes of an individual businessman taxable with the tax on incomes of natural persons at the tax rates provided for by **Items 2, 4 and 5 of Article 224** of this Code in the procedure established by **Chapter 23** of this Code.

**2. Abolished** from January 1, 2006.

#### **Article 346.16.** Procedure for Determining Outlays

**1.** When defining the taxed item, the taxpayer shall reduce the derived incomes by the following outlays:

- 1) expenses towards acquisition, construction and manufacture of fixed assets, as well as towards completion of construction and equipment, reconstruction, updating and technological re-equipment of fixed assets (with due regard to **Items 3 and 4** of this Article);
- 2) expenses towards the acquisition of intangible assets and also towards the creation of intangible assets by the taxpayer proper (with due regard to the provisions of **Items 3 and 4** of this Article);

2.1) expenses on the acquisition of exclusive rights to inventions, utility models, industrial designs, computer programs, data bases, topologies of integrated microcircuits, know-how, and also rights to the use of the indicated results of intellectual activity under a licence agreement;

2.2) expenses on patenting and/or payment for services in obtaining legal protection of the results of intellectual activity, including means of individualisation;

2.3) expenses on scientific research and/or developments recognised as such in accordance with **Item 1 of Article 262** of this Code;

3) the outlays on the repair of fixed assets (including of those rented);

4) rent (in particular, financial leasing) payments for rented (in particular, leased) property;

5) material outlays;

6) outlays on the remuneration of labour, on paying temporary disability benefits in compliance with laws of the Russian Federation;

7) outlays on all types of obligatory insurance of workers, property and liability, including insurance premiums for obligatory pension insurance and for obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses, paid in conformity with the legislation of the Russian Federation;

8) the sum of value added tax on goods (works or services) acquired by the taxpayer and paid for that are to be recognised as expenses in accordance with this Article and **Article 346.17** of this Code;

9) interest paid on the monetary funds (credits and loans), as well as the outlays involved in remuneration for the services rendered by credit institutions including those connected with the sale of foreign currency when collecting tax, fees, penalties and fines at the expense of the taxpayer's property in the procedure provided for by **Article 46** of this Code;

10) the outlays on providing for the taxpayer's fire security in conformity with the legislation of the Russian Federation, those on the services involved in guarding the property and in servicing the fire-alarm signalling system, as well as those on the acquisition of fire protection and other guard services;

11) the amounts of customs payments made at the importation of goods into the territory of the Russian Federation and other territories under its jurisdiction which are not refundable to the taxpayer under the **customs legislation** of the Customs Union and the customs **legislation** of the Russian Federation;

12) outlays on the maintenance of official transport and those on compensation for the use of personal private cars and motorcycles for official trips within the limits of the norms, fixed by the Government of the Russian Federation;

13) the outlays on business trips, in particular on:

- the worker's fares to the destination of the business trip and back to the place of his permanent work;

- the hire of living premises. In accordance with this Item of the outlays, the worker's outlays on payment for additional services, rendered in hotels (with the exception of the outlays on services in snack-bars and in restaurants, the outlays on the servicing in the room and of the outlays for the use of recreational and health-building objects) shall also be subject to recompense;

- a daily or field allowance;



- the formalization and issue of visas, vouchers, invitations and other similar documents;
- consular and airport fees, the fees for the right of entry, passage and transit of automobile and other kinds of transport, for the use of sea channels and other similar facilities, and other similar payments and fees;

14) the remuneration to a state and (or) private notary for the notarial formalization of documents. Such outlays shall be accepted within the limits of tariffs, approved in the established order;

15) expenses towards bookkeeping, audit and legal services;

16) the outlays on the publication of business accounting reports, as well as on the publication and other methods of revealing other information, if the legislation of the Russian Federation imposes upon the taxpayer the duty to carry out their publication (revelation);

17) outlays on stationery;

18) outlays on postal, telephone, telegraph and other similar services and outlays on the payment for communications services;

19) the outlays, involved in the acquisition of the right to use computer software and data bases under contracts with the possessor of the rights (under licence agreements). These outlays shall also include the outlays on the renewal of computer software and data bases;

20) the outlays on advertising the manufactured (acquired) and (or) realized commodities (works, services), the trade mark and service mark;

21) the outlays on the preparation and development of new production facilities, workshops and aggregates.

22) the amounts of taxes and fees paid under the **legislation** of the Russian Federation on taxes and fees, except for the amount of tax payable in compliance with this Chapter;

23) the expenses incurred as payment for the value of the goods acquired for further sale (reduced by the value of the expenses specified in **Subitem 8** of this Item), as well as the expenses connected with acquisition and sale of the said goods, in particular the expenses related to storage, servicing and transportation of the goods;

24) expenses towards the disbursement of commission, agent's fees and fees under a contract of agency;

25) expenses towards the provision of services of warranty repair and servicing;

26) expenses towards confirmation of the conformity of a product or another facility, process of production, operation, storage, transportation, sale and disposal, the performance of works or provision of services with the requirements of technical regulations, the provision of standards or contractual terms;

27) expenses towards the performance (in the cases established by the legislation of the Russian Federation) of a compulsory assessing intended to verify the correctness of tax payments if a dispute arises concerning **tax base** calculation;

28) payment for the provision of information on registered rights;

29) expenses towards payment for the services of specialised organisations that manufacture documents for the purposes of registry and technical recording (stock-taking) of immovable property (including right-establishing documents for land plots and documents establishing the boundaries of land plots);

30) expenses towards the payment for the services of specialised organisations that carry out expert examinations, investigations, issue statements and provide other documents required for securing a licence (permit) for the pursuance of a specific type of activity;

31) court expenses and arbitration fees;

32) periodical (current) payments for the use of rights to the results of intellectual activity and means of individualisation (for instance, rights arising from patents for inventions, industrial design and other types of intellectual property);

32.1) admission fees, membership fees and special fees paid in compliance with **Federal Law** No. 315-FZ of December 1, 2007 on Self-Regulated Organisations;

33) expenses towards training and retraining of personnel included in the taxpayer's list of staff, under a contract in the procedure envisaged by **Item 3 of Article 264** of this Code;

34) expenses in the form of a negative exchange-rate difference produced as a result of a re-valuation of property in the form of foreign currency amounts and claims (obligations) whose value is denominated in a foreign currency, including the ones available on foreign currency bank accounts, such a re-valuation having been conducted in connection with the variation of the official exchange rate of the foreign currency to the Russian rouble as set by the Central Bank of the Russian Federation;

35) the expenses related to servicing of cash register equipment;

36) the expenses related to the disposal of solid domestic waste.

**2.** The outlays, mentioned in **Item 1** of this Article, shall be accepted under the condition that they meet the criteria, indicated in **Item 1 of Article 252** of this Code.

The outlays, described in **Subitems 5, 6, 7, 9-21** and **34 of Item 1** of this Article, shall be accepted in the procedure provided for the computation of the tax on the profit of organisations in **Articles 254, 255, 263, 264, 265** and **269**.

**3.** Expenses towards the acquisition (erection, manufacturing) of fixed assets, completion of construction and equipment, reconstruction, updating and technological re-equipment of fixed assets, as well as expenses towards the acquisition (creation by the taxpayer proper) of intangible assets shall be accepted as follows:

1) expenses towards the acquisition (erection, manufacturing) of fixed assets within the period of application of the simplified taxation system, as well as outlays towards completion of construction and equipment, reconstruction, updating and technological re-equipment of fixed assets effected within the said period - as of the time of putting these fixed assets into operation;

2) for intangible assets acquired (created by the taxpayer proper) within the period of application of the simplified taxation system: starting from the time when the intangible assets are recorded on the books for bookkeeping purposes;

3) in as much as it concerns the fixed assets acquired (erected, manufactured) and also the intangible assets acquired (created by the taxpayer proper) before the switching to the simplified taxation system the value of the fixed assets and of the intangible assets shall be included into expenses in the following procedure:

for fixed assets and intangible assets with a useful life of up to three years inclusive: within the first calendar year of application of the simplified taxation system;

for fixed assets and intangible assets with a useful life from three to fifteen years inclusive: 50 per cent of the value within the first calendar year of application of the simplified system, 30 per cent within the second calendar year, and 20 per cent within the third calendar year;

for fixed assets and intangible assets with a useful life of over 15 years: in equal shares of the value thereof within the first 10 years of application of the simplified taxation system.

As this is done, expenses shall be accepted for accounting periods over the **tax period** in equal instalments.

If a taxpayer has been practicing the simplified taxation system since he registered with tax bodies the value of fixed assets and intangible assets shall be accepted at the initial value of the property assessed in the procedure established by the legislation on bookkeeping.

If a taxpayer has switched over to the simplified taxation system from another taxation regime the value of fixed assets and intangible assets shall be taken into account in the procedure established by **Items 2.1** and **4 of Article 346.25** of this Code.

The duration of useful life of a fixed asset shall be assessed on the basis of the classification of the fixed assets included in depreciation groups **approved** by the Government of the Russian Federation in accordance with **Article 258** of this **Code**. The duration of useful life of a fixed asset not included in the classification shall be set by the taxpayer in accordance with its specifications or the manufacturer's recommendations.

The fixed assets to which the rights are subject to state registration in accordance with the legislation of the Russian Federation shall be recorded as expenses in accordance with this Article as of the time of documented submittal of the documents for the purpose of registering these rights. This provision, in as much as it concerns the compulsory nature of the documented submittal requirement applicable to registration documents does not extend to the fixed assets that were commissioned before January 31, 1998.

The duration of useful life of intangible assets shall be assessed in accordance with **Item 2 of Article 258** of this Code.

If fixed assets and intangible assets acquired (erected, manufactured, created by the taxpayer proper) are sold (transferred) before the expiry of three years after the time when the expenses incurred to acquire (erect, manufacture, reconstruction, updating and technological re-equipment, as well as create by the taxpayer proper) them were recorded on the books as expenses in keeping with this chapter (for fixed assets and intangible assets with a useful life of over 15 years before the expiry of ten years since their acquisition (erection, manufacturing, creation by the taxpayer proper), the taxpayer shall review the **tax base** for the whole period of use of such fixed assets and intangible assets since the time when they were recorded as expenses towards the acquisition (erection, manufacturing, reconstruction, updating and technological re-equipment, as well as creation by the taxpayer proper) until the date of the sale (transfer), with due regard to the provisions of **Chapter 25** of this Code, and shall pay an additional tax and penalty amount.

**4.** For the purposes of this Article, into the composition of fixed assets shall be included the fixed assets and intangible assets that are deemed depreciable assets according to **Chapter 25** of this Code, while outlays on completion of construction and equipment, reconstruction, modernization and technological re-equipment of fixed assets shall be determined subject to the provisions of **Item 2 of Article 257** of this Code.

#### **Article 346.17.** Procedure for Recognising Incomes and Expenses

**1.** For the purposes of this Chapter the following shall be deemed the date of receipt of incomes: the day when an amount of money comes to a bank account and/or is received at a cashier's counter, when other property (works or services) and/or property rights are received, and when a debt is repaid (paid) to the taxpayer otherwise (the cash method).

When in settlements of accounts for acquired goods (works or services) or property rights the buyer uses a bill of exchange, the following shall be deemed the date of receipt of income for the taxpayer: the date of bill of exchange payment (the date when an amount of money is received from the drawer of the bill or from the other person having an obligation under the bill) or the day when the taxpayer transferred the bill of exchange by means of endorsement to a third person.

If a taxpayer pays back the amounts of money previously received as an advance payment for the supply of goods, carrying out of works, rendering of services and transfer of property rights, the incomes of the **tax (reporting) period** when they were paid back shall be reduced by the amount of money which was paid back.

The sums of payment received for rendering assistance to self-employment of unemployed citizens and for promoting the creation by unemployed citizens who have started their own businesses of additional jobs for job placement of unemployed citizens on account of

budgets of the budget system of the Russian Federation in compliance with the programmes endorsed by appropriate state power bodies shall be accounted in the composition of incomes within three tax periods with concurrent showing of appropriate sums in the composition of expenses within the limits of actually made expenses of each tax period which are provided for by the terms under which the cited sums of payment are received.

In the event of breaking the terms under which the payments provided for by Paragraph Four of this Item are received, the sums of received payments shall be shown in full in the composition of incomes of the tax period in which the terms are broken. If upon the expiry of the third tax period the amount of the received payments cited in Paragraph Four of this Item exceeds the sum of the expenses accounted in compliance with this item, the remaining sums which are not accounted shall be shown in full within the composition of incomes of this tax period.

Financial support assets received in the form of subsidies in compliance with the **Federal Law** on Developing Small and Medium Scale Entrepreneurship in the Russian Federation shall be shown within the composition of receipts in proportion to the expenditures actually made on account of this source but at most within two tax periods as from the date when they are received. If upon the end of the second tax period the amount of received financial support assets cited in this item exceeds the amount of the admitted expenditures actually made on account of this source, the difference between the cited amounts shall be shown in full within the composition of receipts of this tax period.

A procedure for admitting the receipts provided for by **Paragraphs Four - Six** of this item shall be applied by taxpayers using as the tax entity the receipts reduced by the sum of outlays, as well as by taxpayers using receipts as the tax entity, provided that they keep records of the paid sums (assets) cited in Paragraphs Four-Six of this item.

**2.** The following is deemed expenses of a taxpayer: costs incurred after actual payment has been made for them. For the purposes of the present Chapter the following is deemed payment for goods (works or services) and/or for property rights: the discharge of the obligations of the taxpayer being the acquirer of the goods (works or services) and/or of the property rights owing the seller, such an obligation being directly related to the delivery of the goods (performance of the works, provision of the services) and/or with the transfer of the property rights. In this case the expenses shall be recognised as expenses with due regard to the below details:

1) material expenses (including the expenses related to acquisition of raw stuff and materials), and also expenses towards remuneration for labour: as of the time of repayment of a debt by means of writing off an amount of money from the taxpayer's settlement account, disbursement at a cashier's counter, or when another debt-repayment method is used, as of the time of such a repayment. A similar procedure is applicable to the payment of interest for the use of borrowed funds (including bank credits) and to payment for the services of third' persons;

2) expenses towards payment for the value of goods acquired for resale: as these goods are sold. For taxation purposes the taxpayer is entitled to use one of the below methods to assess the value of purchased goods:

- the first in, first out (FIFO) method;
- the last in, last out (LIFO) method;
- the average-value method;
- the merchandise-unit value method.

The expenses directly related to the sale of these goods, including expenses towards storage, servicing and carriage shall be recognised as expenses after they have been actually paid;

3) expenses towards the payment of taxes and fees: in the amount actually paid by the taxpayer. If there is a debt relating to the payment of taxes and fees, the expenses incurred to repay it shall be recognised as expenses within the amount actually repaid in the **accounting (tax) periods** when the taxpayer repays the debt;

4) expenses towards the acquisition (erection, manufacture) of fixed assets, completion of construction and equipment, reconstruction, updating and technological re-equipment of fixed assets, as well as expenses towards the acquisition (creation by the taxpayer proper) of intangible assets accountable in the procedure established by Item 3 of **Article 346.16** of this Code, shall be recorded on the last day of the reporting (tax) period as paid amounts. As this is done, these expenses shall be accountable only for the fixed assets and intangible assets used to pursue business activities.

5) when a bill of exchange is issued by a taxpayer to a seller in payment for acquired goods (works or services) and/or property rights the expenses incurred to acquire the goods (works or services) and/or property rights shall be recognised after bill of exchange payment is made. When a bill of exchange issued by a third person is issued by a taxpayer to a seller in payment for acquired goods (works or services) and/or property rights the expenses incurred to acquire the goods (works or services) and/or property rights shall be recognised as of the date of transfer of the bill of exchange for the acquired goods (works or services) and/or property rights. The expenses specified in this item shall be recognised on the basis of the contract price but not exceeding the sum of debt obligation specified on the bill of exchange.

**3.** For taxation purposes the taxpayers determining their incomes and expenses in accordance with this Chapter shall not recognise differences as incomes and expenses if according to contractual terms the obligation (claim) is denominated in conditional currency units.

**4.** When a taxpayer transfers from an object of taxation in the form of incomes to an object of taxation in the form of incomes reduced by the amount of expenses, the expenses related to the tax periods, when the object of taxation in the form of incomes was applied, shall not be included when estimating the tax base.

#### **Article 346.18.** Tax Base

**1.** If the taxed items are the incomes of an organisation or individual businessman, the monetary expression of the incomes of the organisation or individual businessman shall be recognised as the tax base.

**2.** If the taxed items are the incomes of an organisation or an individual businessman, reduced by the size of the outlays, the monetary expression of the incomes, reduced by the size of the outlays shall be recognised as the tax base.

**3.** Incomes and outlays, expressed in foreign currency, shall be recorded in aggregate with the incomes and expenses expressed in roubles. The incomes and outlays expressed in foreign currency shall be recalculated into roubles in accordance with the official exchange rate of the Central Bank of the Russian Federation, established as on the date of receiving the incomes and (or) as on the date of making the outlays, respectively.

**4.** The incomes derived in kind shall be recorded at market prices.

**5.** When determining the tax base, the incomes and outlays shall be defined by the progressive total as from the start of the tax period.

**6.** The taxpayer, who applies taxation to the incomes reduced by the size of the outlays, shall pay the minimum tax in accordance with the procedure, envisaged in this Item.

The minimum tax sum shall be computed for the **tax period** in the amount of one per cent of the tax base, which is comprised by the incomes defined in accordance with **Article 346.15** of this Code.

The minimum tax shall be paid if for the tax period the sum of the tax, computed in the general order, is less than the sum of the computed minimum tax.

In the following tax periods, the taxpayer has the right to include the sum of the difference between the sum of the paid up minimum tax and the sum of the tax, computed in the general order, into the outlays when computing the tax base, and among other things to increase the sum of the losses, which may be put off to the future in conformity with the provisions of Item 7 of this Article.

**7.** The taxpayer, using as the taxable item the incomes, reduced by the amount of the outlays, has the right to reduce the tax base calculated according to the results of the **tax period** by the sum of the loss sustained in accordance with the results of the previous tax periods, in which the taxpayer applied the simplified system of taxation and used for taxation purposes the incomes, reduced by the amount of the outlays. In this case, the excess of the outlays, defined in accordance with **Article 346.16** of this Code, over the incomes, defined in accordance with **Article 346.15** of this Code, shall be seen as the loss.

Taxpayers are entitled to transfer losses to future tax periods within 10 years following the tax period when these losses are suffered.

Taxpayers are entitled to transfer to the current tax period the amount of loss incurred in the previous tax period.

Losses which are not transferred to the next year may be transferred in full or in part to any year from among the following nine years.

If taxpayers have suffered losses within more than one tax period, such losses may be only transferred to future tax periods in the order of suffering them.

In the event of termination by taxpayers of their activities because of re-organisation, the taxpayers which are legal successors thereof are entitled to reduce the tax base in the procedure and under the terms which are provided for by this Item by the amount of losses incurred by re-organised companies before the time of re-organisation thereof.

Taxpayers are obliged to keep the documents proving the amount of incurred losses and the amount by which the tax base for each tax period has been decreased within the total time period of enjoying the right to decrease the tax base by the amount of loss.

Losses incurred by a taxpayer while applying other taxation procedures shall not be recognised when switching over to the simplified taxation system.

Losses incurred by a taxpayer while applying the simplified taxation system shall not be recognised when transferring to other taxation procedures.

**8.** The taxpayers that have switched - for some types of activity - to the payment of the uniform tax on imputed income for specific types of activity in keeping with **Chapter 26.3** of this Code shall keep record separately of incomes and expenses for the various special tax regimes. If it is impossible to separate expenses in tax base calculation for the taxes calculated in different special tax regimes these expenses shall be distributed pro rata to the shares of incomes in the common amount of incomes received when the said special tax regimes were practices.

#### **Article 346.19.** Tax Period. Reporting Period

- 1.** A calendar year shall be recognised as the tax period.
- 2.** The first quarter, half year and nine months of a calendar year shall be recognised as the reporting periods.

#### **Article 346.20.** Tax Rates

- 1.** If the taxed items are incomes, the tax rate shall be established at six per cent.

2. If the taxed items are incomes, reduced by the amount of the outlays, the tax rate shall be established at 15 per cent. Laws adopted by constituent entities of the Russian Federation may fix scaled tax rates within the limits from 5 to 15 per cent depending on taxpayers' categories.

#### **Article 346.21.** Procedure for the Computation and Payment of Tax

1. Tax shall be computed as the percentages share of the tax base, corresponding to the tax rate.

2. The sum of tax in accordance with the results of the tax period shall be defined by the taxpayer on his own.

3. The taxpayers, who have selected incomes as the taxed items, shall compute the sum of advance tax payment in accordance with the results of every reporting period, proceeding from the tax rate and from the actually derived incomes, calculated by the progressive total as from the start of the tax period and till the end of, respectively, the first quarter, the half-year and nine months, taking account of the earlier calculated sums of advance tax payments.

The sum of tax (of advance tax payments), computed for the tax (reporting) period, shall be reduced by the said taxpayers by the sum of insurance premiums for obligatory pension insurance, obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses, which are paid (within calculated amounts) in the same period of time in conformity with the legislation of the Russian Federation as well as by the amount of the temporary disability benefits paid out to workers. The sum of tax (of advance tax payments) cannot be reduced by more than 50 per cent. The cited restriction shall not extend to individual businessmen that do not make payments and do not pay other kinds of remuneration to natural persons and pay insurance contributions to the Pension Fund of the Russian Federation and obligatory medical insurance funds at the rate estimated on the basis of the value of an insurance year.

4. Taxpayers who have selected incomes, reduced by the amount of the outlays in accordance with the results of every reporting period as the taxed items, shall compute the sum of advance tax payment proceeding from the tax rate and from the actually derived incomes, reduced by the amount of the outlays, computed as a progressive total as from the start of the tax period and till the end of, respectively, the first quarter, the half-year and nine months, taking account of the earlier calculated sums of advance tax payments.

5. The advance payment amounts of the tax calculated earlier shall be accepted for set-off in the calculation of tax advance payment amounts for the accounting period and of the tax amount for the **tax period**.

6. The entry of tax and of advance tax payments shall be effected at the location of an organisation (at the place of residence of an individual businessman).

7. The tax, subject to payment upon expiry of the tax period, shall be paid not later than the term, fixed for submitting the tax declaration for the corresponding tax period in **Items 1 and 2 of Article 346.23** of this Code.

Advance tax payments shall be made not later than on the 25th day of the first month, following the expired reporting period.

#### **Article 346.22.** Entry of the Sums of the Tax

Sums of tax shall be entered onto the accounts of Federal Treasury bodies to be subsequently distributed among the budgets of all levels in conformity with the **budgetary legislation** of the Russian Federation.

#### **Article 346.23.** Tax Declaration

1. Tax paying organisations shall submit the tax declaration after an expiry of the tax period to the tax bodies at their location.

The tax declaration in accordance with the results of the tax period shall be submitted by tax paying organisations not later than on March 31 of the year following the expired tax period.

**Abrogated** from January 1, 2009.

2. Tax paying individual businessmen shall submit the tax declaration after expiry of the tax period to the tax bodies at the place of their residence not later than on April 30 of the year following the expired tax period.

**Abrogated** from January 1, 2009.

3. The **form** for the tax declaration and the **procedure** for filling it in shall be approved by the Ministry of Finance of the Russian Federation.

#### **Article 346.24.** Record-Keeping for Taxation Purposes

Taxpayers are obligated to keep record of incomes and expenses for the purpose of **tax base** calculation in the book of incomes and expenses of organisations and individual entrepreneurs that practice the simplified taxation system, with the form and fill-in procedure for it being approved by the Ministry of Finance of the Russian Federation.

#### **Article 346.25.** The Details of Tax Base Calculation in Case of Switch to the Simplified Taxation System from Other Taxation Regimes and of Switch from the Simplified Taxation System to Other Taxation Regimes

1. Organisations, which had been using - before they switched to the simplified taxation system - the accrual method in the calculation of the organisation's profit tax, shall fulfil the following rules when going over to the simplified system of taxation:

1) on the date of transition to the simplified system of taxation, the sums of monetary funds, received before the switch to the simplified taxation system for remuneration under contracts that the taxpayer shall execute after going over to the simplified system of taxation shall be included into the tax base;

2) **abolished** from January 1, 2006;

3) monetary funds, received after transition to the simplified system of taxation, shall not be included into the tax base, if according to the rules for tax recording by the method of computations, the said sums were included into the incomes when computing the tax base on the tax on the profit of organisations;

4) the outlays, made by the organisation after going over to the simplified system of taxation, shall be recognised as outlays to be subtracted from the tax base as on the date of their effecting, if these outlays were settled before the switch to the simplified taxation system, or as on the date of payment, if they were effected after the organisation moved to the simplified system of taxation;

5) the monetary funds, entered after transition to the simplified system of taxation in payment for the organisation's outlays, shall not be subtracted from the tax base, if before transition to the simplified system of taxation such outlays were taken into account in the computation of the tax base for the tax on the profit of organisations in conformity with **Chapter 25** of this Code.

2. Organisations, which have applied the simplified system of taxation, shall observe the following rules as they transfer to the **tax base** calculation for tax on profit of organisations with the use of the accruals method:

1) incomes in the amount of proceeds from the sale of commodities (carrying out of



works, rendering of services, transfer of property rights) gained within the period of application of the simplified taxation system which are not paid for (partially paid for) before the date of switching over to estimation of the tax base for profit tax on the basis of the accruals method shall be recognised within the composition of incomes;

2) outlays on acquisition within the period of application of the simplified taxation system of commodities (works, services, property rights) which had not be paid (partially paid) by a taxpayer before the date of switching over to estimation of the tax base for profit tax on the basis of the accruals method shall be recognised within the composition of expenses, unless otherwise provided for by Chapter 25 of this Code.

The incomes and expenses cited in **Subitems 1** and **2** of this Item shall be recognised as incomes (expenses) of the month when switching over to estimation of the **tax base** for tax on profits of organisations with application of the accruals method took place.

**2.1.** When an organisation switches over to the simplified taxation system having as the object of taxation the incomes reduced by the amount of outlays, on the tax records shall be reflected as of the date of such a switch the residual value of acquired (erected, manufactured) fixed assets and intangible assets acquired (created by the organisation proper) for which payment had been made before the switch to the simplified taxation system - in the form of the difference of the price of the acquisition (erection, manufacture, creation by the organisation proper) and the sum of accrued depreciation in accordance with the provisions of **Chapter 25** of this Code.

In the event of the taxpayer's switching from the object of taxation in the form of incomes to the object of taxation in the form of incomes reduced by the amount of outlays, the residual value of fixed assets acquired within the period of applying the simplified taxation system with the taxation object in the form of income shall not be determined as of the date of such transfer.

When an organisation practicing the taxation system for agricultural producers (uniform agricultural tax) in accordance with **Chapter 26.1** of this Code switches over to the simplified taxation system with the object of taxation in the form of incomes reduced by the amount of outlays, on the tax records shall be reflected as of the date of said switch the residual value of acquired (erected, manufactured) fixed assets and intangible assets acquired (created by the organisation proper) assessed on the basis of their residual value as of the time of switch to the payment of uniform agricultural tax less the sum of the expenses assessed in the procedure envisaged by **Subitem 2 of Item 4 of Article 346.5** of this Code over the period of application of **Chapter 26.1** of this Code.

When an organisation practicing the taxation system in the form of uniform tax on imputed income for specific types of activity in compliance with **Chapter 26.3** of this Code switches over to the simplified taxation system with the object of taxation in the form of incomes reduced by the amount of outlays, on the tax records as of the date of the said switch shall be reflected the residual value of acquired (erected or manufactured) fixed assets and intangible assets acquired (created by the organisation proper) before the switch to the simplified taxation system in the form of the difference between the price of the acquisition (erection, manufacture or creation by the organisation proper) of the fixed assets or the intangible assets and the sum of depreciation accrued in the procedure established by the legislation of the Russian Federation on bookkeeping over the period of application of the taxation system in the form of uniform tax on imputed income for specific types of activity.

**3.** If an organisation switches over from the simplified taxation system (regardless of the object of taxation) to the general taxation regime and has fixed assets and intangible assets that have been acquired (erected, manufactured, created by the organisation proper, or reconstructed, updated and technically re-equipped) by means of incurring expenses that have

not been fully posted as expenses over the period of application of the simplified taxation system in the procedure envisaged by **Subitem 3 of Item 3 of Article 346.16** of this Code, then for taxation purposes the residual value of fixed assets and intangible assets shall be assessed in tax records as of the date of the switch to payment of tax on profits of organisations by way of reduction of the residual value of these fixed assets and intangible assets assessed as of the time of transfer to the simplified taxation system by the amount of expenses determined for the period of application of the simplified system of taxation system in the procedure provided for by **Item 3 of Article 346.16** of this Code.

**4.** As they switch over to the simplified taxation system from other taxation regimes or to other taxation regimes from the simplified taxation system individual entrepreneurs shall apply the rules set out in **Items 2.1** and **3** of this Article.

**5.** Organisations and individual businessmen that have previously applied the simplified taxation system shall observe the following rule when switching over to the simplified taxation system: the sums of value-added tax estimated and paid by a payer of value-added tax on the amounts of payment or partial payment received prior to switching over to the simplified taxation system on account of future supply of commodities, carrying out of works, rendering of services or transfer of property rights effected within the period of transfer to the simplified taxation system shall be subject to deduction in the last tax period preceding the month when the payer of value-added tax switched over to the simplified taxation system, provided that there are documents proving that the tax amounts have been paid to purchasers in connection with the taxpayer's switching over to the simplified taxation system.

**6.** Organisations and individual businessmen applying the simplified taxation system when switching over to the general taxation regime shall observe the following rule: the sums of value-added tax charged to a taxpayer applying the simplified taxation system when he acquires commodities (works, services or property rights) which have not been posted as expenses deductible from the **tax base** when applying the simplified taxation system shall be deducted in the event of switching over to the general taxation regime in the procedure provided for by **Chapter 21** of this Code for payers of value-added tax.

#### **Article 346.25.1.** The Details of Application of the Simplified Taxation System by an Individual Entrepreneur on the Basis of a Licence

**1.** Individual businessmen pursuing one of the types of business activity listed in Item 2 of this Article are entitled to switch over to the simplified taxation system on the basis of a licence.

**2.** The application of the simplified taxation system based on a licence is permitted to individual businessmen engaged in the following types of business activities:

- 1) sewing and mending garments, fur and leather articles, headgear and small items, manufacturing and mending knit wear;
- 2) cobbling, dying and manufacture of footwear;
- 3) manufacture of felt footwear;
- 4) manufacture of haberdashery;
- 5) manufacture and repair of metalware, keys, licence plates and street signs;
- 6) manufacturing wreaths, artificial flowers and garlands;
- 7) manufacture of gravefences, gravestones and metal wreaths;
- 8) manufacture and repair of furniture;
- 9) manufacturing and mending rugs and carpet articles;
- 10) repair and maintenance of household electronics, household machines and

appliances, repair and manufacture of metal ware;

- 11) manufacturing and repairing fishing implements (accessories);
- 12) engraving and stamping of jewellery articles;
- 13) manufacture and repair of games and toys, except for computer games;
- 14) manufacturing traditional craft articles;
- 15) manufacture and repair of jewellery articles, bijouterie;
- 16) procuring wool, skins and hides of cattle, of horse family animals, sheep, goats and

swine;

- 17) processing and dyeing skins and hides of animals;
- 18) manufacture and dyeing of furs;
- 19) making knitting yarn of customer-owned washed wool;
- 20) wool carding;
- 21) shearing of domestic animals;
- 22) protection of gardens, vegetable gardens and planting of plant pests and diseases;
- 23) making agricultural implements of customer's materials;
- 24) repair and manufacture of cooperage and pottery;
- 25) manufacture and repair of small wooden boats;
- 26) repair of tourist equipment and implements;
- 27) wood sawing operations;
- 28) metal, glass, porcelain, wood and pottery engraving;
- 29) manufacture and printing of visiting cards and invitations;
- 30) copying-and-duplicating, book-binding, stitching, framing and cardboard works;
- 31) shoe-shining;
- 32) providing photographic services;
- 33) film producing, editing, hiring and showing;
- 34) repairing and maintaining motor vehicles;
- 35) providing other kinds of services related to maintenance of motor vehicles (auto washing, polishing, application of protective and decorative coatings to car bodies, passenger compartment cleaning, towing);
- 36) providing services of a toast-maker, an actor at festivities, musical services for ceremonies and rites;
- 37) providing hairdressing and cosmetic services;
- 38) motor carriage of passengers and freight;
- 39) providing the services of a secretary, editor, translator/interpreter;
- 40) maintenance and repair of office and computer equipment;
- 41) monophonic and stereophonic recording of customer's oral speech, singing and playing musical instruments with the use of a magnetic tape or compact-disc;
- 42) the services of baby-sitters, care of children and patients;
- 43) cleaning residential premises;
- 44) the services of a housekeeper;
- 45) repair and construction of dwelling housing and other buildings;
- 46) carrying out assembly, electric assembly, sanitation and welding works;
- 47) designing the interior of residential premises and artistic design;
- 48) procuring glassware and secondary raw materials, except for metal scrap;
- 49) cutting glass and mirrors, glass decoration works;
- 50) the works of installing glass in balconies and built-in balconies;
- 51) bath house services, the services of saunas, solariums and massage parlors;
- 52) training services, in particular in circles, studios, classes, as well as the services of a tutor;
- 53) the services of a coach;

- 54) servicing trees and shrubs, decorative flower cultivation;
- 55) production of bread and confectionary;
- 56) transfer for temporary possession and/or use of garages, own residential premises, as well as of residential premises erected on land plots intended for country houses;
- 57) the services of porters at railway stations, bus stations, air terminals, at airports, sea and river ports;
- 58) veterinary services;
- 59) services of paid toilet and wash-rooms;
- 60) ritual services;
- 61) the services of street wardens, guards, watchmen and janitors;
- 62) public catering services;
- 63) services which involve processing of agricultural products, in particular making meat, fish and milk products, bakery, vegetable and fruit products, products and semi-finished products made of flax, cotton, hemp and timber (except for sawn wood);
- 64) services connected with the sale of agricultural products (storage, sorting, drying, washing, pre-packing, packing and transportation);
- 65) rendering services connected with servicing agricultural production (mechanical, agrochemical, land-improving and transportation works);
- 66) cattle pasture;
- 67) keeping game husbandry and hunting;
- 68) private medical practice or private pharmaceutical activity by a person holding a licence for the exercise of the said kinds of activity;
- 69) private detective activity exercised by a person holding a licence for it.

**2.1.** When applying the simplified taxation system on the basis of a patent, an individual businessman is entitled to attract salaried employees, in particular under civil law contracts with the staff on the payroll determined in the procedure established by the federal executive body in charge of statistics, not exceeding five persons within a **tax period**.

**2.2.** A taxpayer shall be deemed to have lost the right to apply the simplified taxation system on the basis of a patent and having passed to the general regime of taxation from the beginning of the **tax period** for which he was issued with the relevant patent, in the following instances:

if in the calendar year in which the taxpayer applies the simplified taxation system on the basis of the patent his incomes have exceeded the size of incomes established by **Article 346.13** of this Code irrespective of the quantity of patents received in such year;

if during the tax period there occurred an inconformity to the requirements established by **Item 2.1** of this Article.

The tax amounts payable in accordance with the general taxation regime shall be calculated and paid by an individual businessman who has lost the right to apply the simplified taxation system on the basis of a patent in the procedure stipulated by legislation of the Russian Federation on taxes and fees for newly registered individual businessmen.

**3.** A decision as to the possibility of application by an individual entrepreneur of the simplified taxation system based on a licence on the territories of subjects of the Russian Federation shall be taken by laws of the subjects of the Russian Federation.

The fact that a subject of the Russian Federation has taken a decision on the possibility of application by individual entrepreneurs of the simplified taxation system based on a licence shall not prevent an individual entrepreneur from applying at his discretion the simplified taxation system envisaged by **Articles 346.11 - 346.25** of this Code. With this, switching over

from the simplified taxation system on the basis of a licence to the general procedure for application of the simplified taxation system and back may be effected solely after the expiry of the time period of the licence's duration.

**4.** The following shall be the document certifying an individual entrepreneur's right to apply the simplified taxation system based on a licence: the licence issued to the individual entrepreneur by a tax body for the pursuance of one of the types of entrepreneurial activity envisaged by **Item 2** of this Article.

The **form of the licence** shall be approved by the federal executive body charged with controlling and supervising in the area of taxes and fees.

A licence shall be issued at the taxpayer's choice for a period up to 12 months. As the tax period shall be deemed the time period for which a licence is issued.

**5.** A licence application shall be filed by an individual entrepreneur with the tax body with which he has registered for taxation purposes, at least one month before the beginning of application of the simplified taxation system based on a licence by the individual entrepreneur.

The **form** of the application shall be approved by the federal executive governmental body charged with controlling and supervising in the area of taxes and fees.

Within ten days the tax body shall issue a licence to the individual entrepreneur or notify him of its refusal to grant such a licence.

The **form** of a notice of refusal to grant a licence shall be approved by the federal executive governmental body charged with controlling and supervising in the area of taxes and fees.

When a licence is issued, a duplicate copy thereof shall also be made to be preserved in the tax body.

The licence shall be only valid in the territory of the constituent entity of the Russian Federation where it was issued.

A taxpayer holding the licence is entitled to file an application for another licence for the purpose of application of the simplified taxation system on the basis of the licence in the territory of another constituent entity of the Russian Federation.

If an individual businessman registered by a tax authority of a constituent entity of the Russian Federation files an application for issuing a patent thereto with a tax authority of another constituent entity of the Russian Federation, this individual businessman is obliged together with the application for issuance of the licence thereto to file an **application** for putting him/her on the records of this tax authority.

**6.** The annual price of the licence shall be determined as corresponding to the tax rate envisaged by **Item 1 of Article 346.20** of this Code, the share in percentage points of the annual income that can be potentially received by the individual entrepreneur from each type of entrepreneurial activity envisaged by **Item 2** of this Article.

If an individual entrepreneur obtains a licence for a shorter term, the price of the licence shall be reviewed in accordance with the duration of the effective term of the licence.

~~**7.** The amount of annual income that can be potentially received by an individual entrepreneur shall be established for a calendar year by laws of the subjects of the Russian Federation for each type of entrepreneurial activity for which individual entrepreneurs are permitted to apply the simplified taxation system based on a licence. In this case such annual income may be differentiated with account taken of the peculiar features and the place of the individual entrepreneur's entrepreneurial activity on the territory of a specific subject of the Russian Federation. If the law of a constituent entity~~

~~of the Russian Federation in respect of any of the kinds of business activities specified in **Item 2** of this Article does not change, for the next financial year, the amount of potential annual income receivable by an individual businessman, then in this calendar year the rate of potential annual income receivable by the individual businessmen that was effective in the previous year shall be taken into account when defining the annual licence's cost. The rate of potential annual income shall be indexed annually by applying the deflation factor cited in **Paragraph two of Item 2 of Article 346.12** of this Code.~~

~~If a type of entrepreneurial activity listed in **Item 2** of the present Article is included in the list of types of entrepreneurial activity established by **Item 2 of Article 346.26** of this Code the amount of annual income that can be potentially received by an individual entrepreneur from the type of entrepreneurial activity shall not exceed the base earnings value set by **Article 346.29** of this Code for the type of entrepreneurial activity times 30.~~

**7.1.** The size of an annual income potentially receivable by an individual businessmen shall be established for the calendar year by the laws of the constituent entities of the Russian Federation for each of the types of business activity for which individual businessmen may apply the simplified taxation system on the basis of a patent. In this case, differentiation of such annual income shall be permissible while taking into account the peculiarities and place of the carrying out of business activity by individual businessmen on the territory of the respective constituent entity of the Russian Federation. If for any of the types of business activity mentioned in **Item 2 of this Article**, a law of the entity of the Russian Federation has not changed the size of the potentially receivable annual income by an individual businessman for the next calendar year, then in this calendar year, when determining the annual cost of the patent, there shall be taken into account the size effective in the previous year of the annual income potentially receivable by the individual businessman.

In the event that the type of business activity stipulated by **Item 2** of this Article is included in the list of the types of business activity established by **Item 2 of Article 346.26** of this Code, the size of the annual income potentially receivable by an individual businessman for the particular type of business activity may not exceed the value of the base profitability established by **Article 346.29** of this Code with respect to the relevant type of business activity multiplied by 30.

**8.** The individual entrepreneurs who have switched over to the simplified taxation system based on a licence shall make payment of one third of the licence price within 25 calendar days after the commencement of entrepreneurial activity under the licence.

**9.** In the event of breach of the terms of application of the simplified taxation system based on a licence, or if one third of the licence's price has not been paid (has been only partially paid) within the term set by **Item 8** of this Article, the individual entrepreneur shall lose his right to apply the simplified taxation system based on the licence in the period for which the licence has been issued.

In this case the individual entrepreneur shall pay taxes in accordance with the general taxation regime. In this case the price (the portion of the price) of the licence that has been paid by the individual entrepreneur is not refundable.

An individual businessman is obliged to notify the tax authority of the right to apply the simplified taxation system on the basis of the licence and of switching to another taxation regime within 15 calendar days from the start of application of another taxation regime.

An individual businessman that has switched over from the simplified taxation system on the basis of the licence to another taxation regime is entitled to switch over to the simplified taxation system on the basis of the licence once again at the earliest in three years after his forfeiting the right to application of the simplified taxation system on the basis of the licence.

**10.** The outstanding portion of the licence's price shall be paid by the taxpayer within 25 calendar days after the expiry of the period for which the licence was obtained. For this, when paying the remaining part of the licence's cost, it is subject to reduction by the amount of insurance premiums for obligatory pension insurance, obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses.

**11.** The tax declaration provided for by **Article 346.23** of this Code shall not be submitted to the tax authorities by taxpayers applying the simplified taxation system on the basis of the licence.

**12.** Taxpayers applying the simplified taxation system on the basis of the licence shall keep tax records of income in the procedure established by **Article 346.24** of this Code.

*Federal Law No. 104-FZ of July 24, 2002 supplemented Section VIII.1 of this Code with Chapter 26.3. This Chapter shall **enter into force** from January 1, 2003*

## **Chapter 26.3. Taxation System in the Form of the Uniform Tax on the Imputed Income for Individual Kinds of Activity**

### **Article 346.26. General Provisions**

**1.** The system of taxation in the form of a uniform tax on the imputed income for individual kinds of activity shall be established by this Code, put into force by normative legal acts of the representative bodies of municipal districts and urban circuits, by laws of the cities of federal importance Moscow and Saint-Petersburg and is applicable in the same way as the general taxation system (hereinafter referred to in this Chapter as "the general taxation regime") and other taxation regimes envisaged by the legislation of the Russian Federation on taxes and fees.

**2.** The taxation system in the form of a uniform tax on the imputed income for individual kinds of activity (hereinafter in this Chapter referred to as the uniform tax) may be applied by decisions of the representative bodies of municipal districts, urban circuits, the legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg with respect to the following kinds of business activity:

**1)** the provision of consumer services, their groups, subgroups, types and/or particular everyday services classified in accordance with the All-Russia Classifier of Services for the Population;

2) rendering veterinary services;

3) rendering services involved in the repair, technical servicing and washing of motor transportation facilities;

4) rendering services of providing for temporary possession (for use) slots for parking motor vehicles, as well as of storing motor vehicles at **toll parking lots** (except for penalty parking lots);

4.1) **abolished** from January 1, 2006;

5) the provision of motor transportation services of carriage of passengers and cargoes that are provided by organisations and individual entrepreneurs having by a right of ownership or another right (use, possession and/or disposition) up to 20 vehicles intended for the provision of such services;

6) retail trade carried out through shops and pavilions with a trading area up to 150 sq. m

per trading facility. For the purposes of this Chapter retail trade carried out through shops and pavilions with a trading area exceeding 150 sq. m per trading facility is deemed a type of entrepreneurial activity that is not subject to uniform tax;

7) retail trade carried out by means of stationary trading network facilities that have no trading area, and also non-stationary trading network facilities;

8) the provision of **public catering services** through a public catering organisation's facilities with an area intended for clients not exceeding 150 sq. m per public catering organisation's facility. For the purposes of this Chapter the provision of public catering services with an area intended for clients exceeding 150 sq. m per public catering organisation's facility is deemed a type of entrepreneurial activity that is not subject to uniform tax;

9) the provision of public catering services through public catering organisation's facilities not having an area intended for providing services to clients;

10) the **distribution of outdoor advertisements** using advertising structures;

11) **placement of advertisements on transport vehicles**;

12) the provision of temporary accommodation services by organisations and entrepreneurs using in each accommodation facility a total area of premises intended for temporary accommodation and residence up to 500 sq. m;

13) the provision of services of granting for temporary possession and/or use of points of sale which are located in stationary trading facilities which do not have salesrooms, of the non-stationary trading facilities, as well as of public catering facilities which do not have an area for providing services to clients;

14) the provision of services of allotting for temporary possession and/or use land plots for arrangement of trading places of stationary non-stationary trading systems, as well as facilities of public catering organisations.

**2.1.** Uniform tax shall not apply to the kinds of business activities specified in **Item 2** of this Article, if they are exercised within the framework of a contract of simple partnership (a contract of joint activity) or a contract of property trust management, as well as in the event of their exercise by taxpayers in the category of major taxpayers in compliance with **Article 83** of this Code.

Uniform tax shall not apply to the types of business activities, specified in **Subitems from 6 to 9 of Item 2** of this Article, if they are exercised by organisations and individual businessmen that have switched over to payment of uniform agricultural tax in compliance with **Chapter 26.1** of this Code, and the said organisations and individual businessmen sell through their trade outlets and (or) public catering units the agricultural products made by them, including preprocessed products made by them of agricultural raw stuff of their own production.

**2.2.** To payment of uniform tax shall not be transferred:

*The provisions of Subitem 1 of Item 2.2 of Article 346.26 of this Code (in the wording of **Federal Law No. 155-FZ of July 22, 2008**) shall apply in respect of consumer cooperation organisations exercising their activities in compliance with **Law of the Russian Federation No. 3085-I of June 19, 1992 on Consumer Cooperation (Consumer Societies and Unions Thereof) in the Russian Federation, as well as in respect of economic companies whose sole founders are consumer societies and unions thereof exercising their activities in compliance with the said Law, from January 1, 2013***

*The provisions of Subitem 1 of Item 2.2 of Article 346.26 of this Code (in the wording of **Federal Law No. 155-FZ of July 22, 2008**) shall **apply** in respect of pharmaceutical institutions recognised as such in compliance with **Federal Law No. 86-FZ of June 22, 1998 on Medicines from January 1, 2011***



1) organisations and individual businessmen whose staff on the payroll for the previous calendar year determined in the procedure established by the federal executive body in charge of statistics exceeds 100 persons;

*The provisions of Subitem 2 of Item 2.2 of Article 346.26 of this Code (in the wording of Federal Law No. 155-FZ of July 22, 2008) shall apply in respect of pharmaceutical institutions recognised as such in compliance with Federal Law No. 86-FZ of June 22, 1998 on Medicines from January 1, 2011*

2) organisations in which the share of participation of other organisations exceeds 25 per cent. The said restriction shall not extend to organisations whose authorised capital is made up of contributions of public organisations of disabled persons, if the average number of disabled persons on the staff thereof constitutes at least 50 per cent of its staff on the payroll while their share in the labour compensation fund is equal to at least 25 per cent, to consumer cooperation organisations exercising its activities in compliance with Law of the Russian Federation No. 3085-I of June 19, 1992 on Consumer Cooperation (Consumer Societies and Unions Thereof) in the Russian Federation, as well as to economic companies whose sole founders are consumer societies and unions thereof exercising their activities in compliance with the said Law;

3) individual businessmen who have passed over in compliance with **Chapter 26.2** of this Code to the simplified taxation system on the basis of a licence according to kinds of business activities which by decision of representative bodies of municipal districts and urban circuits, as well as of legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg, have been transferred to the taxation system in the form of the uniform tax on imputed earning for certain types of activities;

4) institutions of education, public health care and social security, as regards the business activity of rendering public catering services provided for by **Subitem 8 of Item 2** of this Article, if rendering of public catering services forms an integral part of the process of the said institutions' functioning and these services are rendered by these institutions;

5) organisations and individual businessmen engaged in the kinds of business activity cited in **Subitems 13 and 14 of Item 2** of this Article, as regards rendering of services connected with the transfer for temporary possession and/or use of gasoline refueling stations and gas refueling stations.

**2.3.** If on the basis of the results of the **tax period** the taxpayer failed to satisfy the requirements established by **Subitems 1 and 2 Item 2.2** of this Article, such taxpayer shall be regarded as having lost the right to apply the taxation system established by this Article and having passed over to the general taxation regime from the start of the taxation period when he failed to satisfy the said requirements. With this, the amounts of taxes to be paid while using the general taxation regime shall be estimated and paid in the procedure provided for by the legislation of the Russian Federation on taxes and fees for newly established organisations or newly registered individual businessmen.

If a taxpayer that has lost the right to apply the taxation system established by this Chapter exercises the kinds of business activities transferred by decision of representative bodies of municipal districts and urban circuits, as well as of legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg, to payment of uniform tax, without failing to satisfy the requirements established by **Subitems 1 and 2 of Item 2.2** of this Article, he is obliged to pass over to the taxation system established by this Article from the start of the next tax period for uniform tax, that is, from the start of the quarter following

the quarter in which the taxpayer eliminated the non-compliance with the established requirements.

**3.** The normative legal acts of the representative bodies of municipal districts and urban circuits, by laws of the cities of federal importance Moscow and Saint-Petersburg shall establish:

1) **abolished** from January 1, 2006;

2) the kinds of business activity, with respect to which the uniform tax is introduced, within the limits of the list, supplied in Item 2 of this Article;

With the introduction of a uniform tax in respect of the business activity of rendering everyday services it is possible to determine the list of their groups, subgroups, types and/or particular everyday services subject to the transfer for the payment of the uniform tax;

3) the values of coefficient  $K_2$  mentioned in **Article 346.27** of the present Code or the values of this coefficient that take into account the specific features of conduct of an entrepreneurial activity.

**4.** The payment of the uniform tax by organisations envisage their relief from the duty to make payment of the organisation's profit tax (in respect of the profit received from an entrepreneurial activity subject to the uniform tax), the organisation's property tax (in respect of the property used to pursue an entrepreneurial activity subject to the uniform tax).

The payment of the uniform tax by individual entrepreneurs envisage their relief from the duty to make payment of the tax on income of natural persons (in respect of the incomes received from an entrepreneurial activity subject to the uniform tax), the personal property tax (in respect of the property used to pursue an entrepreneurial activity subject to the uniform tax).

The organisations and individual entrepreneurs being payers of the uniform tax shall not be deemed payers of the value added tax (in respect of the transactions recognised as taxable objects under **Chapter 21** of the present Code as being accomplished within the framework of an entrepreneurial activity subject to the uniform tax) except for the value added tax payable under this Code in the case of importation of goods into the territory of the Russian Federation and other territories under its jurisdiction.

The calculation and payment of other taxes and fees not indicated in this Item shall be effected by taxpayers in compliance with other taxation regimes.

**Abrogated** from January 1, 2010.

**5.** The taxpayers shall be obliged to observe the procedure for carrying out settlement and cash-based payment transactions in cash and cashless forms, as is laid down in conformity with the legislation of the Russian Federation.

**6.** When several kinds of business activity are performed, which are subject to taxation with the uniform tax in accordance with this Chapter, the indices necessary for the computation of the tax shall be recorded separately for every kind of activity.

**7.** Taxpayers, who carry out other kinds of activity, parallel to the business activity to be levied with the uniform tax, are obliged to keep separate records on the property, liabilities and economic transactions as concerns the business activity subject to being levied with the uniform tax, and as concerns the business activity with respect to which the taxpayers shall pay taxes in accordance with the other regime of taxation. In this case taxpayers shall apply the general established procedure to keep record of property, obligations and economic transactions for the types of entrepreneurial activity taxable by uniform tax.

The taxpayers pursuing an entrepreneurial activity subject to the uniform tax and equally other types of entrepreneurial activity shall calculate and pay taxes and fees on these types of activity in compliance with other taxation regimes provided for by this Code.

**8.** Organisations and individual businessmen when switching over from the general taxation regime to payment of uniform tax shall observe the following rule: the sums of value-added tax estimated and paid by a payer of value-added tax on paid sums (partially paid sums)

received before switching over to payment of uniform tax on account of forthcoming supply of commodities, carrying out of works, rendering of services or transfer of property rights to be effected within the time period after switching over to payment of uniform tax shall be deductible in the last **tax period** preceding the month when a payer of value-added tax switched over to payment of uniform tax, if the documents proving the return by a purchaser of the sums of tax in connection with the taxpayer's switching over to payment of uniform tax are available.

**9.** Organisations and individual businessmen, which are payers of uniform tax, when switching over to the general taxation regime shall observe the following rule: the sums of value-added tax charged to a taxpayer that has switched over to payment of uniform tax in respect of commodities (works, services, property rights) acquired by him which have not be used in the activities taxable by uniform tax are subject to deduction when switching over to the general taxation regime in the procedure provided for by **Chapter 21** of this Code for payers of value-added tax.

#### **Article 346.27.** The Basic Terms Used in This Chapter

The following basic terms are used for the purposes of this chapter:

**imputed income** meaning a possible income of a payer of uniform tax calculated with due regard for the entirety of conditions directly affecting the production of the income and used to calculate the amount of uniform tax at the established rate;

**base earnings** meaning conditional monthly earnings in terms of value per a certain unit of a physical indicator which characterises a specific type of entrepreneurial activity in various comparable conditions and which is used to calculate the value of imputed income;

**base earnings adjustment coefficients** meaning coefficients that indicate the degree of influence of a certain condition on the result of an entrepreneurial activity taxable by the uniform tax, namely as follows:

**K<sub>1</sub>** is a deflator coefficient which is set for a calendar year and estimated as the product of the coefficient applied in the previous period and of the coefficient that takes into account the variation of consumer prices for goods (works and services) in the Russian Federation in the preceding calendar year and which is to be calculated and officially published in the procedure established by the Government of the Russian Federation;

*On the application in 2007 of a deflator coefficient K<sub>1</sub>, see **Letter of the Ministry of Finance of the Russian Federation No. 03-11-02/151 of May 29, 2007***

**K<sub>2</sub>** is a base earnings adjustment coefficient that takes into account the entirety of features of the conduct of an entrepreneurial activity, including the range of goods (works or services), seasonal peculiarities, working hours/mode, income amount, the peculiar features of the place where the entrepreneurial activity is pursued, the area of electronic display information field, the area of information field of outdoor advertisements with any means of image application, the area of information field of outdoor advertisements with automatically alternating image, the number of buses of any type, trams, trolleybuses, cars and lorries, trailers, semi-trailers, pole trailers, and river vessels used to disseminate and/or place advertisements as well as other features;

**everyday services** meaning paid services that are provided to natural persons (except for the services of pawn shops and the services of repair, maintenance and washing of motor vehicles) envisaged by the All-Russia Classification of Services Provided to the General Public, except for the services of making furniture and construction of individual houses;

**veterinary services** meaning services paid for by natural persons and organisations according to the list of services envisaged by regulatory legal acts of the Russian Federation and also by the All-Russia Classification of Services Provided to the General Public;

**the services of repair, maintenance and washing motor vehicles** meaning paid services provided to natural persons and to organisations according to the list of services envisaged by the All-Russia Classification of Services Provided to the General Public. Such services shall neither include the services of fueling motor vehicles, the services of warranty repair and maintenance nor the services of storing motor vehicles at toll parking lots and penalty parking lots;

**vehicles** (for the purposes of **Subitem 5 of Item 2 of Article 346.26** of this Code) meaning motor vehicles intended for performing the road carriage of passengers and cargoes (buses of any type, cars and lorries). The term "vehicles" does not include trailers, semi-trailers and pole trailers. In a motor vehicle intended for passenger carriage the number of seats for the purposes of this Chapter is defined as the number of seating spaces (except for the driver's and busman's seats) on the basis of data of the technical certificate issued by the manufacturing plant of the motor vehicle. If in the technical certificate of the manufacturing plant of a motor vehicle there are no data on the number of seating spaces, this number shall be determined by the state bodies in charge of supervision over the technical condition of self-propelled machines and other kinds of machinery in the Russian Federation on the basis of an application of the organisation (individual businessman) that owns the motor vehicle intended for passenger carriage, in case of exercising business activities taxable in compliance with this Chapter;

**toll parking lots** meaning grounds (including outdoor and indoor grounds) used as places for the provision of paid services of providing for temporary possession (use) slots at parking lots, as well as of storing motor vehicles (except for penalty parking lots);

**retail trade** meaning an entrepreneurial activity relating to trading in goods (including those where payment is made with cash or with payment cards) under contracts of retail purchase/sale. This type of entrepreneurial activity does not include the sale of the excisable goods specified in **Subitems 6-10 of Item 1 of Article 181** of this Code, foodstuffs and beverages, including alcoholic ones, - either in manufacturer's packing and containers or without such a packing or containers - in bars, restaurants, cafes and other public catering organisation's facilities, natural gas, trucks and special-purpose vehicles, trailers, container-trailers, bolsters, buses of any type, commodities according to samples and catalogues outside the stationary trading system (in particular in the form of postal items (parcel trade), as well as through TV shops, telephone communication and computer networks), transfer of medical products on the basis of discount (free-of-charge) prescriptions, and also products of one's own make (production). Sale through automatic teller machines of commodities and/or public catering products, made in these automatic teller machines, shall be referred to retail trade for the purposes of this Chapter;

**stationary trading network** meaning a trading network located in buildings, houses, structures that are intended and/or used for trading and are connected to the services;

**stationary trading network with rooms intended for trading** meaning a trading network located in buildings and structures (parts thereof) intended for trading that feature separate premises with special equipment, such premises being intended for retail trading and for provision of services to buyers. Shops and pavilions fall within this category of trading facilities;

**stationary trading network without rooms intended for trading** meaning a trading network located in buildings, houses and structures (parts thereof) intended for trading and not having separate premises that are specifically equipped for these purposes, and also in buildings, houses and structures (parts thereof) used for concluding retail purchase/sale contracts, and also for public sales. Indoor markets (fairs), malls, kiosks, vending machines and other similar facilities fall within this category of trading facilities;

**non-stationary trading network** meaning a trading network operating on the basis of delivery and peddling trade and also trading organisation's facilities not deemed a stationary

trading network;

**delivery trade** meaning a retail trade carried out outside a stationary retail trading network through the use of specialised or specifically-equipped vehicles as well as mobile equipment used only with a vehicle. This type of trading includes trading involving the use of a motor vehicle, of a lorry-mounted kiosk, lorry-mounted shop, "tonar" towable trailer, trailer or movable vending machine;

**peddling** meaning a retail trade carried out outside a stationary retail trading network by means of direct contact of a vendor with a buyer in organisations, on means of transport, at home or in the street. This type of trading includes trading by a vendor from the vendor's hands, from a tray, basket or cart;

**public catering services** meaning the services of preparation of cookery items and/or sweet, creation of conditions for the consumption and/or sale of finished cookery items as well as sweets and/or purchased goods and also for recreation. Public catering services shall not include the services related to manufacture and sale of the excisable commodities specified in **Subitems 3 and 4 of Item 1 of Article 181** of this Code

**public catering organisation's facility having a room for providing services to clients** meaning a building (part thereof) or a structure intended for the provision of public catering services and having specifically-equipped premises (outdoor ground) for the consumption of finished cookery items as well as sweets and/or purchased goods and also for recreation. this category of public catering organisation's facilities includes restaurants, bars, cafes, canteens, snack-bars;

**public catering organisation's facility having no room for the provision of services to clients** meaning a public catering organisation's facility that has no specifically-equipped room (outdoor ground) for the consumption of finished cookery items or sweets and/or purchased goods. This category of public catering organisation's facility includes kiosks, stalls, delly shops (sections) attached to restaurants, bars, cafes, canteens and snack-bars and other similar public catering facilities;

**trading room area** meaning the part of a shop, pavilion (outdoor ground) occupied by equipment intended for the placement and show of goods, settlements of accounts and provision of services to clients, the area of cash-register points and booths, the area of workplaces of attendants as well as the area of passages intended for clients. The area of a trading room also includes the rented part of trading room's area. The area of auxiliary, administrative and utility premises and also of premises intended for the acceptance and storage of goods, and for the preparation of goods for sale, and where no services are provided to clients is not deemed a trading room area. The area of a trading room is assessed on the basis of stock-taking and right establishing documents;

**the area of a room intended for provision of services to clients** meaning the area of specifically-equipped premises (outdoor grounds) of a public catering organisation's facility intended for the consumption of finished cookery items and sweets and/or purchased goods and also for recreation, the area being assessed on the basis of stock-taking and right-establishing documents.

For the purposes of this Chapter the "stock-taking and right establishing documents" mean any documents that an organisation or an individual entrepreneur has for an stationary trading network facility (a public catering organisation's facility) as containing the necessary information on the purpose, structural features and layout of the premises of the facility, and also information confirming the right of using the facility (a contract of purchase/sale of non-living premises, the technical certificate for non-living premises, layouts, drawings, legends, a contract of lease (sublease) of non-living premises or a part (parts) thereof, a permit for provision of services to clients at an outdoor ground as well as other documents);

**outdoor ground** meaning a place located on a land plot and specifically equipped for

trading or for public catering;

**shop** meaning a specifically-equipped building (part thereof) intended for selling goods and providing services to buyers and featuring trading, auxiliary, administrative and utility premises as well as premises intended for acceptance and storage of merchandise and also for preparation of merchandise for sale;

**pavilion** meaning a structure having a room for trading and intended for one workplace or several workplaces;

**kiosk** meaning a structure that has no room for trading and that is intended for a single workplace (for an attendant);

**tent** meaning a structure that can be assembled/disassembled that features a counter and has no room for trading;

**trading point** meaning the place used for making transactions of retail purchase/sale. Trading points shall include buildings, structures (a part thereof) and/or land plots used for making transactions of retail purchase/sale, as well as retail trade and public catering facilities that do not have salesrooms and areas for servicing clients (pavilions, booths, kiosks, boxes, containers and other facilities, including those located in buildings, structures and constructions), counters, tables, stands (including those located on land plots), land plots used for location of retail trade (public catering) facilities that do not have salesrooms (areas for servicing clients), counters, tables, stands and other facilities;

**Abrogated** from January 1, 2009;

**the area of an outdoor advertisement information field with any means of image application, except for an outdoor advertisement with automatically alternating image** meaning the area of an image applied;

**the area of an outdoor advertisement information field with automatically alternating image** meaning the area of the exposed surface;

**the area of an outdoor advertisement electronic display information field** meaning the area of the light-emitting surface;

**the dissemination of outdoor advertisements using outdoor advertising structures** meaning the business activity involving the dissemination of outdoor advertisements with the use of boards, stands, construction nets, suspended advertisements, electronic (illuminated) displays, air balloons, aerostats and other stationary technical facilities installed and placed on outer walls, roofs and other building parts or outside them, as well as at community transport stops which is exercised by the owner of an advertising structure which is an advertising disseminator, subject to the requirements of **Federal Law** No. 38-FZ of March 13, 2006 on Advertising (hereinafter referred to as the Federal Law on Advertising). The owner of an advertising structure (an organisation or an individual businessman) means the holder of the advertising structure or other person having the real right to the advertising structure or the right to possess and use the advertising structure on the basis of a contract made with the holder thereof;

**placement of advertising on a transport vehicle** meaning the business activity of placing advertising on a transport vehicle exercised subject to the requirements of the **Federal Law** on Advertising on the basis of a contract made by the advertiser with the owner of the transport vehicle, or with the person authorised to it, or with the person having any other real right to the transport vehicle;

**the number of employees** means the mean listed (mean) number of employees for each calendar month of **tax period** with account taken of all employees, including those having combined jobs, working under contracts of independent contractor work and other civil-law contracts;

**premises for temporary accommodation and residence** meaning premises used for temporary accommodation and residence of natural persons (an apartment, a room in an

apartment, private house, cottage (a part thereof), a hotel suite, a room in a hostel and other premises). The total area of premises for accommodation and residence shall be determined on the basis of inventory and right-proclaiming documents in respect of the facilities intended for temporary accommodation and residence (contracts of purchase/sale, of lease (sublease), technical passports, plans, diagrams, legends and other documents).

When estimating the total area of premises for temporary accommodation and residence at facilities of the hotel type (hotels, holiday camps, hostels and other facilities), the area of premises for public use (halls, corridors, stair halls, stairs between floors, public water closets, saunas and shower rooms, premises of restaurants, bars, canteens and other premises), as well the area of auxiliary administrative premises, shall not be taken into account;

**facilities for rendering the services of temporary accommodation and residence**, meaning buildings, structures and constructions (parts thereof) which have premises for temporary accommodation and residence (dwelling houses, cottages, private houses, structures on homestead land plots, buildings and structures (complexes of constructionally separate (associated) buildings and structures located on the same land plot) which are used as hotels, holiday camps, hostels and other facilities);

**area of a parking lot** meaning the total area of the land plot where a parking lot is located which is estimated on the basis of right-proclaiming and inventory documents.

#### **Article 346.28.** Taxpayers

**1.** Taxpayers are organisations and individual businessmen, performing an entrepreneurial activity subject to the uniform tax on the territory of the municipal district, urban circuit, the cities of federal importance Moscow and Saint-Petersburg in which the uniform tax is introduced.

**2.** Organisations and individual businessmen engaged in the kinds of business activity transferred by decisions of representative bodies of municipal districts, urban circuits, legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg to payment of uniform tax are obliged to register with the tax authority:

at the place of exercising business activity (except for the kinds of business activity cited in Paragraph Three of this Item);

at the location of an organisation (at the place of residence of an individual businessman)  
- according to the kinds of business activity cited in **Subitems 5 and 7** (as regards delivery and peddling retail trade) and in **Subitem 11 of Item 2 of Article 346.26** of this Code.

The registration of an organisation or of an individual businessman as a payer of uniform tax that are engaged in business activities in the territories of several urban circuits or municipal districts, in several intra-city territories of the cities of federal importance Moscow and Saint-Petersburg where several tax authorities are functioning shall be effected with the tax authority in whose area of operation is located the place of exercising business activity which is mentioned first in the application for registration filed by the organisation or individual businessman as payers of the uniform tax.

**3.** Organisations and individual businessman that are subject to registration as payers of the uniform tax shall file with the tax authorities within five days as of the starting date of their business activity taxable with the uniform tax an application for registration of an organisation or individual businessman as a payer of uniform tax.

The tax authority effecting the registration of an organisation or individual businessman as a payer of the uniform tax, within five days as of the date of receiving the application for registration of the organisation or individual businessman as a payer of uniform tax shall issue a notice of registering the organisation or individual businessman as a payer of uniform tax.

A payer of uniform tax shall be struck off the records upon termination by him of the business activity taxable by uniform tax on the basis of an application thereof filed with the a tax

authority within five working days as of the date of terminating the business activity taxable with the uniform tax.

The tax authority, within five days as of the date of receiving an application from a taxpayer for being struck off the records as a payer of uniform tax shall forward thereto a notice of his striking off the records.

The **form** of an application for registration of an organisation or individual businessman as a payer of uniform tax and the form of an application of an organisation or individual businessman for being struck off the records as a payer of the uniform tax in connection with termination of the business activity by him taxable with the uniform tax shall be established by the federal executive body in charge of exercising control and supervision in the field of taxes and fees.

**4.** In the retail markets formed in compliance with **Federal Law** No. 271-FZ of December 30, 2006 on Retail Markets and on Amending the Labour Code of the Russian Federation management companies of markets shall be deemed taxpayers in respect of the kinds of business activity provided for by **Subitems 13** and **14 of Item 2 of Article 346.26** of this Code.

**Article 346.29.** Taxed Item and the Tax Base

**1.** The taxpayer's imputed income shall be seen as the item subject to taxation when applying the uniform tax.

**2.** The tax base for the computation of the sum of the uniform tax shall be the size of the imputed income, calculated as the product of the **basic profitability** of a given kind of business activity calculated for the tax period and of the size of the physical index, characterizing the given kind of activity.

**Federal Law** No. 25-FZ of March 7, 2011 amended Item 3 of Article 346.29 of this Code. The amendments shall **enter into force** not earlier than upon the expiry of one month from the day of the **official publication** of the said Federal Law and not earlier than the first day of the next **tax period** for uniform tax on the imputed income for individual kinds of activity

**3.** The following physical indices describing specific kinds of business activities and base earnings per month shall be used for estimation of the amount of uniform tax:

earnings	Type of business Activity	Physical index	Base per month (roubles)
1	2	3	
Provision services	of domestic	Number of employees, including businessman	7 500 individual



Provision of veterinary services	Number of employees, including individual businessman	7 500
Provision of services of repair, maintenance and washing of motor vehicles	Number of employees, including individual businessman	12 000
Provision of services of letting for temporary possession (use) slots at motor vehicles' parking lots, as well as of motor vehicles' storage at paid parking lots	Total area of parking lot (in square metres)	50
Provision of cargo motor carriage services	Number of motor vehicles used to carry cargoes	6 000
Provision of passenger carriage services	Number of seats	1 500
Retail trade effected through facilities of a	Area of sales room (in square metres)	1 800

stationary trading system		
featuring sales rooms		

Retail trade effected through facilities of the stationary trading system without salesrooms, as well as through facilities of non-stationary trading system, where the area of a trading point is 5 square meters at most, except for the sale of goods through automatic teller machines	Trading point	9 000
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Sale of goods through automatic teller machines	Automatic teller machine	4 500
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Retail trade effected through facilities of a stationary trading system without salesrooms, as well as through facilities of non-stationary trading system, where the area of	Area of trading point (in square meters)	1 800
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a trading point exceeds 5	
square meters	

Peddling and delivery	Number of employees,	4 500
retail trade	including individual	
	businessman	

Provision of public	Area of room for rendering	1 000
catering services through	services to clients (in	
public catering	square meters)	
organisation facilities		
featuring rooms for		
rendering services to		
clients		

Provision of public	Number of employees,	4 500
catering services through	including individual	
public catering	businessman	
organisation facilities		
featuring no rooms for		
rendering services to		
clients		

Dissemination of outdoor	Area of information field	3 000
advertising	using (in square meters)	

advertising structures,	
(except for outdoor	
advertising with	
automatically alternating	
images and electronic	
display panels)	

Dissemination of outdoor	Area of information field	4 000
advertising with	(in square meters)	
automatically alternating		
images		

Placement of outdoor	Area of information field	5 000
advertising using	(in square meters)	
electronic display panels		

Placement of advertising	Number of transport	10 000
on transport vehicle	vehicles where advertising	
	is placed	

Provision of services of	Total area of premises for	1 000
temporary accommodation	temporary accommodation and	
and residence	residence(in square meters)	

Provision of services of	Number of trading points,	6 000
granting for temporary	of non-stationary trading	

possession and/or use of network facilities or of trading points located at public catering facilities of a stationary organisation facilities trading system featuring granted for temporary no salesrooms, facilities possession and/or use of a non-stationary trading system, as well as of public catering organisation facilities featuring no rooms for rendering services to clients where the area of one trading point, one facility of the catering organisation is at most 5 square meters

Provision of services of Area of trading point, of 1 200 granting for temporary non-stationary trading possession and/or use of network facility or of trading points located at public catering facilities of a stationary organisation facility trading system featuring granted for temporary no salesrooms, facilities possession and/or use (in of a non-stationary square meters)

trading system, as well as		
of public catering		
organisation facilities		
featuring no rooms for		
rendering services to		
clients where the area of		
one trading point, one		
facility of the catering		
organisation exceeds 5		
square meters		

Provision of services of	Number of land plots	5 000
allotting for temporary	allotted for temporary	
possession and/or use land	possession and/or use	
plots whose area is 10		
square metres at most for		
arrangement of facilities		
of non-stationary and		
stationary trading		
systems, as well as of		
public catering		
organisation facilities		

Provision of services of	Area of land plots	1 000
transferring for temporary	transferred for temporary	
possession and/or use land	possession and/or use (in	

plots whose area exceeds (square metres)  
10 square meters for  
arrangement of facilities  
of stationary and  
non-stationary trading  
systems, as well as of  
public catering  
organisation facilities

4. The basic profitability shall be corrected (multiplied) by Coefficients **K\_1** and **K\_2**.

5. **Abolished** from January 1, 2006.

6. When determining the basic profitability, the representative bodies of municipal districts, urban circuits, legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg may correct (multiply) the basic profitability, given in **Item 3** of this Article, by Correcting Coefficient **K\_2**.

The correcting coefficient **K\_2** shall be determined as the product of the values, which are established by normative legal acts of the representative bodies of municipal districts and city wards, by laws of the federal cities Moscow and St. Petersburg, and which record the influence of the factors on the results of business activity, and the factors stipulated by **Article 346.27** of this Code.

**Abrogated** from January 1, 2009.

7. The values of Correcting Coefficient **K\_2** shall be defined for all categories of taxpayers by the representative bodies of municipal districts, urban circuits, legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg for a period of at least one calendar year and may be established within the bracket of 0.005 to 1. If the normative legal act of the representative body of a municipal region or an urban circuit, the laws of the cities of federal importance Moscow and Saint-Petersburg on amending effective values of Correcting Coefficient **K\_2** are not adopted before the start of the next calendar year and/or did not enter into effect in the procedure established by this Code from the start of the next calendar year, the values of Correcting Coefficient **K\_2** that were in effect in the previous calendar year shall be also in force in the next calendar year.

8. **Abolished** from January 1, 2006.

9. If in the course of the tax period a change in the size of the taxpayer's physical index has taken place, the taxpayer shall take into account said change when calculating the sum of the uniform tax, as from the start of that month when the change in the size of the physical index occurred.

10. The size of the imputed income for a quarter, in the course of which the corresponding state registration of the taxpayer was carried out, shall be calculated proceeding from full months, beginning with the month following the month of the above-said state

registration.

**11.** The value of the correction coefficient K2 shall be rounded to the third character after the decimal point. Values of physical characteristics shall be shown in whole roubles. Values of cost indicators of less than 50 kopecks (0.5 unit) shall be ignored, while 50 kopecks (0.5 unit) and over shall be rounded up to the whole rouble (whole unit).

**Article 346.30. Tax Period**

A quarter shall be recognised as the tax period for the uniform tax.

*Federal Law No. 191-FZ of December 31, 2002 amended Article 346.31 of this Code. The amendments shall enter into force from January 1, 2003*

*See the previous text of the Article*

**Article 346.31. Tax rate**

The rate of the uniform tax shall be fixed at 15 per cent of the value of the imputed income.

**Article 346.32. Procedure and Time Terms for the Payment of the Uniform Tax**

**1.** The payment of the uniform tax shall be effected by the taxpayer in accordance with the results of the tax period not later than on the 25th day of the first month of the next tax period.

**2.** The sum of uniform tax calculated for the **tax period** shall be reduced by taxpayers by the sum of insurance contributions for compulsory pension insurance, obligatory social insurance in case of temporary disability and in connection with motherhood, obligatory medical insurance, obligatory social insurance against industrial accidents and professional illnesses paid (within the amounts calculated) for the same period of time in keeping with the legislation of the Russian Federation when the taxpayers paid out remuneration to employees engaged in those areas of the taxpayer's activity where uniform tax is paid, and also by the sum of insurance contributions in the form of fixed payments paid by the individual entrepreneurs their own insurance and the sum of temporary disability benefits disbursed to employees. In this case the sum of uniform tax shall not be reduced by over 50 per cent.

**3. Tax returns** on the results of the tax period shall be filed by taxpayers with tax bodies not later than the 20th day of the first month of next **tax period**.

**Article 346.33. Entry of the Sums of Uniform Tax**

The sums of the uniform tax shall be entered onto the accounts of the Federal Treasury bodies to be subsequently distributed among the budgets of all levels in conformity with the budgetary legislation of the Russian Federation.

*Federal Law No. 65-FZ of June 6, 2003 supplemented Section VIII.1 of this Code with Chapter 26.4:*

**Chapter 26.4. Taxation System When Implementing Production-Sharing Agreements**

**Federal Law** No. 248-FZ of July 19, 2011 amended Article 346.34 of this Code. The amendments shall **enter into force** upon the expiry of 90 days after the day of the **official**



**publication** of the said Federal Law and not earlier than the first day of the next **tax period** for tax on extraction of mineral resource

#### **Article 346.34.** Principal Concepts Used in This Chapter

For the purposes of this Chapter the following principal concepts shall be used therein:

**Investor** shall mean a legal entity or an association of legal entities, established on the basis of an agreement of joint activity and not having the status of a legal entity, which invests own, borrowed or attracted assets (property and (or) property rights) into exploration, prospecting and extraction of mineral raw materials and is a user of mineral resources under the terms and conditions of a production-sharing agreement (hereinafter mentioned in the Chapter as an agreement);

**Products** shall mean a mineral extracted from the subsoil on the territory of the Russian Federation, as well as on the continental shelf of the Russian Federation, and (or) within the limits of the exclusive economic zone of the Russian Federation, on the subsoil tract provided to an investor, the quality of the former complying with an appropriate national standard, regional standard, international standard or, in the absence of the cited standards in respect of a specific mineral resource, in compliance with an organisation's standard. There may not be deemed as a mineral the products resulting from further processing (dressing, technological process) of a mineral and being products of the manufacturing industry;

**Output** shall mean the quantity of the mining industry products and of products received as a result of quarrying contained in mineral raw materials (rock, fluid or another form), actually extracted from (drawn out of) the subsoil (waste, loss), the quality of the former complying with the national standard, regional standard, international standard or, in the absence of the cited standards in respect of a specific mineral resource, in compliance with an organisation's standard, which is extracted by an investor, while carrying out works under an agreement, and decreased by the quantity of process loss within the limits of established normative standards. When implementing agreements, where the procedure for production sharing, established by **Item 2 of Article 8** of the Federal Law on Production-Sharing Agreements, is applied, the share of the State in the total output shall constitute at least 32 per cent thereof;

**Production sharing** shall mean sharing of output in kind and (or) in value terms between the State and an investor in compliance with the **Federal Law** on Production-Sharing Agreements;

**Profitable products** shall mean products made within a report (tax) period, in the event of implementing an agreement, less the part of the products, whose value equivalent is used for paying the mineral resources extraction tax, and less compensation products;

**Compensation products** shall mean a part of output under an agreement which does not have to exceed 75 per cent of the total output and, in the event carrying out extraction works on the continental shelf of the Russian Federation, 90 per cent of the total output transferred under the ownership of an investor for reimbursement of the expenses (reimbursable expenses), incurred by it, whose composition shall be established by an agreement in compliance with this Chapter;

**Sharing point** shall mean a place of business accounting of products where the State shall deliver to an investor the part of output due to it under the terms and conditions of an agreement. In the event of oil production, the place of business accounting of products shall be defined, when using pipeline transportation, as the place where oil is delivered over a pipeline to a check-station and where its quantity is measured and quality determined, as well as where it is accounted as output and transferred to a trunk pipeline. In the event of oil transportation with the use of a transport mode other than a pipeline, the place of business accounting shall be defined as the place where oil is delivered to a check station and where the quantity thereof is measured and quality determined;

**Price of products** shall mean the cost of products under the terms and conditions of an agreement, unless otherwise established by this Chapter;

**Oil price** shall mean the oil selling price indicated by the parties to a transaction but not lower than the average price level of Urals crude oil within the report period determined as the sum of simple averages of purchasing and selling prices in world oil markets (in the Mediterranean and Rotterdam ones) for all days of sales divided by the number of days of sales in the appropriate report period. Average levels of Urals crude oil prices in world crude oil markets for an expired month (in the Mediterranean and Rotterdam ones) shall become public through official sources of information at the latest on the 15th day of the next following month in the procedure established by the Government of the Russian Federation. In the absence of said information in reports of the official sources of information, the average level of Urals crude oil prices in world crude oil markets for an expired month (in the Mediterranean and Rotterdam ones) shall be determined by a taxpayer independently.

### **Article 346.35. General Provisions**

**1.** This Chapter shall establish a special tax treatment applicable, when implementing agreements, which are made in compliance with the **Federal Law** on Production-Sharing Agreements, and shall meet the following conditions:

1) agreements are made after holding an auction sales for the purpose of obtaining the rights of using subsoil under the conditions, other than production sharing, in the procedure and under the conditions, which are determined by **Item 4 of Article 2** of the Federal Law on Production Sharing Agreements, and after declaring the auction sales as frustrated;

2) after implementing the agreements where the procedure for production sharing, established by **Item 2 of Article 8** of the Federal Law on Production-Sharing Agreements, is applied, the share of the State in the total output amounts to at least 32 per cent of the total output;

3) agreements provide for the increase of the State's share of profitable products in the event of the improvement of investments efficiency indicators of the investor upon the implementation of the agreement. Investments efficiency indicators shall be established in compliance with the terms and conditions of the agreement.

**2.** A taxpayer enjoying the right of applying the special tax treatment, when implementing agreements, shall submit to the tax bodies appropriate notices in writing and the following documents:

a production-sharing agreement;

a decision on endorsing the results of an auction sales for obtaining the right to use a subsoil tract under the conditions, other than production sharing, in compliance with the **Law** of the Russian Federation on Subsoil and on declaring the auction sales as frustrated in view of the participants' absence.

**3.** For the purposes of this Chapter, the price of products (oil price) shall be applicable for determining the volume of compensation products to be transferred to an investor for sharing profitable products in value terms with the aim of determining taxable profits, as well as for reimbursing the investor's expenses related to paying taxes and fees in the instances provided for by this Chapter.

**4.** The special tax treatment, established by this Chapter, shall be applicable within the whole time period of an agreements' currency.

**5.** The special tax treatment, established by this Chapter, shall be applicable in respect of taxpayers and payers of the dues indicated in **Article 346.36** of this Code.

**6.** The special tax treatment, established by this Chapter, provides for the replacement of paying the aggregate of taxes and fees, established by the laws of the Russian Federation on taxes and fees, by the sharing of output in compliance with the terms and conditions of an

agreement, save for the taxes and fees whose payment is stipulated by this Chapter.

**7.** Upon implementing an agreement containing the conditions of output sharing in compliance with **Item 1 of Article 8** of the Federal Law on Production-Sharing Agreements, an investor shall pay the following taxes and fees:

the value-added tax;

the profit tax of organisations;

**Abrogated** from January 1, 2010;

the **natural resources extraction tax**;

payments for the use of natural resources;

**payment for negative influence upon the environment**;

**water tax**;

the **state duty**;

**customs payments**;

the **land tax**;

the **excise duty**, save for the excise duty payable for the excisable mineral raw materials provided for by **Subitem 1 of Item 2 of Article 181** of this Code.

An investor shall be exempt from paying regional and local taxes and fees in compliance with this Chapter by decision of an appropriate legislative (representative) state power body or the representative body of the local self-government body.

The amounts of the value-added tax, the natural resources extraction tax, payments for the use of natural resources, water tax, the state duty, customs fees, the land tax, the excise duty, as well as the amount of payment for negative influence upon the environment, shall be reimbursable in compliance with the provisions of this Chapter.

An investor shall not pay the tax on the property of organisations in respect of permanent assets, non-pecuniary assets, resources and expenditure which are in the taxpayer's balance sheet and are solely used for exercising the activity provided for by agreements. Where said property is used by an investor for the purposes, other than those connected with carrying out works under an agreement, it shall be liable to the tax on the property of organisations in the generally established procedure.

A **list** of documents, whose filing with tax bodies exempts from paying said tax, shall be determined by the Government of the Russian Federation.

An investor shall not pay the transport tax in respect of the transport vehicles owned by him (save for passenger cars) which are used solely for the purposes of an agreement.

A **list** of documents, whose filing with tax bodies exempts from paying said tax, shall be determined by the Government of the Russian Federation.

When using transport vehicles for the purpose, other than those provided for by an agreement, the transport tax shall be payable in the generally established procedure.

**8.** When implementing an agreement containing the conditions of production sharing in compliance with **Item 2 of Article 8** of the Federal Law on Production-Sharing Agreements, an investor shall pay the following taxes and fees:

**Abrogated** from January 1, 2010;

the state duty;

customs fees;

the value-added tax;

payment for negative influence upon the environment.

An investor shall be exempt from paying regional and local taxes and fees in compliance with this Chapter by decision of the appropriate legislative (representative) state power body or the representative local self-government body.

**9.** There shall be exempt from the customs duty the commodities imported to the territory of the Russian Federation and other territories under its jurisdiction for the purpose of carrying out works under an agreement provided for by working schedules and estimates which are endorsed in the procedure established by the agreement, as well as the products made in compliance with the terms and conditions of an agreement and exported from the territory of the Russian Federation.

A **list** of documents, whose filing with the customs bodies shall exempt from paying said text, shall be determined by the Government of the Russian Federation.

**10.** When carrying out an agreement, the object of taxation, tax base, tax period, tax rate and procedure for tax estimation in respect of the taxes indicated in **Items 7** and **8** of this Article, shall be determined subject to the specifics stipulated by the provisions of this Chapter effective on the date the agreement's entry into force.

**11.** In the event of changing during an agreement's currency the names of any of the taxes and fees, indicated in this Code, without changing, in so doing, taxation elements, such taxes and fees shall be estimated and paid under their new names, while implementing the agreement.

**12.** In the event of changing the procedure for paying taxes and fees within the currency of an agreement, as well as in the event of changing the forms, procedure for filling in, and time for submitting, tax declarations without changing the tax base, tax rate and procedure for calculating a tax (fee collection elements), the taxes and fees shall be paid, as well as tax declarations shall be submitted, in compliance with the effective laws on taxes and fees.

**13.** In the event of changing within the currency of an agreement the rate of the value-added tax, said tax shall be estimated and paid according to the tax rate established in compliance with **Chapter 21** of this Code.

**14.** Where normative legal acts of legislative (representative) state power bodies and of representative local self-government bodies do not provide for exempting an investor from paying regional and local taxes and fees, the investor's expenses, related to paying said taxes and fees, shall be reimbursable to the investor at the expense of the appropriate decrease of the share of output, transferable to the State, insofar as it concerns the appropriate subject of the Russian Federation, by the amount equivalent to the sum of said taxes and fees actually paid.

**15.** When implementing agreements made prior to entry into force of the **Federal Law** on Production-Sharing Agreements, there shall be applicable the conditions of exempting from taxes, fees and other obligatory payments, as well as the procedure for estimating, paying and returning (reimbursing) payable taxes, fees and other obligatory payments, which are provided for by said agreements. In the event of incompliance of the provisions of said Code and (or) other legislative acts of the Russian Federation on taxes and fees, of legislative acts of the subjects of the Russian Federation on taxes and fees, normative legal acts of representative local self government bodies of taxes and fees to the conditions of said agreements, the conditions of said agreements shall be applicable.

**Article 346.36.** Taxpayers and Payers of Fees, When Implementing Agreements.  
Authorised Representatives of Taxpayers and Payers of Fees

**1.** As taxpayers and payers of fees payable, when applying the special tax treatment established by this Chapter, there shall be recognised organisations which are investors under an agreement in compliance with the **Federal Law** on Production-Sharing Agreements (hereinafter referred to in this Chapter as taxpayers).

**2.** A taxpayer shall be entitled to entrust an operator by approbation thereof with the discharge of his duties connected with application of the special tax treatment established by this Chapter, when implementing agreements. An operator shall exercise in compliance with this

Code the powers granted to him by a taxpayer on the basis of the letter of attorney attested and certified by a notary which is issued in the procedure, established by civil **laws** of the Russian Federation, as the taxpayer's authorised representative.

**Article 346.37.** Specifics of Determining the Tax Base, of Estimating and Paying the Natural Resources Extraction Tax, When Implementing Agreements

**1.** The provisions of this Article shall apply, when implementing agreements containing the conditions of output sharing in compliance with **Item 1 of Article 8** of the Federal Law on Production-Sharing Agreements.

**2.** Taxpayers shall determine the payable amount of the national resources extraction tax in compliance with **Chapter 26** of this Code, subject to the specifics established by this Article.

**3.** The tax base, when producing oil and gas condensate at oil-gas condensate fields, shall be determined as the quantity of extracted minerals in kind according to **Article 339** of this Code.

**4.** The tax base shall be determined separately for each agreement.

**5.** The tax rate, when producing oil and gas condensate at oil-gas condensate fields, amounts to 340 roubles per one ton. With this, said tax rate shall be applicable together with the coefficient showing the dynamics of world oil prices - Kts.

This coefficient shall be determined by a taxpayer every month independently on the basis of the following formula:

$$Kts = (TS-8) \times R/252,$$

Where

Ts is the average Urals crude oil price level for a tax period in US dollars per one barrel;

R is the average exchange rate of the US dollar in respect of the Russian Federation rouble for a tax period established by the Central Bank of the Russian Federation.

The average exchange rate of the US dollar in respect of the Russian Federation rouble for a tax period, established by the Central Bank of the Russian Federation, shall be determined by a taxpayer independently as the simple average of the US dollar exchange rate in respect of the Russian Federation rouble, established by the Central Bank of the Russian Federation, for all calendar days of an appropriate tax period.

The average level of Urals crude oil prices shall be determined as the sum of simple averages of purchase and selling prices at the world crude oil markets (the Mediterranean and Rotterdam ones) for all days of sales divided by the number of sales days in an appropriate tax period.

Average levels of Urals crude oil prices at the world crude oil markets (the Mediterranean and Rotterdam ones) for an expired month shall be made public every month at the latest on the 15th day of the next following month through official sources of information in the procedure established by the Government of the Russian Federation.

In the absence of said information in official sources of information, the average level of Urals crude oil prices at the world crude oil markets (the Mediterranean and Rotterdam ones) for an expired tax period shall be independently determined by a taxpayer.

The coefficient (Kts) estimated in the procedure determined by this Article, shall be approximated to the fourth character in compliance with the effective procedure for approximation.

The amount of the natural extraction resources tax, when producing oil and gas condensate at oil-gas condensate fields, shall be estimated as the product of an appropriate tax

rate calculated subject to the coefficient (Kts) and the amount of the tax base determined in compliance with this Article.

**6.** When implementing agreements, the tax rates established by **Article 342** of this Code, while extracting minerals, shall be applicable with the coefficient 0,5, safe for oil and gas condensate.

**7.** The tax rate, established by **Item 5** of this Article, shall apply, when producing oil and gas condensate at oil-gas condensate fields with the coefficient 0,5 pending the attainment of the limit of commercial production of oil and gas condensate that may be established by an agreement.

Where an agreement establishes the limit of oil and gas condensate commercial extraction, upon reaching such limit there shall be applied the coefficient 1 which shall not be changeable within the total period of the agreement's currency.

#### **Article 346.38.** Specifics of Determining the Tax Base, of Calculating and Paying the Profit Tax of Organisations, When Implementing Agreements

**1.** The provisions of this Article shall apply, when implementing the agreements providing for the procedure for production sharing established by **Item 1 of Article 8** of the Federal Law on Production-Sharing Agreements.

**2.** Taxpayers shall determine the amount of the payable profit tax of organisations (hereinafter referred to in this Article as the tax) in compliance with **Chapter 25** of this Code, subject to the specifics established by this Article.

**3.** As the object of taxation, there shall be deemed the profit derived by a taxpayer in connection with implementing an agreement.

For the purposes of this Article, as a taxpayer's profit there shall be deemed the profit derived from implementing an agreement less the amount of expenses determined in compliance with this Article.

Where a party to an agreement is an association of organisations that does not have the status of a legal entity, the income, gained by each organisation being a member of said association, shall be determined in proportion to the share of the appropriate participant in the total income of such association for a report period.

**4.** As taxpayers' income derived from implementing an agreement, there shall be deemed the cost of profitable products possessed by an investor under the conditions of the agreement, as well as off-sale income determined in compliance with **Article 250** of this Code.

The cost of profitable products shall be determined as the product of the volume of profitable products and the output price established by an agreement, except for the products' price (oil price) determined in compliance with this Chapter.

**5.** As a taxpayer's expenses, there shall be deemed reasonable expenses proved by documents which are made (incurred) by a taxpayer, when implementing an agreement.

The expenses' composition, amount and procedure for recognition thereof shall be determined in compliance with **Chapter 25** of this Code subject to the specifics established by this Article.

As reasonable expenses, for the purposes of this Article, there shall be recognised the expenses made (incurred) by a taxpayer in compliance with the schedule of works and the estimate of expenses, endorsed by the management committee, in the procedure provided for by an agreement, as well as the off-sale expenses which are directly connected with the agreement's implementation.

**6.** For the purposes of this Chapter, a taxpayer's expenses shall be subdivided into:

1) the expenses reimbursable at the expense of compensation products (reimbursable expenses);

2) the expenses decreasing the tax base in respect of a tax.

**7.** As reimbursable expenses, there shall be recognised the expenses made (incurred) by a taxpayer within a report period for the purpose of carrying out works under an agreement in compliance with the working schedule and the estimate of expenses. There shall not be recognised as reimbursable expenses:

1) those made (incurred) prior to entry of an agreement into force: for acquiring a geological information package for participation in an auction sales;

for paying a fee for participation in an auction sales of the right to the use of a subsoil tract under the conditions of an agreement;

2) those made (incurred), as of the date of the agreement's entry into force:

one-time payments for subsoil use in case of the onset of certain events stipulated by an agreement;

the natural resources extraction tax;

payments (interest) related to obtained credits and borrowed assets, as well as commission fees payable in connection with them, and other expenses connected with the receipt or use of borrowed assets for financing the activities under the agreement;

the expenses provided for by **Subitem 6 of Item 2 of Article 262** of this Code;

the expenses provided for by **Subitems 10 and 13 of Item 1** and by **Subitem 5 of Item 2 of Article 365** of this Code.

**8.** Reimbursable expenses, whose composition is provided for by a agreement made under this Article, shall be endorsed by the management committee in the procedure established by the agreement.

For the purposes of this Article, the amount of reimbursable expenses shall be determined for each report (tax) period and shall be reimbursable to a taxpayer at the expense of compensation products in the procedure established by **Item 10** of this Article.

**9.** Into the composition of reimbursable expenses there shall be included the following:

1) the expenses made (incurred) by a taxpayer prior to entry of an agreement into force. The expenses, made (incurred) prior to entry of an agreement into force, shall be deemed reimbursable, if the agreement is made in respect of mineral deposits which have not been mined before and which have not been previously recognised by the subsoil user of a subsoil tract for the purposes of the tax estimation in compliance with **Chapter 25** of this Code. Said expenses have to be shown in the estimate of expenses presentable simultaneously with the estimate of expenses for the first year of works under an agreement and shall be reimbursable in the procedure and in the amount which are provided for by this Article. For the purposes of applying this Article, depreciation in respect of this type of depreciable property shall not be charged. Where under **Article 256** of this Code expenses pertain to depreciable property, they shall be reimbursed in the following procedure:

if said expenses are made (incurred) by a taxpaying Russian organisation, they shall be reimbursable in the amount not exceeding the residual value of depreciable property determined in compliance with **Article 257** of this Code;

if said expenses are made (incurred) by a taxpaying foreign organisation, they shall be reimbursable in the amount exceeding the market prices' level;

2) expenses made (incurred) by a taxpayer, as of the date of an agreement's entry into force and within the whole period of its currency. With this, the following specifics shall be established in respect of said expenses:

the expenses, related to the development of natural resources, which are indicated in **Item 1 of Article 261** of this Code, as well as similar expenses related to adjacent subsoil tracts, if it is provided for by an agreement, shall be evenly included into the composition of expenses within 12 months;

the expenses, related to acquisition, installation, production, delivery of depreciable

property (fixed assets and non-pecuniary assets) and its adjustment to the condition when it is fit for using, shall be includable into the composition of reimbursable expenses in the amount of actually incurred outlays on condition of their inclusion into the working schedule and the estimate of expenditure subject to the restrictions established by the agreement. Depreciation in respect of such expenses shall not be charged in the procedure established by this Code;

the expenses, made (incurred) in the form of allocations to the liquidation fund for financing liquidation works, shall be accountable for the purposes of taxation in the amount and in the procedure which are established by an agreement. The procedure for forming and using the liquidation fund shall be established by the Government of the Russian Federation;

the expenses connected with the maintenance and operation of the property, transferred by the State to a taxpayer for a gratuitous use in compliance with **Article 11** of the Federal Law on Production-Sharing Agreements, shall be accountable for the purposes of taxation in the amount of actually made (incurred) expenses;

managerial expenses connected with an agreement's implementation comprising the expenses related to paying for a taxpayer's rent of offices, including those situated behind the boundaries of the Russian Federation, outlays on maintenance thereof, on informational and consulting services, representative expenses, expenses related to advertising and other managerial expenditure shall be reimbursable under the conditions of an agreement in the amount of the normative standard of managerial expenditure established by the agreement, but at most 2 per cent of the total amount of expenditure reimbursable to a taxpayer in a report (tax) period. The excess of the amount of managerial expenses over the normative standard established by this Item, shall be accountable, when estimating an investor's tax base in respect of the tax.

**10.** For the purposes of this Chapter, reimbursable expenses shall be subject to reimbursement to a taxpayer in the amount not exceeding the limit of compensation products which may not exceed the amount determined in compliance with **Article 346.34** of this Code.

Compensation products for a report (tax) period shall be estimated by way of dividing the amount of expenses, reimbursable to a taxpayer, by the price of products determined in compliance with the conditions of an agreement or by the oil price determined in compliance with this Chapter.

If the amount of reimbursable expenses is less than the limit of compensation products in a report (tax) period, the total amount of reimbursable expenses shall be reimbursed to the taxpayer in said period. If the amount of reimbursable expenses exceeds the limit of compensation products in a report (tax) period, the expenses shall be reimbursed in the amount of said limit. Reimbursable expenses, which are not reimbursed in a report (tax) period, shall be subject to inclusion into the composition of reimbursable expenses of the next following report (tax) period.

Capital outlays shall be reimbursable on condition of meeting the requirement of using a share of commodities of Russian origin, when carrying out works under an agreement, which is established by **Item 2 of Article 7** of the Federal Law on Production-Sharing Agreements. Failure to meet said requirements shall be a ground for the refusal to reimburse appropriate expenses of an investor. With this, the procedure for depreciation of property, established by **Articles from 256 to 259** of this Code, shall extend to acquired equipment and other property.

**11.** The expenses, decreasing the tax base of the tax, shall include the expenses accountable for taxation purposes in compliance with **Chapter 25** of this Code and not included into the composition of reimbursable expenses determined in compliance with the provisions of this Article. The expenses, indicated in this Item, shall not include the amount of the natural resources extraction tax.

**12.** For the purposes of this Chapter, the following procedure for recognising receipts and



expenditures shall apply:

1) as regards the income received by a taxpayer as a share of profitable products, the last date of a report (tax) period, when the profitable products were shared, shall be recognised as the date of receiving the income;

2) as regards other types of receipts and expenditures, the procedure for recognising receipts and expenditures, established by **Chapter 25** of this Code, shall apply.

**13.** For the purposes of this Article, as the tax base there shall be recognised the taxable profit in monetary terms determined in compliance with **Item 3** of this Article.

The tax base shall be determined separately for each agreement.

**14.** Where the tax base, estimated in compliance with the provisions of this Article, is negative for an appropriate tax period, it shall be recognised as equal to zero for this tax period. A taxpayer shall be entitled to reduce the tax base by the received negative value within subsequent tax periods during 10 years following the tax period when the negative value was received but no longer than the currency of the agreement.

**15.** The amount of the tax rate shall be determined in compliance with **Item 1 of Article 284** of this Code. The tax rate, effective at the date of an agreement's entry into force, shall apply within the whole period of this agreement's currency.

**16.** Taxpayers shall estimate the tax base subject to the results of each report (tax) period on the basis of tax registration data. The tax registration shall be carried out in compliance with **Chapter 25** of this Code. The procedure for tax registration shall be established by a taxpayer in its accounting policy for taxation purposes endorsed in the established procedure.

**17.** Tax and report periods with regard to a tax shall be established in compliance with **Article 285** of this Code.

**18.** The procedure for estimating the tax (advance payments) and payment time shall be determined in compliance with **Chapter 25** of this Code.

**Abrogated** from January 1, 2009.

**19.** The specifics of estimating and paying the tax by a taxpayer, having separate subdivisions, shall be determined by **Article 288** of this Code. With this, the amounts of the tax (advance payments), subject to entering to the revenues of the budgets of the subjects of the Russian Federation and of local budgets, shall be payable by a taxpayer at the location of the subsoil tract granted for use under an agreement.

**20.** For the purposes of this Article, a taxpayer shall be obliged to keep separate accounts of receipts and expenditures regarding operations arising from the implementation of an agreement.

In the absence of the separate accounting, the procedure for profit taxing established by **Chapter 25** of this Code without taking into account the specifics, set by this Article, shall apply.

**21.** A taxpayers' receipts and expenditures concerning other types of activities, which are not connected with the implementation of an agreement, including incomes in the form of remuneration for exercising the functions of an operator and (or) for the sale products possessed by the State under the conditions of the agreement, shall be taxable in the procedure established by **Chapter 25** of this Code.

The profits, derived by an investor from selling compensation products, shall be taxable in the procedure, established by **Chapter 25** of this Code, and shall be determined as proceeds gained from selling compensation products (determined in compliance with **Article 249** of this Code) decreased by the amount of expenses, connected with the sale of said products (which are determined in compliance with **Article 253** of this Code) and not included into the cost of compensation products, decreased by the cost of compensation products determined in compliance with **Item 10** of this Article.

If a taxpayer incurs losses as a result of compensation products' sale, it shall be taken

into account for the purposes of taxation in the procedure and on the conditions established by **Article 283** of this Code.

**Article 346.39.** Specifics of Paying the Value-Added Tax, When Implementing Agreements

1. When implementing agreements, the value-added tax (hereinafter referred to as the tax) shall be payable in compliance with **Chapter 21** of this Code subject to the specifics established by this Article.

2. When implementing agreements, the tax rate, effective in the appropriate tax period in compliance with **Chapter 21** of this Code, shall apply.

3. If the amount of tax deductions based on the results of a tax period, when carrying out works under an agreement, exceeds the total amount of the tax estimated with regard to commodities (works and services) sold (delivered, carried out or rendered) in a report (tax) period (and likewise in the absence of said sale), the gained difference shall be subject to reimbursement (offset, return) to a taxpayer in the procedure established by **Articles 176 or 176.1** of this Code.

4. In the event of non-observance of the time period for reimbursement (return) established by **Articles 176 or 176.1** of this Code, the amounts returnable to a taxpayer, shall be decreased on the basis of one 360th of the **refinancing rate** of the Central Bank of the Russian Federation for each calendar day of the delay (when keeping accounts in the currency of the Russian Federation) or one 360th of the LIBOR rate effective in the appropriate period for each calendar day of delay (when keeping accounts in foreign currency).

5. There shall not be taxable (exempt from taxation):

transfer of property on a gratuitous basis, which is necessary for carrying works under an agreement, between the investor under the agreement and the operator of the agreement in compliance with the working schedule and the estimate of expenditure endorsed in the procedure established by the agreement;

transfer by the organisation, being a member of an association of organisations without the status of a legal entity, which acts as an investor under the agreement, to other participants of such association an appropriate share of output received by the investor under the conditions of the agreement;

transfer by a taxpayer under the state ownership of property, which is newly made or acquired by the taxpayer and which has been used for carrying out works under the agreement and is returnable to the State in compliance with the conditions of the agreement.

**Article 346.40.** Specifics of Submitting Tax Declarations, When Implementing Agreements

1. As regards the taxes provided for by **Article 346.36** of this Code, a taxpayer shall submit to tax bodies, where such taxpayer is recorded, at the location of the subsoil tract, unless otherwise stipulated in the present Item, granted for use under the conditions of an agreement, tax declarations in respect of each tax for each agreement separate from other activities.

If the subsoil tract, granted for use under the conditions of an agreement, is situated on the continental shelf of the Russian Federation and (or) within the limits of the exclusive economic zone of the Russian Federation, the taxpayer shall submit tax declarations in respect of the taxes provided for by **Article 346.35** of this Code, to tax bodies, where such taxpayer is recorded, at the location thereof.

The taxpayers, referred to the category of major taxpayers in conformity with **Article 83**

of this Code, shall submit tax declarations (computations) to the tax body at the place of their recording as major taxpayers.

**2. Abrogated.**

**3. Abolished.**

**4.** A taxpayer shall submit annually, at the latest on December 31 of the year preceding the one being planned, to the tax bodies, indicated in **Item 1** of this Article, the working schedule and the estimate of expenditure under the agreement for the next following year endorsed in the procedure established by the agreement.

As regards newly made agreements, a taxpayer, prior to the start of works, shall submit to the tax bodies, indicated in **Item 1** of this Article, the working schedule and the estimate of expenditure for the current year endorsed in the procedure established by the agreement.

In the event of introducing amendments and (or) additions into the working schedule and the estimate of expenses, a taxpayer shall be obliged to present said amendments and (or) additions at the latest in 10 days, as of the date of their endorsement in the procedure established by the agreement.

#### **Article 346.41** Specifics of Registering Taxpayers, When Implementing Agreements

**1.** Taxpayers shall be subject to registration with the tax body at the location of the subsoil tract granted to an investor for use under the conditions of an agreement, safe for the instances provided for by **Item 3** of this Article.

**2.** If an association of organisations, not having the status of a legal entity, acts as an investor under an agreement, all the organisations within the composition of said association, safe for the instances, provided for by **Item 3** of this Article, shall be subject to registration with the tax body at the location of the subsoil tract granted for use under the conditions of the agreement.

**3.** If a subsoil tract, granted for use under the conditions of an agreement, is situated on the continental shelf of the Russian Federation and (or) within the limits of the exclusive economic zone of the Russian Federation, a taxpayer shall be registered with the tax body at the location thereof.

**4. Specifics of registering foreign organisations,** acting as investors under an agreement or as the operator of an agreement, shall be established by the Ministry of Finance of the Russian Federation.

**5.** An **application** for registration with a tax body shall be submitted thereto in compliance with **Items 1** and **3** of this Article within 10 days, as of the date of an appropriate agreement's entry into force.

**6.** The **form** of the application for registration with a tax body shall be established by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

**7.** When filing an application for registration with a tax body, a taxpayer, simultaneously with said application, shall file together with the documents indicated in **Article 84** of this Code, the documents provided for by **Item 2 of Article 346.35** of this Code.

**8.** The **form** of the certificate of registration with a tax body of an investor under an agreement as a taxpayer, exercising the activity of the agreement's implementation, shall be established by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

Said certificate has to contain the name of the agreement, the date of the agreement's entry into force and its currency, the denomination of the subsoil tract granted for use under the conditions of the agreement, an indication of its location, as well as an indication to the effect that this taxpayer is an investor under the agreement or the operator of the agreement and that in respect of this taxpayer the special tax treatment, established by this Chapter, shall apply.

**Article 346.42.** Specifics of Conducting Field Tax Inspections, When Implementing Agreements

1. A field tax inspection may cover any period within an agreement's currency subject to the provisions of **Article 87** of this Code starting from the date of the agreement's entry into force.

2. For the purposes of tax control, an investor under an agreement or the operator of the agreement shall be obliged to keep basic documents, connected with tax calculation and payment, within the total period of the agreement's currency.

3. A field tax inspection of an investor under an agreement or of the operator of the agreement in connection with the activities under the agreement may not exceed six months. When conducting field inspections of organisations having branches and representative offices, the time period for conducting an inspection shall be increased by one month for inspecting each branch and representative office.

*Federal Law No. 148-FZ of November 27, 2001 supplemented this Code with Section IX. This Section shall enter into force from January 1, 2002*

## **Section IX. Regional Taxes and Fees**

### **Chapter 27. Sales Tax**

**Abolished** from January 1, 2004.

*Federal Law No. 110-FZ of July 24, 2002 supplemented Section IX of this Code with Chapter 28. This Chapter shall enter into force upon the expiry of one month from the day of the official publication of the said Federal Law*

*In conformity with Article 5 of the Tax Code of the Russian Federation, the Federal Laws, introducing amendments into the Tax Code of the Russian Federation concerning new taxes and (or) fees, shall enter into force not earlier than on January 1 of the year, next to the year of their adoption but not earlier than upon the expiry of one month from their official publication*

### **Chapter 28. Transport Tax**

**Article 356.** General Provisions

The transport tax (hereinafter in this Chapter referred to as the tax) is established by this Code and by the laws of the subjects of the Russian Federation on the tax, is put into force in conformity with this Code by the laws of the subjects of the Russian Federation and is obligatory for payment on the territory of the corresponding subject of the Russian Federation.

In introducing the tax, the legislative (representative) bodies of the subject of the Russian Federation shall define the rate of the tax within the limits, set down by this Code, the procedure and the time terms for its payment.

When establishing the tax, the laws of the subjects of the Russian Federation may also envisage tax privileges and the grounds for their use by the taxpayer.

**Article 357.** Taxpayers

Recognised as the payers of the tax (hereinafter in this Chapter referred to as the taxpayers) shall be the persons, on whom in conformity with the legislation of the Russian

Federation are registered transportation facilities, recognised as an object of taxation in conformity with **Article 358** of this Code, unless otherwise envisaged in this Article.

Seen as the taxpayer on the transportation facilities, registered on natural persons, acquired and handed over by them on the ground of a warrant for the right of possession and of disposal of the transportation facility until the moment of an official publication of this Federal Law, shall be the person, named in such warrant. The persons, on whom the said transportation facilities are registered, shall notify the tax body at the place of their residence about handing over the said transportation facilities on the ground of a warrant.

Persons that are organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, as well as persons that are market partners of the International Olympic Committee in compliance with **Article 3.1** of the cited Federal Law, shall not be deemed taxpayers in respect of the transport vehicles they have in their ownership or use solely in connection with the organisation and/or holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi and the development of the town of Sochi as a mountain climatic health resort.

#### **Article 358.** Object of Taxation

1. Seen as an object of taxation shall be automobiles, motorcycles, motor scooters, buses and other self-powered pneumatic and caterpillar machines and mechanisms, as well as the aircraft, helicopters, motorships, yachts, sailing vessels, launches, snowmobiles, motor sledges, motor boats, hydrocycles, nonself-powered ships (tugboats) and other water and air transport vehicles (hereinafter in this Chapter referred to as the transportation facilities or transport vehicles), registered in the established order in conformity with the legislation of the Russian Federation.

2. Not recognised as an object of taxation shall be:

- 1) rowing boats, as well as motor boats with an engine of less than 5 horsepowers;
- 2) passenger cars, specially equipped for invalids' use, and passenger cars with an engine of up to 100 horsepowers (up to 73.55 kWt), received (acquired) through the bodies for the social protection of the population in the law-established order;
- 3) catching sea and river vessels;

4) passenger and freight sea, river and air vessels in the ownership (by the right of economic control or of operational management) of organisations and individual businessmen, whose principal kind of activity is the performance of passenger and (or) freight carriages;

5) tractors, self-powered combines of all models, specialized automobiles (those for the transportation of milk, of cattle and of poultry, for the shipment and the application of mineral fertilizers, for rendering veterinary aid and for technical servicing), registered on the agricultural commodity producers and used during agricultural works for the output of agricultural products;

6) transportation facilities, belonging by the right of operational management to the federal executive power bodies, in which the military service and (or) that equated to it is stipulated by the legislation;

7) transportation facilities declared to be searched after, under the condition that the fact of their hijacking (theft) has been confirmed with the document, issued by an authorised body;

8) the aircraft and helicopters of the sanitary aviation and of the medical service.

9) ships registered in the Russian International Register of Ships.

**Article 359. Tax Base**

1. The tax base shall be defined:

1) with respect to the transportation facilities with engines (with the exception of the motor transport vehicles indicated in Subitem 1.1 of this Item) - as the power of the transport vehicle engine, expressed in horsepower;

1.1) in respect to the aircraft for which the reaction engine thrust is determined as the certificate static thrust of a reaction engine (the summary certificate static thrust of all reaction engines) of the aircraft under take-off earthly conditions in kilograms of force;

2) with respect to the water nonself-propelled (towed) transportation facilities, for which the gross carrying capacity is defined - as the gross carrying capacity in vessel tons;

3) with respect to the water and the air transportation facilities, not mentioned in Subitems 1, 1.1 and 2 of this Item - as a unit of the transportation vehicle.

2. With respect to the transportation facilities, indicated in Subitems 1, 1.1 and 2 of Item 1 of this Article, the tax base shall be defined separately for every transportation vehicle.

As concerns the transportation facilities, mentioned in Subitem 3 of Item 1 of this Article, the tax base shall be delineated for them separately.

**Article 360. The Tax Period. The Reporting Period.**

1. A calendar year shall be deemed to be the tax period.

2. The first quarter, the second quarter and the third quarter shall be deemed to be the reporting periods for taxpayers that are organisations.

3. In the establishment of a tax the legislative (representative) bodies of the entities of the Russian Federation shall have the right not to establish any reporting periods.

**Article 361. Tax Rates**

1. The tax rates shall be established by laws of the subjects of the Russian Federation respectively depending on the power of an engine, the thrust of a jet engine or the gross tonnage of a transport vehicle per horse-power of the rating of a transport vehicle, per kilogram of the thrust force of a jet engine, per registered ton of a transport vehicle or per unit of a transport vehicle in the following amounts:

Name of object of taxation	Tax rate (in roubles)
Motor cars with the power of the engine (per horse-power) of:	
up to 100 h.p. (up to 73.55 kW) inclusive	2.5

over 100 h.p. up to 150 h.p. (over 73.55 kW up to 110.33 kW) inclusive	3.5
over 150 h.p. up to 200 h.p. (over 110.33 kW up to 147.1 kW) inclusive	5
over 200 h.p. up to 250 h.p. (over 147.1 kW up to 183.9 kW) inclusive	7.5
over 250 h.p. (over 183.9 kW)	15
Motorcycles and scooters with the power of the engine (from each horse-power) of:	
up to 20 h.p. (up to 14.7 kW) inclusive	1
over 20 h.p. up to 35 h.p. (over 14.7 kW up to 25.74 kW) inclusive	2
over 35 h.p. (over 25.74 kW)	5
Buses with the power of the engine (from each horse-power) of:	
up to 200 h.p. (up to 147.1 kW) inclusive	5

over 200 h.p. (over 147.1 kW)	10
Lorries with the power of the engine (from each horse-power) of:	
up to 100 h.p. (up to 73.55 kW) inclusive	2.5
over 100 h.p. up to 150 h.p. (over 73.55 kW up to 110.33 kW) inclusive	4
over 150 h.p. up to 200 h.p. (over 110.33 kW up to 147.1 kW) inclusive	5
over 200 h.p. up to 250 h.p. (over 147.1 kW up to 183.9 kW) inclusive	6.5
over 250 h.p. (over 183.9 kW)	8.5
Other self-propelled transport vehicles, pneumatic-tyre-type and track-type machines and mechanisms (from each horse-power)	2.5
Snowmobiles, motor sledges with the power of the engine (from each horse-power) of:	



up to 50 h.p. (up to 36.77 kW) inclusive	2.5
over 50 h.p. (over 36.77 kW)	5
Cutters, motorboats and other water transport means with power of the engine (from each horse-power) of:	
up to 100 h.p. (up to 73.55 kW) inclusive	10
over 100 h.p. (over 73.55 kW)	20
Yachts and other sail-and-motor vessels with the power of the engine (from each horse-power) of:	
up to 100 h.p. (up to 73.55 kW) inclusive	20
over 100 h.p. (over 73.55 kW)	40
Hydrocycles with the power of the engine (from each horse-power) of:	
up to 100 h.p. (up to 73.55 kW) inclusive	25
over 100 h.p. (over 73.55 kW)	50

Non-self-propelled vessels (under tow) for which the gross tonnage is determined (from each registered ton of the gross tonnage)	20
Aeroplanes, helicopters and other aircraft having engines (from each horse-power)	25
Aeroplanes having jet engines (from each kilogram of the thrust force)	20
Other water and air transport vehicles having no engines (from a unit of a transport vehicle)	200

**2.** The tax rates, cited in **Item 1** of this Article, may be increased (reduced) by the laws of the constituent entities of the Russian Federation, but by no more than ten times as much.

The said limitation of the size of decrease of the tax rates by laws of the subjects of the Russian Federation shall not be applicable with respect to motor cars with the power of the engine (from each horse-power) of up to 150 h.p. (up to 110.33 kW) inclusive.

**3.** It is admissible to establish the differentiated tax rates with respect to every category of the transportation facilities, as well as with an account for the number of years that have passed since the transportation facilities' production and/or the ecological class thereof.

The number of years that have passed since the year of production of a motor vehicle shall be calculated as of January 1 of the current year in calendar years starting from the year following the year when the motor vehicle was produced.

**Article 362.** Procedure for Computing the Tax Amount and the Amounts of the Advance Payments on the Tax

**1.** The taxpayers - organisations shall compute the sum of the tax and the amount of the advance payment on the tax on their own. The sum of the tax, subject to payment by the taxpayers - natural persons, shall be computed by the tax bodies on the ground of information, submitted to the tax bodies by the **bodies, carrying out the state registration of transportation facilities** on the territory of the Russian Federation.

**2.** The tax amount payable to the budget by the results of the tax period shall be calculated with respect to each transport vehicle as a product of the relevant tax base and the

tax rate, unless otherwise stipulated by this Article.

The tax amount payable to the budget by taxpayers that are organisations shall be determined as the difference between the calculated tax amount and the amounts of the tax payments on the tax which are payable during the tax period.

**2.1.** Taxpayers that are organisations shall calculate the amounts of the advance payments on the tax upon the expiry of each reporting period at the rate of one quarter of the product of the relevant tax base and the tax rate.

**3.** In the event of registration and/or deregistration of a transport vehicle (removal from the register, elimination from the state vessel registry, etc) in the course of a tax (reporting) period the calculation of the tax amount (the amount of the advance payment on the tax) shall be carried out taking into account the coefficient determined as the ratio of the number of the full months during which the transport vehicle was registered on the taxpayer and the number of calendar months in the tax (reporting) period. The month of the registration of the transportation facility, as well as the month of taking off the transportation facility from the registration shall be taken for a full month. In case of the registration and of taking off from the registration of the transport vehicle in the course of one calendar month, this said month shall be taken as one full month.

**4.** The bodies, carrying out the state registration of transportation facilities, shall be obliged to report to the tax bodies at the place of their location about the transport vehicles, registered or taken off from the registration in these bodies, as well as about the persons, on which the transport vehicles are registered, within ten days after their registration or after taking them off the records.

**5.** The bodies, carrying out the state registration of transportation facilities, shall be obliged to forward to the tax bodies at the place of their location information about the transportation facilities, as well as about the persons, on which the transportation facilities are registered, as in the state on December 31 of the past calendar year and up to February 1 of the current calendar year, and also about all changes that have occurred over the past calendar year.

Information, mentioned in Items 4 and 5 of this Article, shall be submitted by the bodies, performing the state registration of transportation facilities, in accordance with the forms, approved by the federal executive body authorised to exercise control and supervision in the area of taxes and fees.

**6.** The legislative (representative) body of an entity of the Russian Federation may, when establishing a tax, stipulate for certain categories of taxpayers the right not to calculate and not to make advance payments on the tax during the tax period.

### **Article 363.** Procedure and Time Terms for Paying the Tax and Advance Payments on the Tax

**1.** The payment of the tax and the advance payments on the tax shall be effected by the taxpayers to the budget at the place of location of the transportation facilities in accordance with the procedure and the time terms, established by the laws of the subjects of the Russian Federation.

In this case the period for the payment of the tax for taxpayers that are organisations may not be established earlier than the period stipulated by **Item 3 of Article 363.1** of this Code.

The time for paying tax for taxpayers who are natural persons may not be fixed before November 1 of the year following an expired tax period.

**2.** During the tax period taxpayers that are organisations shall make advance payments on the tax, unless the laws of entities of the Russian Federation do not stipulate otherwise. Upon the expiry of the tax period taxpayers that are organisations shall pay the tax amount

calculated in the procedure stipulated by **Point 2 of Article 362** of this Code.

**3.** The taxpayers - natural persons - shall pay the transport tax on the basis of the **notification** sent by the respective tax body.

It shall only be allowed to forward a tax notification at most for the three tax periods preceding the calendar year when it is forwarded.

The taxpayers cited in Paragraph One of this Item shall pay tax at most for the three tax periods preceding the calendar year when the tax notification cited in Paragraph Two of this Item is forwarded.

The amount of tax paid (collected) in excess shall be repaid (set off) in connection with re-calculation of the sum of tax within the period of such re-calculation in the procedure established by **Articles 78** and **79** of this Code.

#### **Article 363.1.** The Tax Declaration

**1.** Upon the expiry of the tax period, taxpayers that are organisations shall submit a **tax declaration** on the tax to the tax body at the location of the transport vehicles.

Paragraph two is **abrogated**.

**2.** Abrogated from January 1, 2011.

**3.** Tax declarations on a tax shall be submitted by taxpayers which are organisations not later than February 1 of the year following the expired tax period.

Paragraph two is **abrogated** from January 1, 2011.

**4.** The taxpayers, referred to the category of major taxpayers in conformity with **Article 83** of this Code, shall submit tax declarations to the tax body at the place of their recording as major taxpayers.

*Federal Law No. 182-FZ of December 27, 2002 supplemented Section IX of Part Two of this Code with Chapter 29. The Chapter shall **enter into force** from January 1, 2004*

### **Chapter 29. Gambling Business Tax**

#### **Article 364.** The Terms Used in This Chapter

The following terms are used for the purposes of this chapter:

**"gambling business"** means an entrepreneurial activity relating to the earning of incomes by organisations in the form of a prize and/or payment for conducting games of chance and/or betting, which are not deemed the sale of goods (rights in rem), works or services;

paragraphs 3 - 8 are **abrogated** from January 1, 2012.

**"gambling field"** means a special place on a gambling table equipped in compliance with the rules of a game of chance where the game of chance is conducted with any number of participants and only with one employee of the organiser of the game of chance who takes part in the said game;

paragraphs 10 - 11 are **abrogated** from January 1, 2012.

#### **Article 365.** Taxpayers

The payers of the **gambling business** tax (hereinafter in this Chapter referred to as "the tax") shall be deemed the organisations pursuing entrepreneurial activity in the field of the gambling business.

#### **Article 366.** Tax Basis

**1.** The following shall be deemed tax basis items:

- 1) a **gambling table**;
- 2) a **gambling machine**;
- 3) a totalizer processing center;
- 4) a bookmaker office processing center;
- 5) a totalizer stakes acceptance center;
- 6) a bookmaker office stakes acceptance center.

**2.** For the purposes of this chapter, each taxable item cited in **Item 1** of this article is subject to registration with the tax authority at the place of installation of this taxable unit (location of a bookmaker office or of a totaliser stakes acceptance center, of a bookmaker office processing center or of a totaliser processing center) at latest two days before the date of installation of each taxable item (of opening of a bookmaker office or totaliser stakes acceptance center, of a bookmaker office processing center or of a totaliser processing center). Their registration shall be effected by a tax authority on the basis of a taxpayer's application for registration of taxable unit (units), with the certificate of registration of the taxable item (items) to be issued without fail. The forms of the **application** and **certificate** shall be endorsed by the Ministry of Finance of the Russian Federation.

Taxpayers that are not registered with tax authorities in the territory of the constituent entity of the Russian Federation where the taxable item (items) cited in **Item 1** of this article are to be installed (opened) are bound to register with the tax authorities at the place of installation (location) of such taxable item (items) at latest two days before the date of installation (opening) of each taxable item.

*See the **Procedure for Registration of Payers of Tax on the Gambling Business, endorsed by Order of the Ministry of Finance of the Russian Federation No. 55n of April 8, 2005***

**3.** Also the taxpayer must register with the tax bodies at the place of registration of taxation objects any change in the number of tax basis items at least two days prior to the date of installation (opening) or dismantling (closing) of each tax basis item.

**4.** The tax basis item shall be deemed registered as of the date when the taxpayer files an application with the tax body for registration of the tax basis item(s).

The tax basis item shall be deemed dismantled (closed) as of the date when the taxpayer files an **application** with the tax body for registration of a change in the number of tax basis items.

**5.** The application for the registration of a tax basis item (tax basis items) shall be filed by the taxpayer with the tax body either in person or through his representative or shall be forwarded by mail complete with a list of enclosure.

**6.** Within five days after the receipt of a taxpayer's application for registration of a tax basis item (tax basis items) (a change in the number of tax basis items) the tax bodies shall issue a **certificate** of registration or shall make amendments relating to the change in the number of tax basis items to the certificate issued earlier.

**7. Abrogated** from January 1, 2007.

#### **Article 367.** Tax Base

For each of the tax base items specified in **Article 366** of the present Code a tax base shall be assessed separately as the total number of tax base items concerned.

#### **Article 368.** Tax Period

The tax period shall be deemed a calendar month.

## Article 369. Tax Rates

1. The rates of the tax shall be set by laws of Russian regions within the following limits:

- 1) per **gambling table**: from 25,000 to 125,000 roubles;
- 2) per **gambling machine**: from 1,500 to 7,500 roubles;
- 3) per totaliser processing center from 25,000 to 125,000 roubles.
- 4) per bookmaker office processing center: from 25 000 to 125 000 roubles;
- 5) per totaliser stakes acceptance center: from 5 000 to 7 000 roubles.
- 6) per bookmaker office stakes acceptance center: 5 000 to 7 000 roubles.

2. If no rates have been set by laws of Russian regions for the tax such rates shall be set within the following limits:

- 1) per gambling table: 25,000 roubles;
- 2) per gambling machine: 1,500 roubles;
- 3) per totaliser processing center 25,000 roubles.
- 4) per bookmaker office processing center: 25 000 roubles;
- 5) per totaliser stakes acceptance center: 5 000 roubles;
- 6) per bookmaker office stakes acceptance center: 5 000 roubles.

## Article 370. Tax Calculation Procedure

1. The amount of the tax shall be calculated by the taxpayer on his own as the tax base assessed for each **tax basis** item times the **tax rate** set for each of the tax basis **items**.

If one **gambling table** features more than one **gambling** field, the rate of the tax for said gambling table shall be increased by the number of gambling fields.

2. The tax return for the past tax period shall be filed by the taxpayer with the tax body at the place of registration of taxation objects, unless otherwise stipulated in this Item, not later than on the 20th day of the month following the past **tax period**. The **tax return** shall be filled in by the taxpayer with the account taken of the change in the number of taxation objects that had occurred in the past tax period.

The taxpayers, referred to the category of major taxpayers in conformity with **Article 83** of this Code, shall submit tax declarations (computations) to the tax body at the place of their recording as major taxpayers.

3. If a new tax basis item (new tax basis items) is/are installed (opened) before the 15th day of the current tax period the sum of the tax shall be calculated as the total number of tax basis items in question (including the tax basis item installed (opened)) times the rate of the tax set for these tax basis items.

If a new taxation object (new taxation objects) is/are installed (opened) after the 15th day of the current tax period, the sum of tax on the object(s) for this tax period shall be calculated as the number of these tax objects times half of the tax rate established for these taxation objects.

4. If a taxation object (taxation objects) is/are scrapped (closed) before the 15th day (including this day) of the current tax period, the sum of tax on the object(s) for this tax period shall be calculated as the number of these taxation objects times half of the tax rate established for these taxation objects.

In the event of a dismantling (closing) of a tax basis item (tax basis items) after the 15th day of the current tax period, the sum of the tax shall be calculated as the total number of the tax basis items in question (including the tax basis item(s) dismantled (closed)) times the tax rate set for these tax basis items.

**Article 371.** Procedure and Term for Payment of the Tax

The tax payable according to the results of a **tax period** shall be paid by the **taxpayer** to the budget at the place of registration with a tax body of the taxation objects specified in **Item 1 of Article 366** of this Code within the term set for the filing of a **tax return** for the **tax period** in compliance with **Article 370** of this Code.

*Federal Law No. 139-FZ of November 11, 2003 supplemented Part Two of this Code with Chapter 30. The Chapter shall **enter into force** from January 1, 2004*

## **Chapter 30. Tax on the Property of Organisations**

**Article 372.** General Provisions

**1.** A tax on the property of organisations (hereinafter in the present Chapter referred to as "the tax") is established by this Code and laws of Russian regions, it shall be put into effect in keeping with this Code by the laws of the Russian regions and from the time when it takes effect it shall be compulsory for payment on the territory of the Russian region concerned.

**2.** While establishing the tax the legislative (representative) bodies of the Russian regions shall set the rate of tax within the limits established by this Chapter as well as the procedure and term for the payment of the tax.

As the tax is being instituted, the laws of the Russian regions may also make a provision for tax privileges and the grounds on which taxpayers may use such privileges.

**Article 373.** Taxpayers

**1.** Organisations having property deemed to be an object of taxation in accordance with **Article 374** of this Code shall be taxpayers of taxes (hereinafter in this Chapter, taxpayers).

**1.1.** The organisations that are organisers of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi in compliance with **Article 3** of Federal Law No. 310-FZ of December 1, 2007 on the Organisation and Holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the Town of Sochi, on the Development of the Town of Sochi as a Mountain Climatic Health Resort and on Amending Certain Legislative Acts of the Russian Federation, as well as the persons that are market partners of the International Olympic Committee in compliance with **Article 3.1** of the cited Federal Law, shall not be deemed taxpayers in respect of the property used by them solely in connection with the organisation and/or holding of the XXII Winter Olympic Games and XI Winter Paralympic Games of 2014 in the town of Sochi and the development of the town of Sochi as a mountain climatic health resort.

**2.** The activity of a foreign organisation shall be deemed leading to the formation of a permanent establishment in the Russian Federation in keeping with **Article 306** of this Code, except as otherwise envisaged by international treaties of the Russian Federation.

**Article 374.** Object of Taxation

**1.** For Russian organisations the following are deemed taxable objects: movable and immovable property (including pieces of property transferred in temporary possession, use, disposal, trust, contributed into joint activity or received under a concession agreement)

recorded on the balance sheet as fixed asset items in the procedure established for bookkeeping purposes, except as otherwise envisaged by **Articles 378** and **378.1** of this Code.

*See Regulations on Accounting "Recording of Fixed Assets" **PBU 6/01** approved by **Order** of the Ministry of Finance of the Russian Federation No. 26n of March 30, 2001*

**2.** For the foreign organisations pursuing activities in the Russian Federation through permanent representative offices the following are deemed taxable objects: movable and immovable property classified as fixed asset items and property received under a concession agreement.

For the purposes of this Chapter foreign organisations shall keep a record of taxable objects in the procedure established in the Russian Federation for bookkeeping purposes.

**3.** For foreign organisations not pursuing activities in the Russian Federation through permanent representative offices the following are deemed taxable objects: items of immovable property located on the territory of the Russian Federation and owned by said foreign organisations and items of immovable property received under a concession agreement.

**4.** The following shall not be deemed objects of taxation:

- 1) land plots and other objects of nature use (water objects and other natural resources);
- 2) the property which belongs by a right of operative management to the federal executive government bodies in which there is a legislative provision for military service and/or a service qualifying as military service and which is used by these bodies for the needs of defence, civil defence, security and law and order in the Russian Federation.

#### **Article 375.** Tax Base

**1.** The tax base shall be assessed as the mean annual value of the property deemed the object of taxation.

While the tax base is assessed the property deemed the object of taxation shall be taken into account at its balance value formed in compliance with the established bookkeeping procedure approved in the accounting policy of the organisation.

If for specific fixed asset items no depreciation accrual is envisaged, the value of the said items for taxation purposes shall be determined as the difference between their initial value and the accumulated depreciation value calculated at the established depreciation rates for accounting purposes at the end of each tax (accounting) period.

**2.** In respect of immovable property of the foreign organisations which do not pursue their activities in the Russian Federation through a permanent establishment and also in respect of the immovable property of foreign organisations which is not related to these organisations' activities in the Russian Federation through a permanent establishment, the tax base shall be deemed the stock-taking value of the said items according to the data of technical stock-taking bodies.

The empowered bodies and the specialised organisations charged with the record-keeping and technical stock-taking of immovable property items shall notify the tax body at the place where such items are located of the stock-taking value of each such item located on the territory of the Russian region concerned within ten days of the date of valuation (re-valuation) of the said items.

#### **Article 376.** Procedure for Assessing the Tax Base

**1.** The tax base shall be assessed separately in respect of property taxable at the place where the organisation is located (the place where the permanent establishment of the foreign



organisation is placed on record with a tax body), in respect of property of each solitary unit of the organisation having a separate balance sheet, in respect of each immovable property item located outside the location of the organisation, the organisation's solitary unit having a separate balance sheet or a permanent establishment of the foreign organisation in respect of the property forming part of the Unified Gas Supply System in compliance with **Federal Law No. 69-FZ of March 31, 1999 on Gas Supply in the Russian Federation** (hereinafter mentioned in this Chapter as the property forming part of the Unified Gas Supply System) and also in respect of property taxable at different tax rates.

**2.** If an immovable property item subject to taxation is actually located on the territories of various Russian regions or on the territory of a Russian region and in the territorial sea of the Russian Federation (on the continental shelf of the Russian Federation or in the exclusive economic zone of the Russian Federation) the tax base shall be assessed in respect of this immovable property item separately and it shall be accepted for tax calculation purposes in the Russian region concerned in a portion pro rata to the share of the balance sheet value (stock-taking value for the immovable property items specified in **Item 2 of Article 375** of this Code) of the immovable property item on the territory of the Russian region concerned.

**3.** The tax base shall be assessed by taxpayers on their own in accordance with this Chapter.

**4.** The average value of a property deemed an object of taxation for the reporting period shall be assessed as the quotient resulting from division of the amount obtained as a result of adding up the residual value of the property as of the first day of each month of the reporting period and the first day of the month following the reporting period by the number of months in the reporting period increased by one.

The average annual value of a property deemed an object of taxation for the reporting period shall be assessed as the quotient resulting from the division of the amount obtained as a result of adding up the residual value of the property as of the first day of each month of the tax period and the last date of the reporting period by the number of months in the tax period increased by one.

**5.** The tax base for each of the immovable property items of foreign organisations specified in **Item 2 of Article 375** of this Code shall be assumed to be equal to the stock-taking value of this immovable property item as of 1st January of the year being the tax period.

*In accordance with **Federal Law No. 308-FZ of November 27, 2010** the provisions of **Item 6 of Article 376** of this Code (in the wording of the said Federal Law) shall be applicable until January 1, 2025*

**6.** The Tax basis shall be decreased by the amount of the completed capital investments for the construction, reconstruction and/or modernisation of navigable hydrotechnical installations which are being put into operation, reconstructed and/or modernised and are situated on inland waterways of the Russian Federation, port hydrotechnical installations and installations of the infrastructure of the air transport (except for the system of centralised filling of aeroplanes, cosmოდromes) taken into account in the balance-sheet value of such objects.

The provision of this Item shall not be applicable with respect to completed capital investments taken into account in the balance-sheet value of such objects before January 1, 2010.

**Article 377.** The Peculiarities of Assessing the Tax Base within the Framework of a Contract of Simple Partnership (Contract of Joint Activity) and an Agreement of Investment Partnership

1. The tax base within the framework of a contract of simple partnership (contract of joint activity) and an agreement of investment partnership shall be assessed on the basis of the balance value of the property deemed an object of taxation which has been contributed by the taxpayer under the contract of simple partnership (contract of joint activity) or the agreement of investment partnership and also on the basis of the balance value of the other property deemed an object of taxation acquired and/or created in the course of joint activities which makes up the common property of the partners and which is recorded in the separate balance sheet of the simple partnership by the participant in the contract of simple partnership charged with conducting common business. Each participant in the contract of simple partnership or an agreement of investment partnership shall calculate and pay the tax on the property deemed an object of taxation which has been put by him into common business. As for the property acquired and/or created in the course of joint activity, the calculation and payment of the tax shall be effected by the participants in a contract of partnership pro rata to the value of their contribution in the common business.

2. The person charged with keeping record of the common property of the partners must provide information for taxation purposes not later than the 20th day of the month following the accounting period to each taxpayer being a participant in the contract of simple partnership (contract of joint activity) and an agreement of investment partnership on the balance value of the property which makes up the common property of the partners and on the share of each participant in the common property of the partners. In this case, the persons charged with keeping record of the common property of the partners shall provide the information required for the purposes of tax base assessment.

**Article 378.** The Peculiarities of Taxation of Property Placed in Trust Administration

1. Property placed in trust administration and also property acquired within a contract of trust administration shall be subject to taxation (except for the property constituting the share investment fund) in as much as the founder of the trust is concerned.

2. Property constituting a share investment fund shall be subject to taxation at the managing company. In this case, the tax shall be paid at the expense of the property constituting such share investment fund.

**Article 378.1.** The Details of Taxation of Property in the Performance of Concession Agreements

The property transferred to a concessionaire and/or created by a concessionaire in accordance with a concession agreement is taxable at the concessionaire's.

**Article 379.** The Tax Period. The Accounting Period

1. The tax period is the calendar year.

2. The accounting periods are the first quarter, half-year and nine months of the calendar year.

3. While instituting the tax, the legislative (representative) body of a Russian region is entitled not to establish accounting periods.

**Article 380.** The Tax Rate

1. Tax rates shall be set by laws of Russian regions as not exceeding 2.2 percent.

2. Differentiated tax rates may be set depending on the category of taxpayer and/or property deemed an object of taxation.

### **Article 381. Tax Privileges**

The following shall be relieved from taxation:

1) the organisations and institutions of the criminal execution system - in respect of the property used for the purpose of performing the functions vested therein;

2) religious organisations: in respect of the property they use to pursue religious activity;

3) the all-Russia public organisations of disabled persons (in particular those formed as unions of public organisations of disabled persons) among whose members disabled persons and their legal representatives make up at least 80 percent: in respect of the property they use to pursue their charter activities;

the organisations whose capital is fully made up of contributions of the said all-Russia public organisations of disabled persons if the mean list total of disabled persons among their employees makes up at least 50 percent and their share in the payroll fund is at least equal to 25 percent: in respect of the property they use to manufacture and/or sell goods (except for excisable goods, mineral raw materials and other mineral resources and also other goods according to the **list** approved by the Government of the Russian Federation by agreement with all-Russia public organisations of disabled persons), works and services (except for brokerage and other mediation services);

the institutions whose property is exclusively owned by the said all-Russia public organisations of disabled persons: in respect of the property they use to achieve educational, cultural, health-treatment and rehabilitation, physical education and sport, scientific, information and other objectives of social protection and rehabilitation of disabled persons and also to provide legal and other assistance to disabled persons, disabled children and their parents;

4) the organisations whose main type of activity is the manufacture of pharmaceutical products: in respect of the property they use to manufacture veterinary immunity-biological preparations intended to fight epidemics and epizootics;

5) organisations: in respect of objects deemed federal significance monuments of history and culture in the procedure established by the legislation of the Russian Federation;

6) **abolished** from January 1, 2006;

7) **abolished** from January 1, 2006;

8) **abolished** from January 1, 2005;

9) organisations: in respect of the nuclear plants used for scientific purposes, nuclear material and radioactive substance storage areas as well as radioactive waste storage facilities;

10) organisations: in respect of ice breaking vessels, nuclear-powered vessels and atomic technological service vessels;

11) organisations: in respect of public railway tracts, federal public motor roads, major pipelines, power transmission lines and also the installations deemed an integral technological part of the said facilities. A **list** of the assets classified as the said facilities shall be approved by the Government of the Russian Federation;

12) organisations: in respect of outer space objects;

13) the property of specialised prosthetic-orthopaedic enterprises;

14) the property of colleges of barristers/solicitors, lawyer's offices and legal advice offices;

15) the property of state scientific centres;

16) **abolished** from January 1, 2006;

17) organisations, except for those cited in **Item 22** of this article, - in respect of property items recorded on the balance sheet of the organisation deemed **resident** of a special economic zone - created or acquired for the purpose of pursuing an activity on the territory of the economic zone and located on the territory of this economic zone, which is used in the territory of the special economic zone within the framework of the agreement on the establishment of the special economic zone - within ten years as from the month following the

month the property items were recorded on the books;

18) organisations - in respect of ships registered in the Russian International Register of Ships.

19) the organisations deemed to be management companies in compliance with the Federal Law on the Skolkovo Innovation Centre;

20) the organisations that have obtained the status of participants in the project involving scientific research works, development and commercialization of their results in compliance with the Federal Law on the Skolkovo Innovation Centre. The cited organisations shall lose their right to relief from taxation where it is provided for by **Item 2 of Article 145.1** of this Code. To prove the right to relief from taxation, the cited organisations are obliged to present to the tax authority at the place of registration thereof documents confirming their status of project participants and provided for by the Federal Law on the Skolkovo Innovation Centre, as well as data on accounting receipts (expenditures).

21) organisations - in respect of high-energy facilities returned to service in compliance with the list of such facilities established by the Government of the Russian Federation or in respect of facilities with high energy efficiency returned to operation, if for such facilities the legislation of the Russian Federation provides for defining their energy efficiency - within three years from the date when the cited property is registered.

22) shipbuilding companies with the status of a resident of an industrial production special economic zone - in respect of the property accounted in their balance sheet and used for the purpose of ships' building and repair, within ten years as from the date of registration of such organizations as a resident of a special economic zone, as well as in respect of the property created or acquired for the purpose of ships' building and repair, within ten years as from the date of registration of the cited property but at most within the time period while an industrial production special economic zone exists.

23) organisations recognised as management companies of special economic zones and accounting in the balance sheet thereof as fixed assets the immovable property created for the purpose of implementation of agreements on the creation of special economic zones within ten years as from the month following the month when the cited property is registered.

#### **Article 382.** Procedure for Calculating the Amount of Tax and the Amounts of Advance Tax Payment

**1.** The amount of tax shall be calculated according to the results of the tax period as the applicable tax rate multiplied by the tax base assessed for the tax period.

**2.** The amount of tax payable to the budget according to the results of the tax period shall be determined as the difference between the tax amount calculated in accordance with **Item 1** of this Article and the amounts of tax advance payment calculated during the tax period.

**3.** The amount of tax payable to the budget shall be calculated separately on the property taxable at the location of the organisation (the place where the permanent establishment of the foreign organisation has been put on record with a tax body), on the property of each of the organisation's solitary units having a separate balance sheet, on each immovable property item located outside of the organisation's location, on each of the organisation's solitary unit having a separate balance sheet or the foreign organisation's permanent establishment, in respect of the

property forming part of the Unified Gas Supply System and also on property taxable at different tax rates.

4. The amount of advance tax payment shall be calculated according to the results of each accounting period as one quarter of the applicable tax rate times multiplied by the mean value of the property assessed for the accounting period in compliance with **Item 4 of Article 376** of the present Code.

5. The amount of advance tax payment on immovable property items of the foreign organisations specified in **Item 2 of Article 375** of the present Code shall be calculated upon the expiry of the accounting period as one quarter of the stock-taking value of the immovable property item as of January 1 of the year being the tax period times the applicable tax rate.

In the event of the rise (termination) within the tax (reporting) period of the taxpayer's ownership of an immovable property unit of foreign organisations, which is cited in **Item 2 of Article 375** of this Code, the amount of tax (the amount of advance tax payment) in respect of this immovable property unit shall be calculated subject to the coefficient determined as the ratio of the number of full months when this immovable property unit was in the taxpayer's ownership to the number of months in the tax (reporting) period, unless otherwise provided for by this Article.

6. While instituting the tax the legislative (representative) body of a Russian region shall be entitled to make a provision for specific categories of taxpayer whereby they are allowed not to calculate and make advance payments of the tax during the tax period.

#### **Article 383.** Procedure and Term for the Payment of Tax and Advance Tax Payments

1. The tax and advance tax payments shall be payable by taxpayers in the procedure and within the term established by the laws of the Russian regions.

2. During the tax period taxpayers shall make tax advance payments, except as otherwise envisaged by a law of the Russian region. Upon the expiry of the tax period taxpayers shall pay the amount of the tax calculated in the procedure set out in **Item 2 of Article 382** of the present Code.

3. In respect of the property recorded on the balance sheet of a Russian organisation the tax and tax advance payments shall be payable to the budget at the location of the said organisation with due regard to the peculiarities envisaged by **Articles 384, 385 and 385.2** of this Code.

4. **Abrogated** from January 1, 2010.

5. The foreign organisations pursuing activities in the Russian Federation through permanent establishments shall pay the tax and tax advance payments on the property of the permanent establishments to the budget at the place where the said permanent establishments have been put on record with tax bodies.

6. In respect of the immovable property items of a foreign organisation which are specified in **Item 2 of Article 375** of this Code, the tax and advance tax payments shall be payable to the budget at the location of the immovable property item.

#### **Article 384.** The Peculiarities of Calculation and Payment of the Tax at the Location of the Organisation's Solitary Units

An organisation incorporating solitary units which have separate balance sheets shall pay the tax (tax advance payments) to the budget at the location of each solitary unit on the property deemed an object of taxation in keeping with **Article 374** of this Code and recorded on the separate balance sheet of each of them in an amount assessed as the tax rate effective in the territory of the Russian region concerned where the solitary units are located multiplied by the

tax base (one quarter of the mean value of the property) assessed for the tax (accounting) period in accordance with **Article 376** of this Code in respect of each solitary unit.

**Article 385.** The Peculiarities of Calculation and Payment of the Tax on Immovable Property Items Located outside the Organisation's Location or outside Its Solitary Unit's Location

An organisation having immovable property items recorded on its balance sheet, such items being located outside the organisation's location or outside the location of its solitary unit having a separate balance sheet shall pay the tax (tax advance payments) to the budget at the location of each of the said immovable property items in an amount assessed as the tax rate effective on the territory of the Russian region concerned where these immovable property items are located times the tax base (one quarter of the mean value of the property) assessed for the tax (accounting) period in accordance with **Article 376** of this Code in respect of each immovable property item.

**Article 385.1.** Specifics of Calculation and Payment of Tax on the Property of Organisations by Residents of the Special Economic Zone in the Kaliningrad Region

**1.** Residents of the Special Economic Zone in the Kaliningrad Region shall pay tax on the property of organisations in compliance with this Chapter in respect of all the property constituting a taxable object for the said tax, except for the property created or acquired in the course of implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region.

**2.** Residents shall separately calculate the amount of tax on the property of organisations in respect of the property created or acquired in the course of implementation of an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region.

**3.** Tax on the property of organisations in respect of the property, created or acquired while implementing an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region, shall be established for residents within the first six calendar years starting from the date of inclusion of a legal entity into the Uniform Register of Residents of the Special Economic Zone in the Kaliningrad Region at the rate of 0 per cent.

**4.** Within the period from the seventh to twelfth calendar year inclusive, as of the date of inclusion of a legal entity into the Uniform Register of Residents of the Special Economic Zone in the Kaliningrad Region, the tax rate for tax on the property of organisations in respect of the property created or acquired, while implementing an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region, shall constitute the amount established by a law of the Kaliningrad Region and reduced by fifty per cent.

**5.** The special procedure for paying tax on the property of organisations shall not extend to the part of the value of property (created or acquired while implementing an investment project in compliance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region) that was used for production of the commodities (carrying out the works and rendering the services) that may not be the aim of the investment project. In doing this the share of the property value used for production of the commodities (carrying out the works and rendering the services), that were not be the aim of an investment project, shall be deemed equal to the share of incomes derived from the selling such commodities (carrying out such works or rendering such services) in the total amount of all resident's incomes.

**6.** The difference between the amount of tax on the property of organisations with respect to the tax base for tax on the property of organisations (created or acquired when implementing an investment project in compliance with the **Federal Law** on the Special Economic Zone in the

Kaliningrad Region), that would be computed by a resident, if he did not use the special order of paying tax on the property of organisations, established by this Article, and the amount of tax on the property of organisations estimated by the resident in compliance with this Article in respect of tax on the property of organisations, created or acquired while implementing an investment project in compliance with the Federal Law on the Special Economic Zone in the Kaliningrad Region, shall not be includable into the tax base for tax on profits of organisations for residents.

**7.** In the event of removal of a resident from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region until he obtains a certificate on the fulfilment of conditions of the investment declaration, the resident shall be deemed to have lost the right to apply the special procedure for paying tax on the property of organisations established by this Article from the beginning of the quarter in which he was removed from the said Register.

In this case the resident must calculate the tax amount with respect to the property created or acquired by him in the realisation of the investment project in accordance with the **Federal Law** on the Special Economic Zone in the Kaliningrad Region at the tax rate established in accordance with **Article 380** of this Code.

The calculation of the tax amount shall be made for the period of the application of the special procedure for taxation.

The calculated tax amount shall be payable by the resident upon the expiry of the **reporting** or **tax period** in which he was removed from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region within the time periods established for making the advance payments on the tax for the **reporting period** or for paying the tax for the **tax period** in accordance with **Item 1 of Article 383** of this Code.

In the conduct of a field tax check of a resident removed from the Unified Register of Residents of the Special Economic Zone in the Kaliningrad Region concerning the correctness of the calculation and fullness of payment of the tax amount with respect to the property created or acquired by him in the realisation of an investment project, the restrictions established by paragraph two of **Item 4** and **Item 5 of Article 89** of this Code shall not be effective on condition that the decision on assigning such a check was rendered within three months from the moment of payment of the said tax amount by the resident.

#### **Article 385.2.** The Specifics of Estimation and Payment of Tax in Respect of the Property Forming Part of the Unified Gas Supply System

**1.** In respect of the property forming part of the Unified Gas Supply System, tax (advance tax payments) shall be estimated proceeding from the tax base defined on the whole for a constituent entity of the Russian Federation and shall be paid to budgets of constituent entities of the Russian Federation at the place where this property is actually located.

**2.** For the purposes of this Chapter, as the actual place of location of property forming part of the Unified Gas Supply System shall be deemed the territory of an appropriate constituent entity of the Russian Federation where gas is extracted, transported, stored and/or supplied.

**3.** The organisation owning the property forming part of the Unified Gas Supply System shall be obliged to ensure registration of the cited property specifying in the basic accounting documents the place where it is actually located.

#### **Article 386.** The Tax Return

**1.** Upon the expiry of each **accounting** and **tax period** taxpayers shall file tax calculations for advance tax payments as well as a tax return for the tax with the tax bodies at the place where the taxpayers are located, at the places where each of their solitary units

featuring a separate balance sheet is located and also at the place where each immovable property item (for which a separate procedure for tax calculation and payment has been established) is located, at the location of the property forming part of the Unified Gas Supply System, unless otherwise stipulated in this Item.

In respect of property located in the territorial sea of the Russian Federation, on the continental shelf of the Russian Federation, in the exclusive economic zone of the Russian Federation and/or outside the Russian Federation's territory (for Russian organisations) tax calculations for tax advance payments and a tax return for the tax shall be filed with the tax body at the location of the Russian organisation (the place where the foreign organisation's permanent establishment has been put on record with a tax body).

The taxpayers, referred to the category of major taxpayers in conformity with **Article 83** of this Code, shall submit tax declarations (computations) to the tax body at the place of their recording as major taxpayers.

**2.** Taxpayers shall file tax calculations for tax advance payments within 30 calendar days after the end of the accounting period concerned.

**3.** Tax returns according to the results of the tax period shall be filed by taxpayers not later than March 30 of the year following the expired tax period.

#### **Article 386.1.** Avoidance of Double Taxation

**1.** The amounts of property tax actually paid by a Russian organisation outside the territory of the Russian Federation in compliance with the legislation of another state in respect of property belonging to the Russian Federation and located on the territory of this state shall be counted when paying tax in the Russian Federation in respect of the cited property.

With this, the rate of counted tax amounts paid outside the territory of the Russian Federation may not exceed the rate of the tax amount to be paid by this organisation in the Russian Federation in respect of the property cited in this Item.

**2.** The following documents shall be filed by a Russian organisation with the tax authorities for setting off tax:

an application for setting off the tax;

the document proving payment of the tax outside the territory of the Russian Federation confirmed by the tax authority of the appropriate foreign state.

The above documents shall be filed by a Russian organisation with the tax agency at the location of the Russian organisation together with the tax declaration covering the tax period when the tax was paid outside the territory of the Russian Federation.

## **Section X. Local Taxes**

### **Chapter 31. Land Tax**

#### **Article 387.** General Provisions

**1.** Land tax (hereinafter mentioned in this Chapter as the "tax") shall be established by this Code and normative legal acts of representative bodies of municipal formations, shall be put into effect and shall cease to be effective in compliance with this Code and normative legal acts of representative bodies of municipal formations and shall be paid without fail on the territories of these municipal formations.

In the cities of federal importance Moscow and Saint-Petersburg the tax shall be established by this Code and by the laws of said subjects of the Russian Federation, shall be put into effect and shall cease to be effective in compliance with this Code and the laws of the



said subjects of the Russian Federation and shall be paid without fail on the territories of the said subjects of the Russian Federation.

**2.** When establishing the tax, representative bodies of municipal formations (legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg) shall determine the **tax rates** within the limits established by this Chapter, the procedure and time for paying the tax.

When establishing the tax by normative legal acts of representative bodies of municipal formations (by the laws of the cities of federal importance Moscow and Saint-Petersburg), there may be likewise established tax privileges, grounds and procedures for the application thereof, including the establishment of the rate of a non-taxable amount for individual categories of taxpayers.

#### **Article 388.** Taxpayers

**1.** As taxpayers of the tax (hereinafter referred to in this Chapter as "taxpayers") shall be deemed organisations and natural persons that have land plots recognised as an object of taxation in compliance with **Article 389** of this Code in their ownership, that have the right to use them on a permanent basis (on a termless basis) or the right of life heritable tenure thereof.

With respect to land plots forming part of the property constituting a share investment fund, the managing companies shall be deemed to be the taxpayers. In this case, the tax shall be paid at the expense of the property constituting such share investment fund.

**2.** Organisations and natural persons shall not be deemed taxpayers in respect of land plots in respect of which they have the right to use them on a gratuitous term basis or which have been allotted to them under a lease contract.

#### **Article 389.** Taxation Object

**1.** As an object of taxation shall be deemed land plots located within the boundaries of a municipal formation (of the cities of federal importance Moscow and Saint-Petersburg) on whose territory the tax is introduced.

**2.** Not deemed as objects of taxation shall be the following:

1) land plots withdrawn from circulation in compliance with the **laws** of the Russian Federation;

2) land plots whose circulation is restricted in compliance with the **laws** of the Russian Federation that are occupied by especially valuable units of cultural heritage of the peoples of the Russian Federation, units included into the List of World Heritage, historical and cultural reserves, and archeological heritage units;

3) land plots whose circulation is restricted in compliance with the **laws** of the Russian Federation that are allotted for meeting defence, security and customs needs;

4) the land plots included in forest estate lands;

5) the land plots whose circulation is restricted in compliance with the **laws** of the Russian Federation that are occupied by state-owned water bodies forming part of water resources.

#### **Article 390.** Tax Base

**1.** The tax base shall be determined as the cadastral value of land plots deemed to be taxation objects in compliance with **Article 389** of this Code.

**2.** The cadastral value of a land plot shall be determined in compliance with the **land legislation** of the Russian Federation.

## **Article 391.** Procedure for Determining the Tax Base

**1.** The tax base shall be determined in respect of every land plot as the cadastral value thereof as on January 1 of a year which is a tax period.

In respect of a land plot formed within a tax period the tax base in this tax period shall be defined as the cadastral value thereof as of the date when such land plot is registered in the cadastral records.

The tax base in respect of a land plot located on the territories of several municipal entities (in the territories of a municipal entity and the cities of federal importance, Moscow and Saint-Petersburg) shall be determined for each municipal entity (for the cities of federal importance, Moscow and Saint-Petersburg). In so doing, the tax base in respect of the share of the land plot located within the bounds of the appropriate municipal entity (the cities of federal importance Moscow and Saint-Petersburg) shall be determined as the share of the cadastral value of the whole land plot which is proportionate to the said share of the land plot.

**2.** The tax base shall be determined separately in respect of shares in common ownership of a land plot in respect of which different persons are deemed to be taxpayers or different tax rates are established.

**3.** Taxpaying organisations shall determine the tax base independently on the basis of data from the state cadastre of immovable property on each land plot that they have in their ownership or in respect of which they enjoy the right to use them on a permanent (termless) basis.

Taxpaying natural persons who are individual businessmen shall determine the tax base independently in respect of the land plots used (intended for use) by them in their business activities on the basis of data from the state cadastre of immovable property on each land plot that they have in their ownership, or with regard to which they enjoy the right of their use on a permanent (termless) basis or the right of life heritable tenure.

**4.** Unless otherwise provided for by **Item 3** of this Article, the tax base for every taxpayer being a natural person shall be determined by tax bodies on the basis of the data presentable to the tax bodies by the bodies engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions therewith.

**5.** The tax base shall be reduced by the non-taxable amount of 10 000 roubles per taxpayer on the territory of a municipal formation (the cities of federal importance of Moscow and Saint-Petersburg) in respect of a land plot that is in ownership, in permanent (termless) use or life heritable tenure of the following categories of taxpayers:

1) Heroes of the Soviet Union, Heroes of the Russian Federation, full knights of the Order of Honour;

2) disabled persons with I degree labour disability, as well as persons of the II disability group established prior to January 1, 2004;

3) persons handicapped from birth;

4) veterans and invalids of the Great Patriotic War, as well as veterans and invalids of combat operations;

5) natural persons entitled to social support under the Law of the Russian Federation on Social Support to Citizens Exposed to Radiation as a Result of an Accident at the Chernobyl Atomic Power Station (in the wording of Law of the Russian Federation No. 3061-I of June 18, 1992), in compliance with Federal Law No. 175-FZ of November 26, 1998 on the Social Protection of the Russian Federation Citizens Exposed to Radiation as a Result of an Accident

in 1957 at the Production Association Mayak and the Discharge of Radioactive Waste into the River Techa and in compliance with Federal Law No. 2-FZ of January 10, 2002 on Social Guarantees to the Citizens Exposed to Radiation as a Result of Nuclear Tests at the Semipalatinsk Testing Ground;

6) natural persons who have directly participated within the composition of high risk units in atomic and nuclear tests, in liquidating accidents at nuclear installations in armaments and at military facilities;

7) natural persons who are or have been victims of radiation sickness as a result of tests, manoeuvres and other works connected with any type of nuclear installations including nuclear weapons and space technology.

**6.** The tax base shall be reduced by the non-taxable amount established by **Item 5** of this Article on the basis of the documents proving the right to decrease the tax base, to be submitted by a taxpayer to the tax body at the location of the land plot.

The procedure and time for presenting by taxpayers the documents proving the right to reduce the tax base shall be established by normative legal acts of representative bodies of municipal formations (the laws of the cities of federal importance Moscow and Saint-Petersburg). With this, the time for filing the documents proving the right to reduction of the tax base may not be fixed after February 1 of the year following an expired tax period.

**7.** If the rate of non-taxable amount provided for by **Item 5** of this Article exceeds the rate of the tax base determined in respect of a land plot, the tax base shall be taken as equal to zero.

#### **Article 392.** Specifics for Determining the Tax Base in Respect of Land Plots in Common Ownership

**1.** The tax base in respect of land plots that are in common ownership shall be determined for each of the taxpayers that own a given land plot proportionate to their shares in common ownership.

**2.** The tax base in respect of the land plots that are in joint ownership shall be determined for each of the taxpayers that are owners of a given land plot share and share alike.

**3.** If, when acquiring a building, structure or other immovable property, the acquirer (purchaser) acquires under a law or a contract the ownership of the part of the land plot occupied by the immovable property and is necessary for using it, the tax base in respect of the given land plot for the said person shall be determined in proportion to his share in the ownership of the given land plot.

Where several persons act as acquirers (purchasers) of a building, structure or other immovable property, the tax base in respect of the part of the land plot that is occupied by the immovable property and is necessary for its use, shall be determined for the said persons proportionate to their shares in the ownership (in the area) of the said immovable property.

#### **Article 393.** Tax Period. Reporting Period

**1.** As a tax period shall be deemed a calendar year.

**2.** As tax periods for taxpaying organisations and natural persons being individual businessmen shall be deemed the first quarter, the second quarter and the third quarter of a calendar year.

**3.** When establishing the tax, the representative body of a municipal formation (legislative (representative) state power body of the cities of federal importance of Moscow and Saint-Petersburg) shall not be entitled to establish a reporting period.

#### **Article 394. Tax Rate**

**1.** Tax rates shall be established by normative legal acts of representative bodies of municipal formations (by the laws of the cities of federal importance Moscow and Saint-Petersburg) and may not exceed:

1) 0.3 per cent in respect of land plots:

referred to agricultural lands or to land forming part of the zones of agricultural use in inhabited localities and used by the farming industry;

occupied by housing stock and by units of plumbing infrastructure of the housing and communal complex (except for a share in the ownership of a land plot falling to a unit that does not pertain to the housing stock or to units of plumbing infrastructure of the housing and communal complex) or acquired (allotted) for house building;

acquired (allotted) as personal subsidiary plots, for gardening, truck farming or cattle breeding, as well as of the country cottage economy;

2) 1.5 per cent in respect of other land plots.

**2.** It shall be allowed to establish varied tax rates depending on the category of land and (or) on the permitted way of using a land plot.

#### **Article 395. Tax Privileges**

There shall be exempted from taxation the following:

1) organisations and institutions of the criminal executive system of the Ministry of Justice of the Russian Federation - in respect of the land plots allotted for the direct exercise of the functions placed upon these organisations and institutions;

2) organisations - in respect of land plots occupied by governmental roads of general use;

3) **abolished** from January 1, 2006;

4) religious organisations - in respect of the land plots owned by them where buildings, structures and constructions of religious and charitable purpose are located;

5) all-Russia public organisations of disabled persons (including those established as unions of public organisations of disabled persons) where disabled persons and their legal representatives constitute at least 80 percent of their members - in respect of the land plots used by them for exercising activities provided for by their charters;

organisations whose authorised capital is fully made up of contributions of the said all-Russia public organisations of disabled persons, if the average payroll number of disabled persons among the employees thereof amounts to at least 50 per cent, while their share in the wage fund constitutes at least 25 percent - in respect of the land plots used by them for production and (or) sale of goods (except for excisable goods, mineral raw materials and other minerals, as well as other commodities according to the **list** thereof endorsed by the Government of the Russian Federation and coordinated with all-Russia public organisations of disabled persons), works and services (except for broker's and other intermediary services);

Institutions whose property is owned solely by said all-Russia public organisations of disabled persons - in respect of the land plots used by them for achieving educational, cultural, medical-and-health improvement, athletic-and-sporting, scientific, informational and other goals for social protection and rehabilitation of disabled persons, as well as for rendering legal and other aid to disabled persons, disabled children and their parents;

6) folk art handicraft organisations - in respect of land plots located in the traditional seats of folk art handicraft industries and used for producing and selling folk art handicraft products;

7) natural persons pertaining to aboriginal small peoples of the North, Siberia and the Far East of the Russian Federation, as well as communities of such peoples - in respect of the land plots used for preserving and developing their traditional way of life, economy and industries;

8) **abolished** from January 1, 2006;

9) organisations deemed **residents** of a special economic zone, except for the organizations cited in **Item 11** of this article, in respect of land plots located on the territory of the special economic zone, for a five-year term from the month of the occurrence of a right of ownership to each land plot.

10) organisations deemed to be management companies in compliance with the **Federal Law** on the Skolkovo Innovation Centre - in respect of the land plots forming part of the territory of the Skolkovo Innovation Centre and allotted (acquired) for the direct exercise of the functions imposed on these organisations in compliance with the said **Federal Law**.

11) shipbuilding companies with the status of a resident of an industrial production special economic zone - in respect of the land plots occupied by the buildings, structures and constructions of industrial purpose which they have under ownership and use for the purpose of ships' building and repair, from the date of registration of such organizations as residents of a special economic zone for ten years.

**Article 396.** Procedure for Estimating the Tax and Advance Payments of the Tax

**1.** The amount of the tax shall be estimated on the expiry of the tax period as a percentage of the tax base corresponding to the tax rate, if not otherwise provided for by **Items 15** and **16** of this Article.

**2.** Taxpaying organisations shall independently estimate the amount of the tax (the amount of advance payments of the tax).

Taxpaying natural persons who are individual businessmen shall independently estimate the amount of the tax (the amount of advance payments of the tax) in respect of the land plots used (intended for use) by them in their business activities.

**3.** The amount of the tax payable to the budget by taxpayers who are natural persons shall be estimated by tax bodies, unless otherwise provided for by **Item 2** of this Article.

**4. Abrogated** from January 1, 2011.

**5.** The amount of the tax payable to the budget on the basis of the results of a tax period shall be determined by taxpayers which are organisations or individual businessmen as the difference between the sum of the tax estimated in compliance with **Item 1** of this Article and the sums of advance payments of the tax to be made within the tax period.

**6.** Taxpayers for whom a quarter is set as a tax period shall estimate the sums of advance payments of the tax upon the expiry of the first, second and third quarter of the current tax period as one quarter of the appropriate tax rate of the percentage share of the cadastral value of a land plot as on January 1 of the year which is the tax period.

**7.** In the event of a rise (termination) within the tax period of a taxpayer's ownership (the right of permanent (termless) use or of life heritable tenure) of a land plot (or of a share of it) the sum of the tax (the sum of the advance payment of the tax) shall be paid subject to the coefficient determinable as a ratio of the number of the full months when this land plot was in the taxpayer's ownership (permanent (termless) use, life heritable tenure) to the number of calendar months of the tax (reporting) period, unless otherwise established by this Article. With this, if the said rights arose (were terminated) prior to the 15th day of the appropriate month inclusive, the month when said rights arose shall be deemed a full month. If said rights rose (were terminated) after the 15th day of appropriate month, the month when the said rights were terminated shall be deemed a full month.

**8.** In respect of a land plot (a share thereof) inherited by a natural persons the tax shall

be estimated as of the month of the inheritance commencement.

**9.** The representative body of a municipal formation (legislative (representative) state power bodies of the cities of federal importance Moscow and Saint-Petersburg), when establishing the tax shall be entitled to provide for the right not to estimate and make advance payments of the tax within a tax period for individual categories of taxpayers.

**10.** Taxpayers entitled to tax privileges must present documents proving such right to the tax bodies at the location of the land plot deemed to be an object of taxation in compliance with **Article 389** of this Code.

In the event of the rise (termination) within a tax (reporting) period of a taxpayer's right to a tax privilege, the amount of the tax (the amount of an advance payment of the tax) in respect of the land plot with regard to which the tax privilege is granted shall be estimated subject to the coefficient determinable as the ratio of the number of full months when there is no tax privilege to the number of calendar months of a tax (reporting) period. With this, the month when the right to the tax privilege rises, as well as the month of termination of the said right, shall be deemed equal to one month.

**11.** The bodies engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions therewith shall present information to the tax bodies in compliance with **Item 4 of Article 85** of this Code.

**12.** The bodies engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions therewith shall be obliged to deliver annually prior to February 1 of the year being the tax period to the tax bodies at the place of their location data on the land plots deemed to be objects of taxation in compliance with **Article 389** of this Code as on January 1 of the year being the tax period.

**13.** The data cited in **Item 12** of this Article shall be presented by the bodies engaged in keeping cadastral records, in keeping the state cadastre of immovable property and the state registration of rights to immovable property and transactions therewith according to the form endorsed by the federal executive power body authorised to exercise control and supervision in respect of taxes and fees.

**14.** On the basis of the results of the state cadastral evaluation of land data on the cadastral value of land plots shall be provided to taxpayers in the **procedure** defined by the federal executive power body authorised by the Government of the Russian Federation.

**15.** In respect of the land plots acquired by (allotted to) natural persons and legal entities on condition of effecting housing construction on them, except for individual housing construction carried out by natural persons, the estimation of the amount of tax (the amount of advance tax payments) shall be effected by taxpaying organisations or natural persons who are individual businessmen subject to the coefficient two within a three-year term of construction starting from the date of the state registration of rights to the said land plots up to the state registration of rights to an erected immovable property unit. In the event of completing such housing construction and the state registration of rights to an erected immovable property unit prior to the expiry of a three-year term of construction, the amount of the tax paid within the period of construction in excess of the amount of the tax estimated subject to the coefficient 1 shall be deemed the sum of the tax paid in excess and shall be subject to set-off (return) to the taxpayer in a generally established procedure.

As regards the land plots acquired by (allotted to) natural persons and legal entities for ownership on condition of carrying out housing construction on them, except for individual housing construction, the amount of tax (amounts of advance tax payments) shall be paid subject to the coefficient four within the period of construction exceeding a three-year term pending the state registration of rights to an erected immovable property unit.

*In accordance with **Federal Law No. 141-FZ of November 29, 2004** the provisions of **Item 16 of Article 396 of this Code** shall cover the legal relations concerning the taxation of land plots acquired by natural persons or legal entities on condition of carrying out housing construction and individual housing construction on those land plots after the **entry of the said Federal Law into force***

**16.** As regards the land plots acquired by (allotted to) natural persons for individual housing construction, the amount of tax (the amount of advance tax payments) shall be estimated subject to the coefficient two upon the expiry of a ten-year term as of the date of the state registration of rights to the given land plots up to the state registration of rights to an erected immovable property unit.

#### **Article 397.** Procedure and Time for Paying the Tax and Making Advance Payments of the Tax

**1.** The tax and advance payments of the tax shall be payable by taxpayers in the procedure and within the time that are established by normative legal acts of representative bodies of municipal formations (the laws of the cities of federal importance Moscow and Saint-Petersburg).

With this, the time for paying the tax by taxpaying organisations or natural persons who are individual businessmen may not be earlier that provided for by **Item 3 of Article 398** of this Code.

The time for paying tax for taxpaying natural persons who are individual businessmen may not be fixed before November 1 of the year following an expired tax period.

**2.** Taxpayers (organisations or individual businessmen) shall make advance payments of the tax within a tax period, if normative legal acts of the representative body of a municipal formation (the laws of the cities of federal importance Moscow and Saint-Petersburg) do not provide otherwise. Upon the expiry of a tax period taxpayers shall pay the tax in the amount estimated in the procedure stipulated by **Item 5 of Article 396** of this Code.

**3.** The tax and advance payments of the tax shall be paid by taxpaying organisations or natural persons who are individual businessmen to the budget at the location of the land plots deemed to be objects of taxation in compliance with **Article 389** of this Code.

**4.** Taxpayers who are natural persons shall pay the tax on the basis of the **tax notification** directed by a tax body.

It shall only be allowed to forward a tax notification at most for the three tax periods preceding the calendar year when it is forwarded.

The taxpayers cited in Paragraph One of this Item shall pay tax at most for the three tax periods preceding the calendar year when the tax notification cited in Paragraph Two of this Item is forwarded.

The amount of tax paid (collected) in excess shall be repaid (set off) in connection with re-calculation of the sum of tax within the period of such re-calculation in the procedure established by **Articles 78** and **79** of this Code.

#### **Article 398.** Tax Declaration

1. Taxpaying organisations or natural persons who are individual businessmen in respect of the land plots which they have in their ownership or in their permanent (termless) use and which are used (intended for use) by them in their business activities shall present to the tax body on the expiry of a tax period at the location of a land plot the tax declaration in respect of the tax.

Paragraph two is **abrogated**.

2. Abrogated from January 1, 2011.

3. **Tax declarations** in respect of the tax shall be presented by taxpayers at the latest on February 1 of the years following the expired tax period.

Paragraph two is **abrogated** from January 1, 2011.

4. The taxpayers, referred to the category of major taxpayers in conformity with **Article 83** of this Code, shall submit tax declarations to the tax body at the place of their recording as major taxpayers.

President  
of the Russian Federation

V. Putin

Moscow, the Kremlin  
No. 117-FZ  
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