

RUSSIA TAX OUTLOOK

4, June 2009

Draft Federal Law N 111730-5 “on Energy Saving and Energy Efficiency Increase” - new opportunities for cost cutting and increasing competitiveness?

Today, in the context of the world financial crisis, energy efficiency and energy saving is not simply a matter of energy and environmental security. It also creates opportunities for improving efficiency, upgrading production facilities, and making better use of available resources in these turbulent times of heightened competition in which lower costs and higher product quality are paramount.

These objectives have assumed a special importance in Russia. Official statistics demonstrate the damage caused to the Russian economy by energy wastage: over 35% of energy resources are lost due to the use of obsolete technologies and out-dated equipment. According to expert estimates, the introduction of Russian and international best practices together with energy-saving technologies would decrease energy resources consumption by 40% on average or by the equivalent of 350 million tons of oil.

In order to achieve this goal, a legal framework for the development of energy saving and energy efficiency increase in Russia has been enacted by Presidential Decree No 889 of 04/06/2008 “*On certain measures to increase energy usage efficiency and ecological efficiency of the Russian economy*” (hereafter the “**Decree**”). The target set by the Decree is to increase energy efficiency by 2-4% per year with a view to reducing the 2007 energy intensity level¹ by at least 40% by 2020.

The Decree *inter alia* requires the Government of the Russian Federation to prepare and submit to the State Duma draft laws encouraging companies to use energy saving and ecologically clean technologies and, to take into account the extent to which energy saving and renewable technologies have been introduced when allocating various federal budget subsidies to a particular region.

In this context, a **draft Federal Law “on Energy Saving and Energy Efficiency Increase”** (hereinafter the “**Draft**”) has been developed. The Draft was passed by the State Duma on its first reading in December 2008 and is expected to be sent to the Russian Duma for a second reading before the end of summer 2009.

The main objectives of the Draft are to codify the measures aimed at rewarding energy saving and raising energy efficiency implemented by the general public, businesses and the public sector, notably through the use of **tax and budget incentives as well as improved tariff policies** so that the investment costs of deploying energy-saving equipment and technologies are taken into account in tariff-setting practices.

Legal entities and private individuals developing and deploying energy saving technologies will receive government support in the form of **budgetary subsidies**, including **subsidies under interest rate commercial credits** with the aim of encouraging higher energy efficiency and broader use of renewable energy sources.

The main priorities of the Draft are to target sectors usually considered as being the most energy consuming, e.g. housing and public utilities, energy generation and the public sector

¹ Energy intensity represents the ratio of energy consumption to the Gross Domestic Product.

In order to achieve these goals it is necessary to implement an effective system of government management in the field of energy saving at all levels of power. The Draft contains in this respect a number of tools such as energy audits, a unified system of energy efficiency rationing for devices and materials, a uniform reporting system tailored to the individual consumer. This data will be recorded in the state register of energy saving.

The creation of a global system to monitor compliance with energy efficiency regulations and establish liability for energy consumption offenses is also planned.

Although the date of entry into force of this law is still uncertain, it should most probably be enforced by 2010 or so since -unless otherwise amended- a number of obligations contained in the Draft are to be implemented by 1 January 2010.

If you are interested by any matter arising out of this legislative development and/or are contemplating any investment in the sphere of energy saving and energy efficiency increase, we would be pleased to meet and discuss it further with you.

If you have questions on the matters referred to in this **RUSSIA TAX OUTLOOK**, please feel free to contact Dominique Tissot, Partner, at +7(495) 786 4000 or Dominique.Tissot@cmslegal.ru or your regular contact person at CMS Moscow.

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