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## **Ministry of Finance recommendations pertaining to the taxation of operations performed during mandatory shares buyout**

Department of tax and custom-tariff policy of the Russian Federation Ministry of Finance has clarified certain details of taxation of personal income received by a natural person as a result of mandatory buyout of shares in his ownership in its Letter dated 1 November 2012 N 03-04-05/3-1247 "On taxation of personal income received as a result of shares buyout" (hereinafter – the "**Letter**"). The Letter is not a normative act and is not binding, representing a clarification of Ministry of Finance on application of legislation rules.

Effective legislation provides for possibility of mandatory buyout of securities of the joint-stock companies upon request of the person who has acquired more than 95 % of shares in this company. This buyout is performed on the basis of market prices i.e. on the same terms as in case of voluntary sale. In the situation under consideration personal income tax base is defined in usual order.

Brokers, fiduciary managers and other persons performing operations under the commission agreement or any other similar agreement for the taxpayer's benefit are recognized as tax agents for the purpose of personal income tax payment for securities transactions. The Letter mentions that when direct mandatory buyout is performed (i.e. without participation of the above-mentioned intermediaries), the company will not act as a tax agent. A taxpayer, i.e. natural person receiving income as a result of share alienation, will be obliged to calculate and pay personal income tax.

As a general rule, the mature date of the duty to calculate and pay the personal income tax is the date of income receipt. During the money transfer by the company to the notary's deposit the natural person is not yet able to manage these funds and therefore does not receive the income. Hence, the Letter concludes that duty to calculate and pay the personal income tax matures since the date of money transfer to the bank account of the natural person or the date of actual receipt of money by the natural person from the notary's deposit.

**Conclusion:** during the mandatory shares buyout the company does not act as a tax agent. In direct shares buyout taxpayer independently calculates the amount of tax. The date of maturity of the duty to calculate and pay the tax is the date of money transfer to the bank account of the natural person or the date of actual receipt of money by the natural person from the notary's deposit.