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Innovation scientific and technological centres in Russia, tax and other incentives for their participants

Since August 10, 2017, the Federal Law of July 29, 2017 No. 216-FZ has been in effect in Russia, providing for the legal basis for establishment and operation of innovation scientific and technological centres in order to implement the priorities of the scientific and technological development of the Russian Federation, increase the investment attractiveness of research and development, the commercialisation of their results, incentives for persons involved in the implementation of such projects, the features of their activities, including urban planning, educational and medical activities (the "Law No. 216-FZ").

The Innovation Scientific and Technological Centre (ISTC) is a complex of organisations whose main purpose is implementation of scientific and technological activities, and other persons whose activities are aimed at ensuring the functioning of such a centre, operating on a territory specified by the Government of the Russian Federation.

The territory of an ISTC may be located on the territory of one or several constituent entities of the Russian Federation and consists of land plots (parts of land plots) with a special legal regime for carrying out activities in accordance with the Law No. 216-FZ, intended for the project implementation.

The project is deemed a complex of measures aimed at achieving the goals of creating and maintaining the functioning of the ISTC.

1. The procedure for establishment of ISTC

The project initiator may be an educational or scientific organisation that meets the criteria established by the Government of the Russian Federation, or a national research centre.

To provide for establishment of an ISTC, the project initiator should file an application with the Ministry of Economic Development of the Russian Federation containing a proposal, including, but not limited to:

1. the intended scientific and technological activities that are consistent with the goals of establishment an ISTC defined by Law No. 216-FZ, which are planned to be carried out on the territory of the ISTC;
2. a list of land plots (parts of land plots) that are in state and (or) municipal ownership, which are supposed to be included in the territory of the ISTC, and real estate facilities located on them which are necessary for the project implementation, with the necessary supporting materials (including financial and economic nature);
3. information on the availability of the fund – a Russian non-profit organisation in the legal form of the fund established by the project initiator, or a proposal to establish such a fund either by the project initiator, or by the Government of the Russian Federation or the Government of the Russian Federation and the project initiator;
4. information about the establishment by the initiator of a project of the ISTC management company, or a proposal to establish such a company by the Government of the Russian Federation or the Government of the Russian Federation and the initiator of the project, or a proposal to determine a joint stock company whose shareholders are exclusively the Russian Federation and the project initiator, as well as a draft charter of such a management company;

5. proposals for an integrated plan for the development of the territory of the ISTC;
6. proposals on the content of the project rules – the procedure for carrying out activities on the territory of the ISTC, including the rights and obligations of the persons participating in the project implementation.

An ISTC may also be established as well by the decision of the Government of the Russian Federation on the basis of an instruction of the President of the Russian Federation.

2. Fund

One of the main entities involved in the implementation of the project is the fund, which performs the following functions:

- ▶ organises the construction of the infrastructure of the ISTC, uses the property obtained in ownership or possession and (or) use from its founders or acquired on other legal grounds to ensure the implementation of the project;
- ▶ transfers to the management company in rent (sublet) land plots located within the borders of the ISTC territory, owned by the fund on the right of ownership or the right of lease;
- ▶ transfers movable and other property owned by the fund on the right of ownership or leased, which is necessary for the management company to perform its functions, to the management company in the ownership, lease (sublease) or trust management;
- ▶ assists project participants in promoting their products and services to the market, as well as in developing scientific and technical cooperation of project participants, including with foreign organisations.

The fund may transfer movable and other property owned by it, including exclusive rights, to the management company in trust management in order to implement the project and generate income to finance the statutory activities of the fund. Such a contract of trust management of property is entered into for the duration of the project, but no more than 49 years. The amount of remuneration paid to the trustee may not exceed 15% of the income from the trust management of the property.

3. Project participants

Project participants can only be legal entities established in accordance with the legislation of the Russian Federation, which meet simultaneously the following conditions:

- ▶ a permanent executive body of a legal entity (general director, etc.), other bodies or persons entitled to act on behalf of a legal entity without a power of attorney are permanently located on the territory of the ISTC;
- ▶ the constituent documents of a legal entity provide for the implementation of scientific and technological activities in accordance with the Law No. 216-FZ.

The fund, the management company, its subsidiaries are not entitled to act as founders of the project participants.

A legal entity entitled to conduct scientific and technological activities on the territory of the ISTC from the day of the decision of the management company to grant it the status of a project participant.

A person that does not meet the above conditions is entitled to carry out scientific and technological activities on the territory of the ISTC without obtaining the status of a project participant on the basis of an agreement with the management company. After the conclusion of such an agreement, the person is included in the register of persons participating in the project, but it

does not enjoy the benefits (i.e. tax and customs incentives) provided for project participants.

The project initiator has the right to carry out scientific and technological activities on the territory of the ISTC without obtaining the status of a project participant and is included in the register of persons participating in the project implementation as well.

Starting from June 15, 2018, a project participant can simultaneously be a participant of a project of the Skolkovo Innovation Center in accordance with Federal Law No. 244-FZ dated September 28, 2010 and a participant of other projects of the ISTCs, subject to compliance with the requirements to project participants and conditions established by the Law No. 216-FZ, except for the condition of permanent presence of the general director on the territory of the ISTC.

4. Tax incentives for persons involved in the project

The Federal Law of October 30, 2018 No. 373-FZ provided for substantial tax incentives for project participants and other persons involved in the implementation of projects in the ISTC territories ^[1].

An organisation that has been granted the status of a project participant in accordance with Law No. 216-FZ is exempted from VAT and corporate income tax within 10 years from the day it was granted the status of a project participant.

At the same time, the profit received by the project participant is taxed at a tax rate of 0% after the project participant ceases to use the right to exemption from the taxpayer's duties if the annual revenue from the sale of goods (works, services, property rights) received by this project participant, exceeded 1 billion rubles, from the 1st day of the tax period in which such an excess occurred.

Organisations that are granted with the status of a project participant and keep records of income and expenses in the manner prescribed by Chapter 26.2 of the Tax Code of the Russian Federation, determine the date of receipt of income (expenditure) by the cash method without taking into account restrictions on the amount of revenue from the sale of goods (works, services) 1 million rubles for each quarter VAT exclusive.

Funds, management companies, subsidiaries of management companies recognised as such in accordance with the Law No. 216-FZ are exempt from corporate property tax.

The project participants are also exempted from paying property tax of organisations in respect of property recorded on their balance sheet and located on the territory of the ISTC for 10 years from the month following the month of recording of the specified property.

Funds in accordance with Law No. 216-FZ are exempt from land tax in respect of land plots that are part of the territory of the ISTC.

Project participants are entitled to apply reduced rates of social insurance contributions: for compulsory pension insurance - at a rate of 14.0%, for compulsory social insurance in case of temporary disability and in connection with maternity, for compulsory health insurance - 0%, within 10 years from the date of being granted the status of a project participant, starting from the 1st day of the month following the month in which they were granted such status. ^[2]

The exemption from the payment of the state fees is also provided for:

- ▶ issuance of a work permit to a foreign citizen who has entered into a labour or civil law contract for the performance of work (provision of services) with a person participating in the project in accordance with the Law No. 216-FZ and arrived in the territory of an ISTC;

- ▶ issuance of an invitation to enter the Russian Federation to a foreign citizen who has entered into a labour or civil law contract for the performance of work (provision of services) with a person participating in the project in accordance with the Law No. 216-FZ;
- ▶ issuance or extension of a visa to a foreign citizen who has entered into a labour or civil law contract for the performance of work (provision of services) with a person participating in the project in accordance with the Law No. 216-FZ.

The relevant changes to the Tax Code of the Russian Federation come into force on January 1, 2019, with the exception of certain provisions for which other terms of entry into force are provided.

5. Reimbursement of costs of customs payments

In relation to goods (excluding excisable goods) imported for the purpose of their use in construction, equipment and technical equipment of real estate on the territory of ISTCs or required by the project participants for the implementation of scientific and technological activities, the management company is entitled to provide services of a customs representative, including payment of customs payments on behalf of legal entities and individual entrepreneurs involved in the project.

In the case of the provision of such services, the costs of persons involved in the project in connection with payment of customs duties and VAT on imported goods are reimbursed to these persons in the form of subsidies which are transferred to the management company in the manner prescribed by the budget legislation of the Russian Federation. Which means that the persons involved in the project will not need to pay the respective customs payment at their own expense.

6. Regulation of urban planning activities on the territory of an ISTC

The management company takes decisions on the preparation of the territory planning documentation of the ISTC, prepares and approves such documentation.

The management company also carries out the examination of project documentation of capital construction projects, construction, reconstruction, overhaul of which is planned to be carried out on the territory of the ISTC, and the results of engineering surveys conducted for the preparation of such project documentation, supervises construction, reconstruction, capital repairs of these objects, issues permits construction and commissioning of such facilities in operation.

At the same time, the decision of the local government body on the preparation of documentation on the planning of the territory of an ISTC is not required, and such documentation is approved without public discussions or public hearings.

Preparation and approval of documentation on the planning of the territory of the ISTC are allowed in the absence of territorial planning documents.

Project documentation of capital construction projects, construction, reconstruction, the overhaul of which is planned to be carried out on the territory of the ISTC, and the results of engineering surveys conducted for the preparation of such project documentation are not subject to state expert appraisal.

In addition, state construction supervision during the construction, reconstruction, and overhaul of capital construction objects is not carried out on the territory of an ISTC.

7. Employment of foreign citizens in an ISTC

The project participants are granted the following benefits when engaging foreign citizens to work for implementation of the project :

- ▶ project participants are not required to obtain permits to attract and use foreign workforce;
- ▶ invitations to enter Russia for employment purposes, as well as work permits to foreign citizens are issued without taking into account the quotas for their issuance established by the Government of the Russian Federation;
- ▶ invitations to enter Russia in order to carry out employment activities (if such invitations are required) and work permits to foreign citizens are issued through the management company of an ISTC or a subsidiary company thereof.

Work permits to foreign citizens engaged to work for the project are issued for the duration of the employment contract with a foreign citizen or civil law contract for the performance of work (services), but no more than 3 years from the date of entry of the foreign citizen to Russia, with the possibility of subsequent repeated renewal for up to 3 years. On the basis of such permits, foreign citizens are entitled to carry out employment activities only for the purpose of project implementation.

Adult members of the families of highly qualified specialists employed in order to implement the project are entitled to receive a work permit without taking into account quotas for issuing such permits.

8. Medical and educational activities in the territory of an ISTC

On the territory of the ISTC, medical activities are carried out by medical organisations and other organisations within the private health care system, without their obtaining licenses for the relevant activities if this is provided for by the project rules.

Educational activities on the territory of the ISTC are performed by the project initiator.

If this is provided for by the rules of the project, other organisations are also entitled to carry out educational activities on the territory of the ISTC i.e. without obtaining licenses for educational activities and state accreditation of basic educational programs.

The management company issues permits for medical activities and educational activities on the territory of the ISTC to the relevant organisations and approves the rules for conducting medical activities and educational activities.

At the same time, the documents issued by such organisations grant their holders the same rights as documents issued by organisations that hold the appropriate licenses, state accreditation in accordance with Russian legislation.

9. Restrictions on the powers of the state authorities of the constituent entities of the Russian Federation and the local governments on the territory of an ISTC

Instead of the state authorities of the constituent entities of the Russian Federation, the management company exercises on the territory of the ISTC, in particular, the following powers:

- ▶ reservation of land, withdrawal of land plots for state needs of a constituent entity of the Russian Federation, transfer of land or land plots comprising such land from one category to another;
- ▶ establishing administrative liability for violation of laws and other regulatory legal acts of a constituent entity of the Russian Federation, regulatory legal acts of local governments;
- ▶ approval of territorial planning schemes of a constituent entity of the Russian Federation, documentation on the planning of the territory for locating capital construction objects of regional significance, regional standards for town planning, implementation of state construction supervision in cases provided for by the Town Planning Code of the Russian Federation;

- ▶ organising and conducting activities stipulated by the legislation on energy saving and on increasing energy efficiency;
- ▶ implementation of regional state control over the compliance of residential buildings, apartment buildings in the course of their operation with the requirements of energy efficiency and the requirements of equipment with metering devices for used energy resources, established by legislation on energy saving and energy efficiency.

The management company also exercises the following powers of local government bodies in the territory of the ISTC:

- ▶ reservation of land and seizure of land within the boundaries of the settlement for municipal needs, the implementation of municipal land control over the use of land settlement, the transfer of land or land in the composition of such land from one category to another;
- ▶ the issuance of permits for the installation of advertising structures, the cancellation of such permits, the issuance of prescriptions for the dismantling of newly installed advertising structures, arbitrarily established in accordance with the Federal Law "On Advertising";
- ▶ carrying out activities stipulated by the legislation on energy saving and on improving energy efficiency.

[1] Persons involved in the project include the fund, the management company, a subsidiary of a management company, the project initiator, a project participant, another legal entity, with the exception of a state authority, local government, or an individual entrepreneur carrying out project implementation activities on the basis of transactions entered into with a management company or its subsidiary company, including ensuring the operation of the ITSC by supplying of goods, works, services on the territory of the ITSC, an organisation providing state support for innovation established on the basis of a federal law, a regulatory legal act of the President of the Russian Federation, a regulatory legal act of the Government of the Russian Federation or a regulatory legal act of a state authority of a constituent entity of the Russian Federation and implementing development of the ISTC infrastructure in the framework of agreements concluded with the management company or its subsidiary.

[2] Reduced insurance contributions rates will not apply to a project participant from the 1st day of the month following the month in which the total profit of the project participant exceeded 300 million rubles. The total amount of profit is calculated on an accrual basis from the 1st day of the year in which the annual amount of revenue from the sale of goods (work, services, property rights) received by this project participant exceeded 1 billion rubles.

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