

September 2 2022

New experimental tax and levy payment regime

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On 1 July 2022, an experiment was launched in Russia to introduce a new procedure for paying and crediting taxes to the budget through the unified tax payment (UTP) mechanism. Currently, participating in the experiment is voluntary, but if the experiment is successful, at least a number of taxpayer categories are highly likely to be switched to making the UTP on a mandatory basis from 1 January 2023. As early as at the end of 2021, Federal Law No. 379-FZ dated 29 November 2021 was adopted. It introduced article 45.2 into the Tax Code, which established the rules for applying this regime.

The UTP is a specific advance procedure for transfer of taxes, fees, levies (except for the state duty) and penalties using one payment document. Amounts received under such a payment document will be credited to a specific account with the Federal Treasury. The tax inspectorate will allocate money by payment type. For this purpose, companies should submit a notice to the Federal Tax Service Inspectorate at least five business days prior to the date of the relevant payment. The form of such a notice is established by Appendix No. 1 to Order of the Federal Tax Service.⁽¹⁾ The notice should be submitted in electronic form and one document may specify several payments for different taxes and different tax periods.

The law establishes certain priority for debiting funds from companies. Tax arrears will be debited first. If there are several tax arrears for different taxes and different periods, the earliest ones by the date of origin will be debited first. Taxes and levies are then debited in the order of precedence as the liabilities arise, based on the statutory payment dates. After that, penalties, interest and fines imposed on the company will be debited. The company may return the balance unused to pay taxes and make other payments from the account designated for the UTP at any time.

The new procedure involves both certain conveniences and disadvantages for businesses. The positive aspects include the fact that the risk of tax non-payment due to erroneously indicating any details in a payment order (eg, code per any classifier and payment type) is eliminated. According to the current rules, in such a case, the payment is delayed until it is clarified, and the tax is considered to be unpaid, which results in accruing penalties or, if such a situation is protracted for a long time, it may lead to blocking the company's accounts or using other methods of enforcement of tax liabilities. All these risks are eliminated by using the UTP mechanism. In addition, the new procedure will exclude the now-possible situation where the company overpays one tax bill and has arrears in another one. The UTP can be particularly convenient for the entities participating in various public tenders, auctions and projects — wherever it is necessary to provide a tax clearance certificate as part of documents.

However, the UTP has a number of negative aspects. First, it is actually advance payment of taxes, which means earlier withdrawal of funds from the taxpayer's turnover. However, the law does not establish time frames for depositing funds for the UTP – it can be replenished each time before the next payment as well.

Second, if an error occurs during the UTP administration (which tends to be the case with the Federal Tax Service's electronic services) and some other payment is automatically debited, the company will have arrears caused by the third party's actions.

Another possible disadvantage for companies is automatic repayment of any arrears from the UTP account, even the one that the company:

- does not recognise;
- has intended to pay; or
- has intended to challenge in court.

In general, it can be concluded that the UTP mechanism is more convenient for small and medium-sized businesses, as it reduces expenses on tax administration and decreases the error probability when paying taxes.

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Endnotes

(1) No. ED-7-8/178 dated 2 March 2022.