

**By the Judgement of 19 December 2019 No.41-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 146, Section 2, para. 15 of the Tax Code of the Russian Federation**

The challenged provisions were subject to consideration to the extent that in the legal system they determine the issue of the taxpayer's right to benefit from a tax deduction in respect of the amount of VAT claimed to him by an organisation declared insolvent (bankrupt), when selling goods - products manufactured in the current economic activities of this organisation.

The Constitutional Court recognised the challenged provisions defining the objects of value added tax as being in accordance with the Constitution of the Russian Federation to the extent that their refusal to tax the value added of transactions for the sale of property of organisations declared insolvent (bankrupt) in accordance with the legislation of the Russian Federation, aims to balance the interests of creditors and the interests of the budget in the sale of property of such organisations during the tender proceedings.

The challenged provisions were also found to be inconsistent with the Constitution of the Russian Federation to the extent that the uncertainty of their normative content does not provide a uniform understanding and, therefore, interpretation and application in conjunction with the legislation of the Russian Federation on insolvency (bankruptcy), which gives rise to the possibility of an ambiguous approach to the indicated issue on the taxpayer's right.

Until the relevant legislative amendments are introduced, the challenged provisions shall not be applied in an interpretation which would exclude the provision of a deduction for value added tax to taxpayers who were presented with the amount of this tax in the price of products produced by such an organisation in the course of its current economic activity;

Buyers of products of the said organisation, which were sold with an invoice, in which the amount of value added tax is allocated, are entitled to a deduction on this tax, if it is not established that its amount, with the account to the price of products produced and sold by such an organisation in the process of its current economic activity, with the volume and structure of its debts, obviously for its bankruptcy trustee and for the buyer of the specified products - could not be paid to the budget;

the decision on the accrual (additional charge) of value added tax in the amount declared by the buyer of the specified product as a tax deduction, and, accordingly, on refusal to provide such a deduction, the tax authorities are not entitled to take if, during the bankruptcy proceedings by them, when they participate in the matter as

an authorised body; no measures have been taken to terminate the organisation recognised as insolvent (bankrupt) of the current economic activity in the process of which the specified products are produced.