

**By the Judgement of 12 November 2020 No. 46-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 378.2, para.4, subpara.1 of the Tax Code of the Russian Federation.**

In accordance with the challenged provisions, for the purpose of determining the tax base for the tax on the property of organisations, taking into account the cadastral value of the property, a shopping centre (complex) shall be recognised as a separately standing non-residential building (structure, construction) located on a land plot, one of the types of permitted use of which provides for the placement of retail facilities, catering and (or) consumer services.

As indicated by the Constitutional Court, the collection of the tax on the property of organisations on the basis of the tax base, determined by the cadastral value of buildings (structures, constructions) solely from the fact that they are located on a land plot, one of the types of permitted use of which provides for the placement of shopping facilities, public catering facilities and (or) consumer services, although the real estate object has a different purpose and (or) actual operation, is not justified in the constitutional and legal perspective, since it allows the imposition of an increased tax burden on the taxpayer without economic grounds and does not allow - contrary to Articles 19 (Sections 1 and 2) and 57 of the Constitution of the Russian Federation, the principles of equality and fairness of taxation - to apply for the calculation of the tax base a more favourable general rule for the taxpayer to determine it based on the average annual value of property recognised as an object of taxation.

The challenged provisions were found not to contradict the Constitution of the Russian Federation, since they do not imply the possibility of determining the tax base for the tax on the property of organisations based on the cadastral value of a building (structure, construction) solely due to the fact that one of the types of permitted use of a land plot leased by a taxpayer, on where the immovable property belonging to him is located, provides for the placement of retail facilities, public catering and (or) consumer services, regardless of the purpose and actual use of the building (structure, construction).