

By its Judgement of 31 March 2022 No. 13-II/2022 the Constitutional Court of the Russian Federation assessed constitutionality of Article 256, item 3, part 2 of the Tax Code of the Russian Federation.

According to the said legal provision, for the purposes of calculation and payment of income tax of organisations, the of property acquired (created) from budgetary funds of special-purpose financing is not a subject to amortisation; this norm does not apply to property, obtained by the taxpayer in privatisation.

The challenged provision was recognised as not being in conformity with the Constitution of the Russian Federation since, according to its constitutional and legal meaning within the current legal framework, it presupposes the need for the taxpayer – a state (municipal) unitary enterprise to exclude from the amortised property – for the specified purposes – objects of state (municipal) property acquired (created) by the owner as a result of budgetary investments in the form of capital investments and transferred to him for economic management (operational management), on the basis of decisions of public authorities, only on condition that such decisions clearly and unambiguously indicate that budget funds were spent on specific objects precisely for the purpose of replenishing the property of a unitary enterprise and only in that part of the value of the property, in which the funds of the unitary enterprise itself were not used in its creation.