

**By the Judgement of 21 January 2025 No.2-II, the Constitutional Court assessed constitutionality of Article 39 (sub-item 5 of item 3), Article 41 (item 1), Article 248 (items 1 and 2), Article 249 (items 1 and 2) and Article 346<sup>15</sup> (item 1) of the Tax Code of the Russian Federation**

These legal provisions were examined insofar as they serve as a basis for resolving the issue of the occurrence of taxable income for an OOO (similar to LLC) using the simplified taxation system when it transfers (alienates) property as payment for the real value of a share in the authorised capital to a participant who has left the company, as well as the procedure for determining the amount of such income.

The contested legal provisions were found to be inconsistent with the Constitution insofar as, due to their ambiguity, which gives rise to different interpretations in the practice of law enforcement, they allow for an arbitrary resolution of the said issue and for an arbitrary determination of the amount of taxable income in this case.

Until the appropriate legislative amendments are made, the transfer (alienation) of property by an OOO using the simplified tax system as payment for the real value of a share in the authorised capital to a participant who has left the company implies the necessity to tax the economic benefit of such a taxpayer in the form of the real (market) value of the share determined in accordance with the established procedure at the moment of its transfer to the taxpayer. At the same time, if the time limit for the fulfilment of the said tax obligation by the said company has expired before the entry into force of this Judgement, the measures of tax liability for failure to comply with the time limit shall not be applied. The Judgement does not constitute a basis for reviewing the tax obligations of an unlimited number of taxpayers who have paid taxes for past periods (before the Judgement) and have not contested such obligations, nor for reviewing court decisions in cases where the proceedings have been terminated by the court of the highest possible instance in such cases.