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НАЦИОНАЛЬНЫЙ РЫНОК ЛИЗИНГА: ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ РАЗВИТИЯ

АННОТАЦИЯ. В данной статье анализируется текущее состояние национального рынка лизинга. Уточнено понятие лизинга, показано современное состояние рынка лизинга. Приведена схема бизнес-процесса, возникающего в ходе заключения договора лизинга. Описаны поэтапные шаги всех участников лизинговой сделки. Для более глубокого понимания национального рынка представлен рейтинг российских лизинговых компаний. Делается акцент на отношении государства к лизинговым операциям. Разбирается регулирование лизинговых операций государством. Выявлены преимущества и проблемы лизинга в существующих условиях рынка и законодательства Российской Федерации. Особое место уделяется законодательству в области налогообложения, являющимся по своей сути одним из основных преимуществ лизинга. Предлагается комплекс мер по изменению законодательства для развития рынка лизинга.

КЛЮЧЕВЫЕ СЛОВА. Лизинг, лизинговые операции, регулирование лизинга, лизинг в России.

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NATIONAL LEASING MARKET: PROBLEMS AND DEVELOPMENT PROSPECTS

ABSTRACT. The article analyzes the current state of the national leasing market. It specifies the concept of leasing, shows the current state of the leasing market. It brings forth the scheme of the business process arising during conclusion of the leasing agreement, describes phased steps of all participants in the leasing. For deeper understanding of the national market, the article presents the ranking of Russian leasing companies. It makes an emphasis on the governmental attitude to leasing operations, analyses the governmental regulation of leasing operations, identifies the advantages and problems of leasing in the existing market conditions and legislation of the Russian Federation. The article places special emphasis to legislation in the field of taxation which in its essence is one of the main advantages of leasing. It offers a set of measures to change the legislation in order to develop the leasing market.

KEYWORDS. Leasing, leasing operations, regulation of leasing, leasing in Russia.

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Entry

At the moment leasing is becoming increasingly popular. If the company does not have enough capital to buy a bargain or other fixed assets at the same time, management decides:

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What is the next? Take a loan or lease? Some businessmen know about leasing, probably due to the low level of economic education. In this article there is the information about how to change the situation to make it more attractive for tenants. Today, leasing is increasingly used in the economic practice of enterprises.

The legal basis for leasing operations is explained in the Federal Law of October 29, 1998 N 164-Federal Law «On Financial Leasing». Even the name of the law shows the duality of leasing relations: firstly, leasing is rent, on the other hand is credit and rather goods than money.

You can take almost everything on leasing, including buildings, structures, equipment, cars and other movable and immovable property.

It is true to the fact: in the framework of a leasing operation a leasing agreement is concluded, but in addition to this, a sales agreement is concluded between the lessor and the original owner of the property, for example, a car dealer. Pledge and surety agreements may also be entered into. Although the concept of leasing implies a rental relationship, all risks that may arise in connection with the use of leased property are in the competence of the lessee.

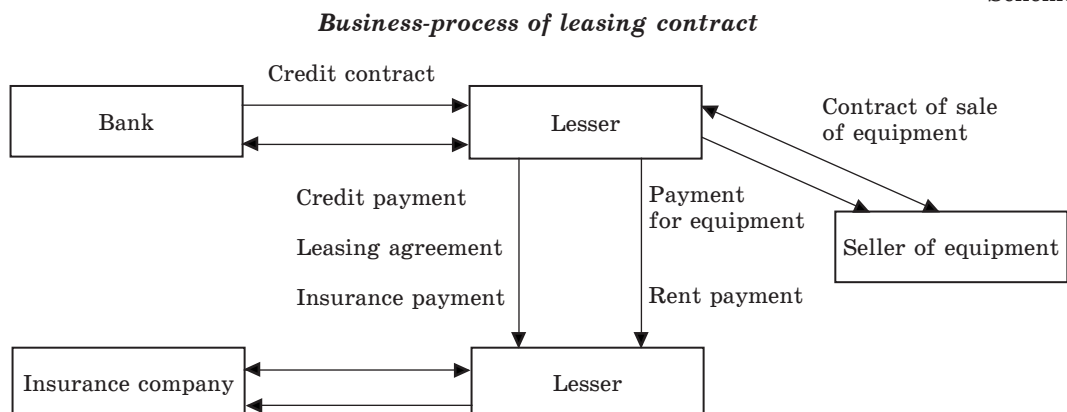
The property that is acquired under a lease agreement, based on the terms of the lease agreement, is listed either on the balance sheet of the leasing company or the company that has appealed for leasing. In the case when the property is listed on the balance sheet of the leasing company, payables are not reflected in the accounting records of the tenant. This is a very nice moment for companies applying for leasing, since in this case leasing does not affect financial independence and, on this basis, does not reduce the possibility of attracting additional loans and borrowings.

Some misunderstanding of leasing is related to the tax component. There is an opinion that some tax benefits for leasing operations are very high, and this is not happening from scratch. From the moment when leasing came to our country in the 90s, the state has provided significant benefits to this area. These benefits were very large and because of this, leasing was not interested in leasing on its own, but in connection with the tax savings it arose in the process of leasing. As a result, leasing, or financial lease, began to be used more as a tool to reduce the tax base. Predictably, the state began to reduce tax benefits for financial leases, today these benefits are reduced to accelerate the depreciation of leased assets.

Body

In order to further have an understanding of the entire leasing process, we should study the following flowchart:

Scheme



Looking at the above flowchart, we can analyze the entire process of a leasing operation.

1. A company wishing to apply for leasing (the lessee) finds a suitable leasing object for itself.

2. The lessee makes a request to the leasing company with a request to calculate a commercial offer for leasing for a specific product. There is a possibility that the leasing company will be able to offer a more profitable commercial offer than the client expected, since the producers provide leasing companies with discounts on certain types of their products, as a result of which leasing costs the lessee company less. It should be remembered about the existing programs of government subsidies for the initial payment, which is a good help not only to lessees, but also to producers of products.

3. There may be situations when the leasing company does not have enough equity capital to acquire the leased asset. In this case, the leasing company will apply to a commercial bank in order to take a cash loan to acquire the leased object. A commercial bank and the lessor can enter into a loan agreement for the purchase of a leased asset and subsequent lease.

4. Nowadays, when the company applying for leasing concludes a leasing agreement, the lessor contacts the original owner of the item, that is, the manufacturer or authorized dealer, signs the sale agreement for this leasing object.

5. Later, the lessor, in accordance with the lease agreement, transfers the leased object to the lessee, who in turn is obliged to make redemption payments.

6. The contract for the insurance of property, the object of leasing, can be concluded by both the lessor and the lessee.

7. In the event that the lessee has a difficult time, and he is not able to make redemption payments, he may surrender the leased object to sublease. In such a situation it is necessary to conclude an agreement that the subtenant will transfer payments to the leasing company directly.

8. When all leasing payments are successfully paid, the lessee can, with the help of the redemption payment, place the leasing object on its balance sheet. If a renewable lease agreement is concluded, the leased asset will be replaced in accordance with the agreement.

Now we have an idea about the entire business process of a leasing transaction and can proceed to discuss the existing problems.

The purpose of the leasing company is to attract investment. The lessor acquires the property for the lessee, and then reimburses its costs and receives remuneration through the lease payments that are periodically transferred to it. As a result, due to the investment activity of the lessor, the fixed capital of the lessee is replenished.

In turn, the investment component is also developed in the activities of the lessee, since it carries out long-term borrowing to acquire the necessary assets for it at the contract value of the leasing agreement [1, c. 108].

Perhaps, one of the main problems with which both the lessee and the lessor are encountered is the incorrect return of the leased object if the lessee unfairly makes rental payments. During the entire leasing transaction, in most cases, the object of leasing in accordance with the contract belongs to the leasing company. However, at the moment, neither the Civil Code, nor other regulations related to leasing, insufficiently shows the mechanism of withdrawal of the leased object from an unscrupulous tenant. The company lessor can return the object of leasing only by going to court.

One of the shortcomings of the existing law "On Financial Lease" is that, according to the law, the object of leasing cannot be leased. Russian laws simply do not provide for a system of re-leasing of the object. The fact is that the Federal Tax Ser-

vice registers leasing operations, and from this it follows that the leasing company receives all the benefits associated with the leasing transaction, namely the ability to include leasing payments in the expense item, to significantly accelerate the depreciation of the leased object and, consequently, reduce property tax. If the contract is terminated prematurely, the leasing company must redeem the object of leasing again and only then sell it.

There is another problem related to the legislation of the Russian Federation is the difficulty in returning value added tax. There are some bureaucratic difficulties to recover VAT from the budget. This is the reason for the lack of money from enterprises, which in turn causes the suspension of other planned decisions of the company. It is worth highlighting another problematic point: on the basis of Art. 655 of the Civil Code of the Russian Federation, a company applying for leasing has the right to independently choose a leasing object or provide a choice of leasing object to the lessor, that is, the leasing company¹. In reality, the lessee asks the question: how can he independently choose a specific object of leasing if leasing companies cooperate with certain manufacturers? Speaking about the prospects for the development of leasing, it can be noted that the number of leasing operations grew even in the conditions of the crisis that began in 2013–2014, which indicates the interest of companies in leasing. The number of leasing companies shows annual growth in leasing transactions of 5–10 % is growing per year. However, referring to the absence of leasing in the field of large segments of real estate, it can be argued that not all leased objects that can be leased are a success. Today, it is said with confidence that after a certain drawdown in 2013–2014, leasing transactions will only grow, since it is unlikely that a recurrent crisis will occur after such a crisis, which will lead to a further decrease in growth; also, the volume of operations is increasing, and it is growing faster than annual inflation. It is worth noting that the investment market is recovering its strength very quickly, which contributes to the creation of special leasing programs like LADA-Leasing. It is logical that in such conditions the competition grows, more precisely the readiness of banks to lend to the organization. According to the Central Bank, in April 2016 there were signs of excessive liquidity. The banking system has a great impact on the leasing market, because this product is extremely clear and open to it. Returning to the crisis of 2014, it is worth saying that the markets have undergone various deprivations, in particular, travel companies closed down some areas of tourism. The consequence of this was that the railway leasing segment began to decline, but on the contrary, the auto segment began to grow. It is interesting to see that while in total amount number of all purchased cars was falling down, number of light vehicles which were leased, was growing up by 8 %². Probably, citizens began to give preference to independent travel. However, starting in 2016, the railway segment began to grow again, and the automotive segment declined. This probably indicates that citizens have regained financial stability and are interested in tourism. With regard to aviation leasing, you can see a similar situation. Most of the new contracts in the segment of air transport accounted for the transactions of the four largest leasing companies operating in the market. The reason for the growth of aviation exhibitions, in addition to large one-time contracts, is government support for leasing and leasing Russian aircraft. The number and volume of transactions with aircraft in 2015 were affected by the transfer of aircraft previously withdrawn from insol-

¹ Civil Code of the Russian Federation. Part 2, article 665 of January 26, 1996. URL: <http://www.consultant.ru>.

² The leasing strengthens its position // Expert. 2016. URL.: <http://raexpert.ru/researches/leasing/2016/part2/>

vent airlines (including Transaero) [2, c. 137]. Most likely, the market is saturated with air transport, so that airlines do not need new aircraft. The state-supported segments, namely the automotive industry, the construction of special agricultural equipment, and the defense industry have become less risky and are developing somewhat faster than others. In addition to government subsidies in the leasing auto segment, government purchases of all types of cars will also be made. The share of cars in the structure of the auto segment will continue to grow, while the share of trucks will fall due to the introduction of the PLATON system. Transport segment have traditionally taking 80 % of national leasing market: by the end of 2018 light vehicles — 6,4 %, ships — 4,9 %, tracks — 9,6 %, aviation transport — 20,0 %, railway transport — 39,0 %³.

It is worth noting that in the USA and European countries leasing has been used for 50 years, the share of leased vehicles is 30 % of all purchased cars (for comparison in the Russian Federation — less than 3 %). Approximately another 30 % is acquired in cash and 40 % on credit. At the same time, transactions in the field of car leasing with the participation of individuals in different countries provide up to half of all transactions with cars, when companies and enterprises use the leasing tool in Russia, i.e. Leasing is available only to legal entities. Most often, the financial lease of cars by private individuals in the West ends with the return of the car and the conclusion of a new contract [3, c. 55]. Russian leasing legislation can go along this path of development and thus contribute to the development of the market.

Together, leasing companies and manufacturers, cars received some boost through special leasing programs, yet leasing companies did not expect a significant increase in leasing transactions on these proposals, focusing on government subsidy programs. Nevertheless, a number of companies believe that the cargo segment of car leasing has a certain risk due to the unstable situation in the country. It should be added that such segments of real estate as equipment for the extraction of oil, gold and other minerals have all the chances of growth — due to the depreciation of the ruble, investors represent this segment more attractive. It is noted that the quality of leasing portfolios has deteriorated since 2015, but gradually the situation is improving. Most leasing companies believe that the main wave of “malignant” transactions has already passed and now expect to see more and more high-quality cases. In general, all participants in leasing operations are trying to take all possible measures so the transaction does not turn into an unsuccessful transaction. If clients have some problems, then most often leasing companies go to a meeting and want to restructure the transaction, and not just sell the leased asset to a third party. The forerunner of this is the fact that the lease has the highest percentage of endorsement of deals after crediting⁴.

Let us look at the tax side of the leasing transaction.

Analysis of the leasing services market makes it possible to clearly identify the factors that currently impede its accelerated development and efficiency, and outline the most preferable development directions. A survey conducted by Expert RA showed that representatives of leasing companies and lessees highlight the imperfection of legal regulation of leasing activity (64,1 %) and a high percentage of commercial loans (87,2 %) as the main factors hindering the successful development of leasing, (%). Lessors and lessees emphasize dissatisfaction with the established taxation procedure. Lessors — competition from other organizations engaged in leas-

³ Leasing market at the end of 2018: at maximum speed // Expert. 2019. URL.:<https://raexpert.ru/researches/leasing/2018>

⁴ The leasing market in 2016: the thaw begins. URL.: <https://docplayer.ru/29347739-Rynok-lizinga-v-2016-godu-ottepel-nachinaetsya.html>

ing and insufficient demand for leasing items (14,4 % and 8,4 %, respectively), and lessees — the difficulty of obtaining a loan (12,3 %) and a lack of funds (43,0 %) [4, c. 46].

When the tax base is determined, the lessee determines the payments under the lease agreement as an expense. In a situation where the lessee places the leased item on the balance sheet, the accumulated depreciation amount is deducted from the redemption payments under the lease agreement relating to expenses. That is, the lessee accepts depreciation as the expenses, and accordingly considers the redemption payments as expenses. That is why, when an organization's profit tax is calculated, the part of the payments that are still unpaid under the lease agreement should be attributed to the item of other expenses by deducting the amount of depreciation calculated.

It is necessary to exclude companies that use the cash method of tax accounting, because the company receives the object of leasing into ownership⁵. It is also worth noting that depreciation of property is listed [5, c. 98]. And this cannot be so. That is why, regardless of the balance of the taxpayer, the state returns them income tax.

Moreover, the organization cannot reduce taxable income, according to paragraph 5, Art. 252 of the Tax Code of the Russian Federation, it is also impossible to take into account.

The amount of accrued depreciation is higher than leasing.

There is a way to reduce the amount of depreciation of an asset that was leased. This effect occurs when a lease is entered into.

It is important to determine the adequacy of fixed assets of the enterprise. The amount of fixed assets is fixed. The income tax return is not completed.

If the company uses the method of accelerated depreciation, it should monitor its costs and financial performance. Accelerated depreciation on the leased object increases costs, which can increase losses during the accelerated depreciation period. The greatest risks can be obtained when purchasing expensive goods for leasing. This can be considered a lack of leasing. The use of the accelerated depreciation coefficient seems reasonable only when making leasing operations that meet the objectives of modernizing the economy and updating the production sector funds, therefore, in order to streamline this tax incentive measure, it is proposed to develop a list of types of fixed assets for which during lending (receipt) to the basic rate depreciation can be applied step-up ratio [6, c. 11].

If we consider the property tax, the movable property acquired under a lease agreement is not recognized as a tax object from January 1, 2013. This is noted in clause 38 of the Instructions approved by the Order of the Ministry of Finance of the Russian Federation dated December 1, 2010 No. 157n On tangible objects of property in use, sublease stocks (sublease). Similarly, the rules for objects of leasing are established. The object of leasing, which is considered movable property, is not subject to taxation, since 01/01/2013 neither for the tenant, nor for the lessor.

You can also get a refund of VAT. When the leased asset is recorded on the balance sheet according to the terms of the agreement with the tenant, the amount of VAT payable under the agreement to the lessor is reflected after receiving the equipment to the debit account 19 «Value Added Tax on Acquired Values» and the loan account 76. The company can make a VAT deduction at receiving bills from the landlord.

After paying the advance payment to the lessor, the tenant has the right to deduct VAT from this amount. To receive a tax deduction, you must submit an invoice

⁵ Tax Code of the Russian Federation. Part 2, article 273. URL: <http://www.consultant.ru>.

(issued by the lessor upon receipt of the advance payment), a payment document confirming the payment of the advance payment and a lease agreement providing for the transfer of the advance payment.

When paying for rent, the refund of value added tax occurs by deducting from the prepayment the corresponding amount of VAT. This applies to situations where the lessee and the lessor are residents of the same state.

When carrying out leasing transactions at the lessor, the obligation arises to pay VAT in two cases: when acquiring fixed assets from the seller that is the object of leasing, and when settling with the budget after receiving lease payments from the lessee for the leased property. In the first case, the lessor acquires the object of leasing and pays the VAT imposed by the seller. In the second case of payment by the lessor of VAT, when he transfers this property to the lessee, the amount of VAT calculated by the lessor in accordance with the legislation on taxes and fees is included in the lease payments. In this case, there may be a problem between the parties to the leasing transactions and the tax authorities to determine the taxable base of the VAT included in the lease payment. Upon receipt of the property on lease, the lessee pays the advance payment under the lease agreement. VAT deduction from the advance payment, as a rule, is not accepted. The advance payment is counted in the leasing payment after receiving the deed and the invoice for the rental payment in the form of a leasing payment, on the basis of which the VAT is taken for deduction. After the amount of deductions has exceeded the amount of accrued VAT, this tax is claimed for reimbursement. Up to this point, both the lessor and the lessee are bona fide taxpayers, and the tax authorities have no formal grounds for refusing to return the VAT [7, c. 35].

It is also necessary to pay attention to international leasing. International leasing, based on relevant studies of national practices in the field of leasing, investment, tax incentives, features of the regulatory framework in a particular country, depreciation regime, export-import regulation, etc., allows you to combine all sorts of advantages provided by national and foreign business participants. For example, it is possible to ensure the attractiveness of a leasing transaction through a third country (by registering its branch in it), which provide a particularly preferential tax regime through offshore zones [8, c. 186]. According to Art. 310 of the Tax Code of the Russian Federation, in the framework of international import leasing, the obligation to calculate and pay income tax is given to the person who pays income to the non-resident lessor. The tax is paid when paying the rental payment on a regular basis in the currency in which the income was paid to the lessor.

In accordance with the procedure provided for in Chapter 25 of the Tax Code of the Russian Federation, in the framework of international export leasing, the company's income to the lessor-resident from transferring goods to the lessee-non-resident is subject to income tax. In addition, the amount of tax paid in accordance with the legislation of foreign countries to a Russian landlord is credited to him when the tax is paid in the Russian Federation.

The amount of credited taxes paid outside the Russian Federation may not exceed the amount of tax payable by the lessor outside the Russian Federation.

As shown in the form above, the largest are subsidiary leasing companies of banking structures, such as Sberbank of Russia, State Transport Leasing Company, VTB-Leasing, and others. The top 5 companies include 4 companies with state participation. This shows that companies need large investments / interest-free loans from banks to become the leading company in the Russian leasing market.

It is important to develop leasing companies in the regions. Their founders can also be regional commercial banks. At the same time, an important role in this can

Table

Ranking of leasing companies, 2018–2019

Place for a new business (property value)		Company	The volume of new business in 2018, million rubles.	Including operational leasing, mln. Rub.	The amount of new financial and operational leasing contracts for 2018	Current portfolio, million rubles		Place on the portfolio on 01/01/2019	The amount of leasing payments received for 2018, million rubles	Place on payments received
01.01.2019	01.01.2018					01.01.2019	01.01.2018			
1	1	State Transport Leasing Company	214 848	34 914	441 986	925 844	534 349	1	71 726	4
2	2	SBERBANK LEASING	196 161	59 752	298 711	609 211	402 328	2	102 580	3
3	4	VTB Leasing	158 587	–	276 709	575 479	406 781	3	144 174	2
4	5	«LC «Europlan»	73 268	–	н.д.	84 397	60 905	8	н.д.	–
5	9	Alpha Leasing	63 876	–	102 496	149 058	81 682	7	19 454	10
6	3	VEB-Leasing	58 654	1 536	76 784	374 076	351 787	4	144 798	1
7	–	Gazprombank Leasing	50 614	5 415	90 894	192 623	н.д.	6	29 948	8
8	7	Baltic Leasing	42 578	35	60 851	51 226	41 090	10	43 275	7

be taken by regional authorities, including those that participate as co-founders and contribute a certain part to the regional budget. Currently, this is especially important when the subject of leasing is the implementation of regional infrastructure projects, the development of housing and communal service; it is the solution of certain social problems.

Reflecting on plans for the near and long term, it is predicted that in 2019 the leasing market will continue to grow and has every chance of increasing to 1,100 billion rubles, since the reform of financial leasing has begun since 2018, which provides for the further development of leasing. The reform began at the end of 2017,

but most of it was implemented in 2018 and is aimed at improving the quality of the operating environment of the leasing market. Highlights of this reform:

1. The main issues for Russian leasing companies will be the introduction of regulatory oversight. The main change is the introduction of risk management requirements for leasing companies [9].

2. In carrying out the reform, it is planned to reduce the legal and credit risks of landlords. Also, improve the regulatory framework, create a state register of leasing companies and introduce self-regulatory organizations.

3. The introduction of standards in the Russian market for the largest leasing companies, starting in 2020.

4. Changes should divide leasing organizations into 2 groups, depending on their scale of activity and differentiation of own funds. It is planned that when the value of assets is below 500 million rubles, the minimum amount of capital will be 20 million rubles, for the rest the minimum amount of capital will be set at 70 million.

This reform of the leasing industry will significantly increase the volume of business, and will also make the leasing industry one of the drivers of economic growth.

The volume of new business will grow during the year by at least 15–20 %, including the segment of railway leasing will show growth — it will increase by 10 %. This growth is associated with the achievement of the gondola balance, as well as major transactions for the purchase of vehicles for the needs of state-owned companies. Paying attention to the air leasing market, we can assume that it will also show an increase of up to 10 %, thanks to state support for the leasing of Russian aviation.

It is also planned to modernize the program of state support for car leasing. Drawing attention to the leasing of construction equipment, which is currently not yet popular, but when preparing cities for the 2018 World Cup, a number of large contracts for the supply of heavy construction equipment were concluded. The building of gas main «Sila Sibiri» and objects of infrastructure of Crimea will give good influence for developing of leasing market [10, c. 93].

Thus, the volume of leasing contracts for construction equipment has also increased.

Conclusion

This article discusses various aspects of problem areas in leasing, including legislation. First of all, this is tax legislation. Currently, lawmakers are beginning to pay attention to the leasing industry more and more. This suggests that the government understands the prospects of the leasing market, because how fast the leasing market is developing in Western countries and how much capital it brings to the country affects the development of the country's economy. With the support of the government, more enterprises become successful and can pay taxes. In the Russian Federation, leasing growth rates remain significantly lower.

The leasing companies rating table gave us the opportunity to understand the current situation on the leasing market in numbers. The main players in the leasing market in Russia are companies with state participation. This is another confirmation that the government is interested in leasing.

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