

# New rules for state duties to be paid in bankruptcy

*For the attention of legal entities and individuals, employees of companies' financial, tax and legal departments as well as teams working with bad debts, and of court-appointed administrators*

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## **Pepeliaev Group advises of drastic changes in the rules for paying state duties for initiating bankruptcy cases and standalone disputes in them.**

The amendments are connected with the State Duma having adopted in the third reading on 23 July 2024 draft law No. 577665-8 to amend the Russian Tax Code (the "Tax Code") and other regulatory legal instruments concerning taxes and levies. The amendments are targeted at introducing new grounds for paying state duties and increasing their amounts, including in bankruptcy cases. Bearing in mind the transitional provisions of the law, it is expected that it will come into force in the near future.

Below are the key amendments concerning bankruptcy cases.

### **When the changes come into effect**

The amendments are coming into force in a month after the law is officially published<sup>1</sup>.

The new grounds and amount of the state duty are to be applied to petitions and complaints that are sent to the court of the relevant instance once the new developments have come into force.

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<sup>1</sup> On 23 July the adopted Law was sent for approval to the Federation Council and will then be submitted to the Russian President to be signed.

## Pepeliaev Group's comment

The approach that it is necessary to pay state duty for standalone disputes to be examined in bankruptcy cases was formed in the recent Overview of case law No. 1 (2024) that the Presidium of the Russian Supreme Court approved on 29 May 2024<sup>2</sup>. Consequently, when individual disputes are initiated before the new developments at hand come into force, the state duties must be paid in the amount established in article 333.21(1) of the Tax Code (depending on whether the claims are of a property or a non-property nature, including with account being taken of whether or not the points are multiple).

### State duty for initiating bankruptcy

The state duty for applying with a petition to have a debtor declared bankrupt is payable only by creditors and will be: RUB 10,000 for creditors that are individuals and RUB 100,000 for creditors that are companies.

Debtors are exempted from the payment of state duty.

### State duty for initiating individual disputes in bankruptcy cases

Under any individual disputes in bankruptcy cases the amount of state duty is 50% of the amount established in article 333.21(1) of the Tax Code proceeding from whether or not the claims are of a property nature.

See below information regarding categories of disputes and the relevant amounts of state duties.

Type of separate dispute	Amount of state duty	Article 333.21(1) of the Tax Code.
<b>Property disputes</b>		
over secondary liability	50% of the state duty on the value of the lawsuit: <ul style="list-style-type: none"><li>• between 100,000 and 10,000;</li><li>• between 100,001 and 1,000,000 - 10,000 + 5% of the amount above RUB 100,000;</li></ul>	
on reimbursing losses		
on claiming or imposing the obligation to transfer property		
on entering claims in the register of creditors' claims		

<sup>2</sup> URL: <https://vsrf.ru/documents/practice/33619/>

with respect to objections (differences) regarding claims ( <i>apart from those confirmed by a court judgment</i> )	<ul style="list-style-type: none"> <li>between 1,000,001 and 10,000,000 - 55,000 + 3% of the amount above 1,000,000;</li> <li>between 10,000,001 and 50,000,000 - 325 000 + 1% of the amount above 10,000,000;</li> <li>above RUB 50,000,000 - 725,000 + 0.5% of the amount above 50,000,000, but not more than 10,000,000.</li> </ul>	subclause 1
on applying the consequences of the invalidity of transactions	50% of state duty on the value of property to be returned	subclause 8
on the invalidity of transactions ( <i>without applying the consequences of invalidity</i> )	for individuals - 7,000 for companies - 25,000	subclause 2
on challenging bidding processes		
on challenging resolutions of a creditors' meeting (committee)		
<b>Non-Property disputes</b>		
about resolving disagreements	for individuals – RUB 7,000 for companies - RUB 25,000	subclause 4
on having actions (omissions) of a court-appointed administrator recognised as unlawful (with respect to each episode)		
on a court-appointed administrator being relieved of his/her duties		
on statements of an intention to settle claims		
<b>Procedural applications in property related and non-property related disputes</b>		
On persons joining the case as third parties that do not submit their own claims with respect to the subject matter of the dispute.	with respect to property-related disputes: 50% of the state duty on the amount calculated on the basis of the price of lawsuit under article 333.21(1) of the Tax Code	subclause 11
	under property related disputes if the lawsuit is not to be assessed and also under non-property related disputes: for individuals - 7,000, for organisations - 25,000	

On legal succession apart from cases of universal succession	for individuals – 2,500 for companies – 12,500	subclause 12
On issuing a copy of an enforcement document and other claims connected with enforcement documents	5,000	subclause 15
On a court judgment being revised in view of new or newly discovered circumstances	15,000	subclause 16
On enforcing a lawsuit, replacing a provisional remedy or cancelling a remedy	15,000	subclause 17
When an appeal is filed	for individuals– 5,000 for companies – 15,000	subclause 19
When a cassation appeal is filed	for individuals– 10,000 for companies – 25,000	subclause 20
When a cassation or supervisory appeal is filed with the Supreme Court, when an appeal is filed against a ruling of a judge of the Supreme Court on a refusal to refer the appeal for review	for individuals – 15,000 for companies – 40,000	subclause 21

### **Pepeliaev Group’s comment**

For the amount of state duty to be determined correctly, account needs to be taken not only of the claims in the standalone dispute, but also of the number of points with regard to which such claims have been asserted. For instance, the state duty will have to be paid based on the number of points, if several transactions are disputed at the same time, if several actions (omissions) of the court-appointed administrator are sought to be recognised as unlawful, and if the creditor’s claim is based on several grounds.

### **Benefits when the state duty is paid**

In addition to the rules already in effect in bankruptcy cases, the following are relieved from the payment of the state duty:

- when creditors file applications to have claims included in the register of creditors' claims when such claims are confirmed by court judgments that have come into force;
- individuals in a case concerning their bankruptcy (if any bankruptcy procedure has been introduced with respect to them) in standalone disputes connected with the exemption from obligations to creditors, and with the formation of the bankruptcy estate and of the register of creditors' claims.

### **Pepeliaev Group's comment**

To forecast financial expenditure in bankruptcy cases, we recommend taking into account the general rules for apportioning court costs. The latter may be allocated to both the defendant and another party taking an active stance in a standalone dispute. In this respect it is important to take into account the clarifications of the Constitutional Court with regard to the order of priority in the payment of court costs<sup>3</sup>.

### **What to think about and what to do**

We recommend keeping up with how the relevant amendments are coming into force and, if necessary, initiate a bankruptcy of debtors and state the relevant claims, taking account of the current and new amounts of state duties.

To avoid non-refundable court expenses, the prospects of the dispute need to be assessed with greater care. It is important to bear in mind that, with respect to applications to the Supreme Court, a failure to comply with the rules for the payment of state duty does not result in such applications being set aside without moving forward. Consequently, there may be a risk that the complaint will be returned because the deadline for filing it has been missed.

To avoid mistakes, we recommend using calculators of state duties that are published on the websites of commercial courts and taking into account the number of points in the dispute.

You should pay special attention to the order in which the new developments come into force and how they are applied in the procedures that have already been introduced.

### **Help from your adviser**

The bankruptcy and anti-crisis defence of business practice has extensive experience in providing integrated support during bankruptcy cases, acting on

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<sup>3</sup> The Constitutional Court's Resolution No. 11-P dated 19 March 2024 "Regarding a case to verify whether the provisions of article 110(1) of the Russian Commercial Procedure Code and articles 5 and 137(3) of the Federal Law 'On insolvency (bankruptcy)' are constitutional, in connection with the appeals filed by individuals I.E. Gallyamova and E.P. Chervyakova".

the side of the creditors, owners and management of a debtor company. They also provide assistance in individual standalone disputes.

We are ready to assist you with assessing the prospects of a dispute in court, along with the financial and other implications of participating in the dispute. We also help to obtain the reimbursement of court costs.

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