Russia: Private Client

This country-specific Q&A provides an overview to private client laws and regulations that may occur in Russia.

For a full list of jurisdictional Q&As visit here.
1. Which factors bring an individual within the scope of tax on income and capital gains?

Individual income tax is levied in accordance with chapter 23 of the Tax Code of the Russian Federation (Tax Code).

An individual (a Russian or foreign citizen, or a stateless person) is deemed to be a resident of Russia for individual income tax purposes if he or she is physically present in Russia for at least 183 days during any 12-month period (Art. 207 of the Tax Code). Being “physically present in Russia” includes, inter alia, temporary stays abroad of less than 6 months for medical or educational purposes. The days of physical presence are relevant, including the day of departure (but not the day of arrival) with both departure and arrival being linked to the note made at the passport control.

In spite of the recently announced discussions on reform of the tax policy for 2020-2022, the Ministry of Finance decided not to pursue the reform aimed at extension of the tax residence criteria to individuals residing in Russia for at least 90 days during any 12-month period. Thus, the 183-days criterion will be preserved, however, if the bill is enacted an individual will be allowed to opt for the status of a Russian tax resident if he or she is physically present in Russia for at least 90 days during any 12-month period.

Another potential change under the bill involves inclusion of “the centre of vital interests” concept as a separate criterion for identifying individual tax residence in Russia. The “centre of vital interests” concept is well-known due to its application in the tie-breaking rule of the OECD Model Tax Convention on income and capital and the UN Model Double Taxation Convention. In the treaty context the criteria to determine the centre of vital interests (family and social relationships, professional, political, cultural and other activities, place of business activities, etc.) are used exclusively for the purposes of applying the relevant tax treaty and only in cases where, based on the national legislation of the contracting states, an individual is recognized as a tax resident of both states. If this principle-based concept is introduced into the national law it will enable the tax authorities to argue that worldwide taxation applies towards expatriates who have retained specific interests in Russia and to support their arguments on the prevalence of their Russian tax residence (in case of dual or multiple residence) with the provisions of the relevant treaty.

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

Taxable income

Under the Tax Code residents are taxable on their worldwide income, including, *inter alia*, income from business activities as well as dividends, interest, royalties and worldwide capital gains. Non-residents are taxed on income derived from Russian sources only. Foreign-source
income is treated in the same manner as domestic income safe for the tax rates and the rules applying to the collection of taxes.

The following categories of income are deemed to be sourced in Russia and taxable in Russia regardless of the resident / non-resident status of the income recipient (Art. 208 and Art. 209 of the Tax Code):

- employment income (includes wages, salaries, benefits in kind) derived from the activities performed in Russia;
- directors’ fees derived in the capacity as a member of the board of directors of a legal entity incorporated under the Russian law, regardless of the location of a particular meeting of the board of directors;
- income from independent activities, including business income;
- dividends and interest paid by domestic entities, individual entrepreneurs or permanent establishment of foreign legal entities;
- royalties if the rights generating royalties are used in Russia;
- rent payments and capital gains from the alienation of immovable property located in Russia;
- income from the sale of real estate another property (including capital gains from the sale of shares or securities, if the sale takes place in Russia or the shares constitute a participation in a Russian legal entity. Income from the sale of real estate is located in Russia and shares in Russian companies, held for a period longer than 5 years, is exempt from the individual income tax);
- payments under an insurance contract;
- private pensions funded by employers, scholarships and other similar benefits paid according to the Russian legislation, or by a Russian entity or the permanent establishment of a foreign legal entity;
- income from transportation, provided that the transportation and services related to it are performed in Russia;
- income from the use of pipelines, power lines, data transfer and other similar services if the corresponding facilities are located in Russia;
- profits of controlled foreign companies; and
- other income from transactions which take place in Russia.

**Taxation of material benefit**

According to Art. 210 of the Tax Code tax base is composed not only of received payments but also of received benefits in kind and of the specific deemed income category of “material benefit” (материальная выгода). The following three specific types of material benefit are included into the taxable income under Art. 212 of the Tax Code:

- the interest on loans granted to an individual by the employer or another affiliated company or entrepreneur to the extent that the rate charged is lower than one of the following thresholds:
two thirds of the refinancing rate of the Central Bank of Russia (the rate is currently set at 6.5% (as of Okt. 28, 2019)); or 

in the case of foreign-currency denominated loans – 9% per year;

The tax is calculated on the excess of the amount of deemed interest (see the thresholds (i) and (ii) above) over the amount of the interest actually charged. Exceptions from this deemed interest rule are provided for operations with credit cards and loans granted for the purchase of residential premises.

- the negative difference between the price of goods or services sold to affiliated parties (e.g. between an employer and an employee or between relatives) and the market price of those goods and services; and

- the negative difference between the purchase price of securities or derivatives and the market price of those derivatives safe for transactions of the following type:
  - acquisition of securities from a CFC by the taxpayer recognized as (a) a controlling person of such CFC; or (b) a Russian related party of such controlling person, provided in either case that income of this CFC from the sale of the securities is not included in the profits (loss) of this CFC;

**Taxation of employee stock option plans**

Granting stock options to individual employees may constitute a taxable event if the stock options are classified as derivatives. However, the Ministry of Finance in its letter dd. December 19, 2012 (N 03-04-05/4-1415) declared that in the particular case at hand (stock option plan issued by non-resident group company in favour of resident employees of a resident group company) the stock option plan shall not be recognized as a derivative for the purposes of Art. 212 of the Tax Code and therefore granting of a stock option under the plan would not constitute a taxable event. Therefore, generally two taxable events occur in the context of employee stock option plans. Firstly, on the exercise of an employee stock option, a taxpayer is subject to individual income tax on the negative difference between the price paid (strike price) and the market price of the stock (material benefit under Art. 212 of the Tax Code). Secondly, upon realization of the stock income tax is paid on the difference (material benefit) between the sale price and the aggregate sum of the acquisition costs (strike price).

**Rates**

According with the Tax Code, income is taxed at flat rates. The default rate for resident individuals is 13%, which generally applies unless the Tax Code requires otherwise (Par. 1, Art. 224 of the Tax Code).

The default rate for income of non-resident individuals derived from source in Russia is 30% (Par. 3, Art. 224 of the Tax Code) including, *inter alia*, interest, royalties and capital gains on
sale of shares in Russian organizations. It shall be noted that in the recently announced discussions on reform of the tax policy for 2020-2022, the Ministry of Finance proposed to equalize the default rate for both resident and non-resident individuals and to set it at 13%.

Specific rates for non-resident individuals apply in the following cases (Par. 3, Art. 224 of the Tax Code):

- receipt of dividends from domestic entities: 15%;
- employment income originating from activities of highly skilled specialists, as defined in Federal Law 115-FZ of 25 July 2002 on the status of foreign citizens in Russia: 13%;
- etc.

The rate of 35% applies to the following categories of income (Art. 224 par. 2 of the Tax Code):

- interest on Russian bank deposits (i) exceeding the result of the refinancing rate established by the Central Bank of Russia (the rate is currently set at 6.5% (as of Okt. 28, 2019)) being increased by 5% on domestic currency deposits; and (ii) exceeding 9% per year on foreign currency deposits (Art. 214.2 of the Tax Code);
- interest (coupon) on listed bonds of Russian companies denominated in roubles and issued after Jan. 1, 2017 exceeding the result of the refinancing rate established by the Central Bank of Russia (the rate is currently set at 6.5% (as of Okt. 28, 2019)) being increased by 5% (Art. 214.2 of the Tax Code);
- material benefit (deemed income) originating from low-interest loans safe (the negative difference between the interest rate and two thirds of the refinancing rate of the Central Bank of Russia (the rate is currently set at 6.5% (as of Okt. 28, 2019) or 9% in the case of foreign-currency denominated loans) for the deemed benefit originating during the interest-free (grace) period under credit card operations; and
- prizes and awards received in the course of an advertising event in excess of RUB 4,000.

**Social Security Contributions**

All resident under employment and civil law contracts (including under copyright and licensing agreements) are social security contributions payers to the State Pension Fund, the Social Security Fund and Federal Compulsory Medical Insurance Funds (Art. 419 of the Tax Code). The maximum social security contribution may not exceed 30% of an employee’s annual salary.

<table>
<thead>
<tr>
<th>Contribution (RUB)</th>
<th>Pension Fund (%)</th>
<th>Social Insurance Fund (%)</th>
<th>Federal Medical Insurance Fund (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,150,000</td>
<td>22</td>
<td></td>
<td>5.1</td>
</tr>
<tr>
<td>Over 1,150,000</td>
<td>10</td>
<td></td>
<td>5.1</td>
</tr>
<tr>
<td>Up to 865,000</td>
<td>2.9</td>
<td></td>
<td>5.1</td>
</tr>
<tr>
<td>Over 865,000</td>
<td>-</td>
<td></td>
<td>5.1</td>
</tr>
</tbody>
</table>
Municipal taxes

There are no local (municipal) taxes on income.

Exit taxes

There are no exit taxes.

Timing of payment

The taxable period is the calendar year (Art. 216 of the Tax Code). Generally, the tax return is due on the 30th of April immediately following the end of the taxable period (Art. 229 of the Tax Code). In the case of a termination of the business activity or the contractual relationship generating income (e.g. rent contract), the taxpayer must file the tax return within five days of such termination. The obligation to file a tax return must be submitted to the tax authorities within one month prior to the day of emigration of the foreign citizen qualifying as a resident for tax purposes.

Tax returns

Tax returns can be filed electronically and from 1 July 2015 through the “personal account” of the taxpayer available on the website of the Federal Tax Service. In the case of failure to submit a tax return after the filing deadline a fine of 5% of the tax due under the assessment may be imposed for each full or partial month of delay with the maximum of 30% of the tax due.

3. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

The individual income tax is in most cases withheld at source of payment at the time of payment. Since the tax is final in most cases the taxpayer is not required to submit a tax return to the local tax authority. Where income is taxed at source (e.g., the employment income), the withholding agent must withhold and pay the tax to the authorities.

For employment income, the tax liability arises on the last day of each month. For other income - on the day of actual payment, or, in case of benefits in kind - on transfer thereof to the taxpayer. Although the tax must be paid by the withholding agent, the recipient of income may also be held liable for it.

Custodians, brokers and depositaries who pay income to non-resident individuals derived by them from securities (including interest and dividends) issued by Russian companies and held by them on depositary accounts, must obtain from the nominal holders of the securities
information on final beneficiaries. In case of failure to disclose such information, the withholding agents are required to withhold 30% tax regardless of the otherwise applicable general domestic or treaty rate. An exemption from the 30% tax requirement is applied if the income is exempt under the Tax Code or the relevant tax treaty or qualifies for a 0% tax rate or, if based on the Tax Code, the withholding agent is not obliged to withhold tax on this kind of income (Par. 8, Art. 214.6 and Par. 9, Art. 310.1 of the Tax Code).

Instead of a withholding tax on a gross basis, the income tax liability is calculated by way of assessment on a net basis and requires filing a tax return in the following cases:

(1) foreign-source income (an annual tax return may be filed if deductions and/or allowances are claimed which are not taken into the consideration in the computation of the taxable base at source. In this case any tax withheld is credited against the final tax liability and the taxpayer is eligible for a refund if the tax withheld exceeds his final tax liability on the aggregate income;

(2) income from the sale of property, securities and derivative financial instruments based on securities (the taxable base is the net capital gain, which is determined separately for each register of securities and derivative financial instruments);

(3) income of individual entrepreneurs, private notaries and other persons engaged in a private practice; and

(4) income from which no tax has been withheld either exceptionally or because the payer does not qualify as a withholding agent.

For the description of different tax rates applicable to resident and non-resident taxpayers see the question 2 above.

4. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

There is no wealth tax in Russia.

5. Is tax charged on death or on gifts by individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax be paid?

There is no inheritance tax in Russia and inheritances are exempt from income tax. There is no gift tax in Russia. It shall be noted, however, that gifts may be subject to individual income tax under the general provisions (Art. 211 of the Tax Code) if their subject is immovable property, vehicles or shares received from individuals other than close relatives such as
spouse, parent, child, (grand-) parent, -child or sibling) (Par. 18.1, Art. 217 of the Tax Code).
Gifts received from legal entities and individual entrepreneurs within the limit of RUB 4,000
(or equivalent) per calendar year are exempt (Par. 28, Art. 217 of the Tax Code) with the
excess being taxed at the general rates of individual income tax (13% for residents and 30%
for non-residents). The income from the gift shall be self-assessed and declared by the income
recipient in the tax declaration for the tax period in which the income was received.

6. Are tax reliefs available on gifts (either during the donor’s lifetime or on death) to a
spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

Only gifts form close relatives are subject to relief as described in question 5 above.

7. Do the tax laws encourage gifts (either during the donor’s lifetime or on death) to a
charity, public foundation or similar entity, and how do the relevant tax rules apply?

Charitable contributions (donations) are included into the list of allowable deductions from
the taxable base of the individual income tax provided they are made to educational, cultural,
scientific or medical institutions (certain payments made to sports education institutions are
also qualified) (Par. 1, Art. 219 of the Tax Code). The maximum allowable deduction is limited
at 25% of the taxpayer’s total income in a calendar year. This threshold may be increased to
30% by the local laws of the federal subjects (states) of Russia if the donation is made to
municipal or state establishments in cultural field or non-commercial organizations that
support such establishments. The deduction is allowed only for the purpose of calculating the
tax base subject to the 13% tax rate. Therefore, non-residents (to whom a 30% rate applies)
cannot benefit from a deduction.

8. How is real property situated in the jurisdiction taxed, in particular where it is
owned by an individual who has no connection with the jurisdiction other than
ownership of property there?

Income tax

Rental income and capital gains from the disposal of real estate located in Russia are taxable
regardless of the tax residence of the income recipient as ordinary income at the general rate
(13% for residents and 30% for non-residents). No tax is assessed until the income is realized.

Beginning from 1 January 2020 specific deemed taxable base rules apply to the disposal of
real estate where the sale price is below the threshold of cadastral value of the real estate
multiplied by a decreasing coefficient of 0.7. In this case the threshold amount will be
regarded as the deemed taxable income. Taxable base for the real estate gratuitously
received will be equal to the cadastral value of this property.

Generally, income from the disposal of real estate is exempt from tax, provided that a
minimum holding period of 5 years is fulfilled (Par. 4, Art. 217.1 of the Tax Code). As an exception, the lower holding period of 3 years applies to income from the disposal of (i) inherited real estate; (ii) real estate obtained by privatization; and (iii) real estate gratuitously received from a close relative (Par. 3 Art. 217.1 of the Tax Code). Beginning from 1 January 2020 this lower holding period will be extended to disposals of residential dwellings (house, apartment, room, etc.) provided that in the period immediately preceding 90 calendar days to the state registration of the sale the taxpayer (and / or spouse) has not owned another residential dwelling.

If the holding period is not fulfilled a tax resident taxpayer is entitled to get a property-related tax deduction once in a lifetime in the amount of RUB 1 million upon filing a tax return. The unused amount of deduction can be carried over to the next tax periods. In the case the taxpayer elected to use the deduction the tax base is calculated as the gross sales proceeds less the property-related deduction. Otherwise, the tax base is determined as the difference between the sales price and all expenses relating to the acquisition and the maintenance of the real estate. No analogous deduction is provided for non-resident individuals.

Real estate (property) tax

The individual real estate (property) tax is a municipal tax levied on the federal level on the cadastral value of real estate except for land which is subject to land tax. The subject of the individual real estate (property) includes: living buildings and premises (house, apartment, room), garages, parking spaces, unitary immovable facilities, construction sights and other buildings or dwellings and facilities owned by resident or non-resident individuals (Par. 1 Art. 401 of the Tax Code).

The rate of the individual real estate (property) tax may not exceed 0.1% to 2% of the cadastral value, depending on the type of property and on whether local authorities (of the subjects / states) have decided to lower or raise the tax rates (which is allowed by a maximum coefficient of 3). The limit of 0.1% applies to living buildings and premises (house, apartment, room), construction sights thereof, garages, parking spaces, unitary immovable facilities related to living buildings (multiplied by 3 in case of real estate located in Moscow and Saint Petersburg). The tax rate for specific types of the real estate (trade centres, offices and other specified non-residential buildings listed in Par. 1,2, Art. 378.2 of the Tax Code) with cadastral value of more than 300 million roubles rate cannot exceed 2%. For other types of real estate the limit is 0.5% (Subpar. 2), 3) Par. 2, Art. 406 of the Tax Code).

Land Tax

Land tax is a municipal tax payable by all individuals who own land (Art. 388 and Art. 389 of the Tax Code). The taxable base is the cadastral value of land as stated in the state land register as at 1 January of the relevant tax year. The tax rate depends on the purpose for
which the land is used. The maximum rates are established at the federal level at 0.3% for agricultural land and land used for housing purposes and 1.5% for other types of land. The specific rates are set by the municipal authorities.

The taxable period for the purposes of real estate (property) tax and land tax is a calendar year. The tax should be paid to the tax authorities no later than 1 December of the year following the relevant tax period. Individuals who have not received an individual property tax assessment from the tax authorities are obliged to provide the tax authorities with the relevant information about the real estate and land owned by them by 31 December of the year following the one for which the tax is due. Failure to notify the tax authorities may result in a penalty of 20% of the property tax liability.

9. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

A tax on vehicles is imposed at the rate which depends on the number of horse power of the vehicle. For passenger cars the rate varies from 2.5% to 15%:

<table>
<thead>
<tr>
<th>Power range</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power less or equal to 100 horse powers</td>
<td>2.5%</td>
</tr>
<tr>
<td>Power from 100 to 150 horse powers</td>
<td>3.5%</td>
</tr>
<tr>
<td>Power from 150 to 200 horse powers</td>
<td>5%</td>
</tr>
<tr>
<td>Power from 200 to 250 horse powers</td>
<td>7.5%</td>
</tr>
<tr>
<td>Power more than 250 horse powers</td>
<td>15%</td>
</tr>
</tbody>
</table>

10. Is there an advantageous tax regime for individuals who have recently arrived in or are only partially connected with the jurisdiction?

No, there is no special tax regime for recently arrived individuals or individuals partially connected with the jurisdiction.

11. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

Before establishing Russian residence, various anti-avoidance tax rules should be considered, in particular, the provisions of the Tax Code relating to the controlled foreign companies. Russian tax residents are required to pay income tax on the retained earnings of their controlled foreign companies (CFCs), i.e. the companies which are not Russian tax residents but which are controlled by a Russian tax resident.

A Russian tax resident is recognized as a controlling person if such individual:

- holds at least 25% of shares in the foreign company/entity without legal personality; and
- (ii) holds at least 10% of shares (for individuals together with their spouses and infant children) in the foreign company/entity without legal personality, and the aggregate participation of all Russian tax residents (i.e. individuals and legal entities) in the foreign
company/entity without legal personality exceeds 50%; or
- exercises, or has the power to exercise, a decisive influence on decisions regarding the
distribution of profits of the foreign company/entity without legal personality,
irrespective of the legal basis for this control.

The CFC’s profits are subject to tax if the amount of profit exceeds RUB 10 million. Multiple
exemptions from taxation of CFC’s profits in Russia apply. A resident taxpayer that is a
controlling person is taxable on the CFC’s profits in proportion to its share in the CFC and to
the period during which the taxpayer is deemed to be the controlling person of the CFC.
Substantial penalties have been introduced from 1 January 2015 for underpayment (in full or
in part) of the tax on the attributed income of the CFC (i.e. 20% of the CFC’s taxable income
but not less than RUB 100,000). Violation of the obligation to notify the tax authorities about
CFCs, as well as failure to submit documents supporting the amount of the CFC’s profits, will
incur a fine of RUB 100,000.

12. **What are the main rules of succession, and what are the scope and effect of any
rules of forced heirship?**

There are two regimes for succession: inheritance by operation of law and inheritance under
the will. Unless a will is duly executed, the estate is distributed according to the Russian
statutory rules of succession which prescribes for an order of eight lines of heirs in a
descending order of priority (successors in the latter line have rights only in the absence of
heirs (who accepted the estate) in the former line): 1) children, spouse and parents; 2)
siblings and grandparents; 3) uncles and aunts; 4) grandparents; 5) grand-nieces and grand-
nephews, grand-aunt and grand-uncle; 6) cousins once removed; 7) step-children, step-
parents; 8) disabled dependants.

The Russian Civil Code (Art. 1148, 1149) gives the mandatory preference to specific
successors: the minor or disabled child of the deceased, disabled spouse, parents and
disabled dependants are entitled to no less than half of what they could receive by
inheritance under law regardless of the content of the will.

13. **Is there a special regime for matrimonial property or the property of a civil
partnership, and how does that regime affect succession?**

A default regime for matrimonial property applies unless there is a marriage contract. Under
the Civil Code the matrimonial property regime regards all property of spouses (in the
officially registered marriage) as tenancy in common, meaning that the property belongs to
spouses without a differentiation of shares. The standard succession procedure is followed
upon the death of any of the spouses. Unless a will has been executed, inheritance will be
carried out by operation of law, meaning that the right to the share in the common property
first passes to the heirs of the first line of priority (with the widow (widower) belonging to the
first line of priority).
There is no special regime for civil partnership.

14. **What factors cause succession laws to apply on the death of an individual?**

Application of the Russian rules on succession is not dependent on the residence or nationality of the heir, rather generally succession is determined by the law of the country of the testator’s last residence (par. 1, Art. 1224 of the Civil Code). As a derogation, Russian inheritance law applies to all Russian tax residents, both nationals and foreigners living in the country, as well as to non-residents, who own real estate in Russia that is registered in the state register of Russia. Russian law does not draw a clear distinction among the terms “residence”, “habitual residence”, and “domicile”. The term “residence” is prevailing in the legislation, and covers all meanings of the latters.

15. **How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?**

According to Art. 1224 of the Civil Code, the applicable law to the rules of succession is generally determined by the last residence of an individual. At the same time, (i) the capacity to create or revoke the will, *inter alia*, in relation to the immovable property; and (ii) the form of such creation or revocation shall be governed by the law of the country where the testator had a place of residence as of the time of creation or revocation of such will. However, a will or revocation of a will shall not be declared void because of the invalidity of the form, provided that the form satisfies the requirements of the law of the place of its creation / revocation or of the Russian law.

According to Art. 1190 of the Civil Code the doctrine of *renvoi* is recognized only in relation to the provisions of foreign law governing the personal legal status (e.g., *lex personum*, legal capacity, capacity to enter into a marriage or to engage in entrepreneurial activity) of an individual. In all other cases (including the rules of succession) the Russian law when referring to the law of the foreign states refers only to the substantive law and ignores their conflict of laws provisions (including those referring back to Russian law or to the law of a third country (*renvoi*)).

In terms of public international law regard shall be had to Vienna Convention on the Law of Treaties of 1969. Moreover, Russia, as a successor of Soviet Union has around 40 bilateral treaties with foreign countries regarding mutual legal assistance in civil, family and criminal matters. The most known regional convention is the Minsk Convention on Legal Assistance and Legal Relationships in Civil, Family and Criminal Matters of 1992. These treaties provide for unification of domestic provisions relating to conflict of laws and substantive laws.

16. **In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for**
making a Will?

An individual should make a will if he/she wants to change the rules applicable under the intestate succession. However, notwithstanding the provisions of the will, the hereditary portion will apply. According to the Civil Code, minor children; unable to work children, spouse, and parents; dependents will inherit not less than 50% of portion that they were entitled under intestate succession rules.

If an individual dies without having made a will, the rules of intestate succession apply.

There are a number of mandatory conditions that should be satisfied to make a will or a “contract of inheritance” (special type of a will). In particular:

(1) The will can be created by a citizen who had a capacity at the date of creation.
(2) The will or contract of inheritance shall be created in person. A will cannot be created through a representative.
(3) The will or contract of inheritance should be done before a notary public.
(4) The will or contract of inheritance may be made by one individual or by spouses together. The latter treated as one testator.

There are no other special rules to make a will regarding an immovable property in Russia. Please see questions 14 and 15 concerning a connection of a will and immovable property.

17. How is the estate of a deceased individual administered and who is responsible for collecting in assets, paying debts, and distributing to beneficiaries?

The estate of a deceased is managed by an executor appointed in the will or contract of inheritance. In other cases, the estate is managed by the notary public alone or together with an executor.

A notary public is responsible for administration, as well as collecting assets, registration of the will or contract of inheritance. In that regard, legislation of notary public together with civil legislation is applicable.

The Civil Code sets forth special procedure for management of shares. If such shares require management, the notary may conclude a fiduciary agreement between the notary, the manager and the heirs regarding such shares.

18. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?
The Russian law does not recognise trusts, foundations, and family partnerships. However, since 2018 individuals may establish an inheritance fund by will. The will has to include the decision of an individual to establish the fund, the declaration of the fund, and administration rules. The declaration should indicate the information about appointed manager or procedure for such appointment, as well as details of property to be transferred to the fund and specify the term period or conditions on which it exists.

19. How is any such structure constituted, what are the main rules that govern it, is there any requirement for registration with or disclosure to any authority or regulator, and what information about the structure is available to the public?

The Civil Code provides the main rules to establish and govern the inheritance fund. The establishment of the fund is subject to the notary public registration, as it is made in the form of the will. The provisions of the wills are not publicly available. The notary public only discloses it to the relevant individuals after the death of the testator. In general, the practice of creation of inheritance funds is evolving at the moment with state regulations and court decisions on the matter being expected shortly.

20. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

Russia does not recognise any forms of trusts. With regard to the recently established form of fund, the inheritance fund, there is no absolute certainty of taxation of this fund yet. We are of the opinion that in the absence of a specific tax regime (especially, in relation to the fund’s distributions) general provisions of the Tax Code related to the income of non-profit organizations applies (Art. 146, 149, 251 of the Tax Code).

21. Are foreign trusts, private foundations, etc recognised?

Despite the absence of the concept of “trust” in domestic Russian law, foreign trusts, nevertheless, can be recognised in Russia on the basis of the provisions of the Civil Code which allow to apply foreign law to civil relations between Russian citizens if such relations are complicated by a foreign element and do not contravene the mandatory provisions of Russian law (including the public policy). An example of a mandatory rule may be the application of Russian succession laws towards inheritance of real estate registered in the state register of Russia (Art. 1214 of the Civil Code) and the rules relating to the priority of succession and forced heirship (See the question 12 above). As long as the terms of the foreign trust do not contravene mandatory provisions of Russian law it is possible that Russian courts may respect the freedom of choice of applicable law and may recognize application of foreign trust law to the property and parties in question. However, it is also possible that a trust arrangement will not be recognized, especially if the court finds that the arrangement was used to attempt to avoid application of mandatory provisions of the Russian law.
22. **How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?**

For foreign structures the CFC rules apply (see question 11 above). Pursuant to the Russian CFC rules, the taxation depends on the level of control in a foreign company. As a default position, the controlling person is the settlor. However, if the settlor doesn’t manage foreign structure and doesn’t have a right to receive assets upon distribution or dissolution and doesn’t have the right to determine the size of distribution to beneficiaries, he will not be regarded as a controlling person, therefore, CFC rules do not apply. In this case, the person, who has the power to manage and control structure and has the rights to receive the assets of the structure upon dissolution, would be treated as a controlling person.

23. **To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?**

Please see questions 18 and 21. Russia does not recognise any forms of trusts, thus, it is not possible to establish such structures in Russia and use them as a shelter.

24. **What provision can be made to hold and manage assets for minor children and grandchildren?**

Apart from inheritance funds described above in question 18, there are no other legal regimes introduced for this purpose.

25. **Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?**

No. For such persons the guardian or a trustee is to be appointed. The capacity of such persons can be restricted only by a court.

The guardianship shall be established over the minors and over the citizens, who have been recognized by the court as legally incapable as a result of a mental disorder. The guardians shall be representatives of their wards by force of the law and shall effect all the necessary deals on their behalf and in their interests.

Trusteeship shall be established over minors aged between 14 and 18, as well as over citizens, whose legal capacity has been restricted. Trustees shall give their consent to carrying out the deals, which the citizens under their trusteeship have no right to make independently. The trustees of minor citizens and of those whose legal capacity is restricted as a result of a mental disorder shall render assistance to their wards in the exercise by them of their rights and in the discharge of their duties, and shall protect them from maltreatment on the part of third persons.
If such persons make a deal, there are applicable a general conditions of deals stated in the Civil Code. In particular:

(1) The deal, effected by the citizen, who has been recognized as legally incapable due to mental disorder, shall be regarded as insignificant.

(2) The deal, effected by the citizen, who, while being legally capable, at the moment of making the deal was in such a state that he was incapable of realizing the meaning of his actions or of keeping them under control, may be recognized by the court as invalid upon the claim of this citizen or of the other persons, whose rights or law-protected interests have been violated as a result of its being effected.

(3) The deal, effected by the citizen, who has been recognized as legally incapable at a later date, may be recognized by the court as invalid upon the claim of his guardian, if it has been proved that at the moment of making the deal, the citizen was incapable of realizing the meaning of his actions or of keeping them under control. A transaction carried out by a citizen whose legal capacity has been afterwards restricted as a result of a mental disorder may be declared by court invalid at the suit of the custodian thereof if it is proved that at the time of making the transaction the citizen could not have understood the meaning of his/her actions or direct them and the other party to the deal knew or should have known about it.

In the second case, there are various pieces of evidence that can be used to treat the deal as legally incapable or insignificant in the court. For instance, decisions regarding medical treatment, notes confirming location of the person in a nursing home, etc.

26. **What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?**

There is no special form for charitable entities. For charitable purposes citizens may establish funds, public organisations (associations), institutions, etc. They are registered by the Ministry of Justice and regulated by the Federal Law on Charitable Activities and Charitable Organizations. The following documents shall be submitted to the Ministry of Justice or its territorial body when setting up the charity for a revision which may take up to a month:

- duly signed application for registration;
- constitutional documents;
- organisational minutes establishing the organisation, approving constitutional documents and appointing governing bodies;
- information on the founders including documents confirming the legal status of the founder(s) if the founder(s) is a foreign national;
- permanent address (location) through which communication is to be carried out with the organisation;
- confirmation of entitlement for the use of intellectual property (in specific cases of use in
27. **What important legislative changes do you anticipate so far as they affect your advice to private clients?**

Main changes that should be taken into account are:

1. Equalization of income tax for resident and non-resident individuals at 13% (the initiative was included by the Ministry of Finance into the tax policy document for 2020-2022);

2. Introduction of a separate "the centre of vital interests" test for identification of Russian tax residence (the initiative was included by the Ministry of Finance into the tax policy document for 2020-2022);

3. Implementation of MLI and a number of anti-avoidance rules.

Russia has adopted Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (known in international practice the Multilateral Instrument or MLI). MLI might enter into force at the end of 2019, although, the provisions regarding withholding tax payments will apply from 1 January 2020. MLI is an international convention between countries aimed to unify the provisions of existing double tax treaties. Potential repercussions mostly involve the need to reassess the tax risks related to the corporate holding structures owned by individuals.

4. Potential option to establish an inheritance fund (as was discussed in question 18, since 2018 individuals can establish an inheritance fund by will in Russia).