

## Real Estate Sale: The Predominance of Economic Substance over Legal Form in Some Jurisdictions is Problematic

**Mislavskaya N. A.\***

Doctor of Economic Sciences (Advanced Doctor), Professor, Financial University under the Government of the Russian Federation, Moscow, Russia

**Polenova S. N.**

Doctor of Economic Sciences (Advanced Doctor), Professor, Financial University under the Government of the Russian Federation, Moscow, Russia

**Sotnikova L. V.**

Doctor of Economic Sciences (Advanced Doctor), Professor, Financial University under the Government of the Russian Federation, Moscow, Russia

### Abstract

In recent years, when selling real estate objects, Russian organizations use the account “goods shipped” recommended by the national regulator for use in this case, the balance of which in the balance sheet relates to current assets. In connection with the amendments to the Tax code of the Russian Federation, the use of this account is doubtful, as it is necessary to apply the requirement of priority of the economic nature of transactions over their legal form. In practice, most Russian companies are serious about compliance with the requirements of the regulator, as a result of which, actually sold real estate is reflected in the same section of the balance sheet, which reflects the fixed assets only intended for sale. The authors studied the annual financial statements of many major Russian companies, including the provisions of their accounting policies, and the order of reflection in the financial statements of real estate, state registration of a new owner, which occurred in the next reporting period. The study showed that most organizations do not disclose their accounting policies on this issue, which indicates that they follow the recommendations of the regulator, in the minority there are organizations that make the appropriate disclosure of accounting policies, but the position of accounting policies coincides with the opinion of the regulator. In the article the authors suggest ways to solve the situation.

**Keywords:** Real estate sale; Transferred real estate; Recognition of income and expenses; Value added tax.



CC BY: [Creative Commons Attribution License 4.0](https://creativecommons.org/licenses/by/4.0/)

### 1. Introduction

Real estate objects are the most expensive and longest-lived assets of companies. By purpose, such objects mainly belong to the key ones. The acquisition of real estate, as a rule, indicates a favorable financial position of the company, the sale – the unfavorable financial position of the organization.

When transactions of purchase and sale of real estate occur close to the reporting date, i.e. the date on which the annual financial statements are prepared, and actually completed in the next reporting period, they attract increased attention of auditors who, in accordance with International auditing standards, are obliged to understand whether such a transaction is imaginary, sham, not at fair value, committed with an interdependent person without appropriate disclosure, in other words, aimed at deliberate distortion of the financial statements.

Under the contract of purchase and sale of real estate (the contract of real estate sale) the seller undertakes to transfer to property of the buyer object of real estate (paragraph 1 of Art. 549 of the Civil Code of the Russian Federation). The transfer of the property is carried out by providing it to the buyer and signing by the parties of the relevant document of transfer, transfer act. At this moment, according to the national legislation of the Russian Federation, the seller's obligation to transfer the property to the buyer is considered fulfilled. According to the national legislation of the Russian Federation, this provision is dispositive - the law, and most importantly, the contract, can be set another time when the obligation to the buyer of real estate is considered to be fulfilled (paragraph 1 of Art. 556 of the Civil Code of the Russian Federation).

But does the buyer become the owner of the purchased property at the specified moment? As the transaction of purchase and sale of the property is subject to state registration, the buyer considers himself a full owner not from the moment of signing the transfer act, but from the moment when the transaction will be registered by the state.

This is because in the Russian Federation the registration of real estate transactions is not a formal act, refusals to register such transactions occur, especially in transactions with real estate objects registered in companies in the process of privatization and corporatization of enterprises that took place in the period from the 90-ies of XX century to the beginning of XXI century (Balsevich, 2008; Bykova *et al.*, 2017; Efimenkov and Vorobyova, 2006; Volkova, 2018).

That's why real estate companies are always under control and supervision. Problems with these firms can cost much to the federal government. Accordingly, the laws that are considered for the supervision of real estate

\*Corresponding Author

companies must always be rewritten so that the federal government has the necessary supervision over these firms. Current research, with emphasis on these issues,

## 2. Literature Review

Property is all movable and immovable property, which is generally composed of land, buildings, agricultural products, natural resources, minerals and underground waters. In most cases, the term "property" is used to refer to a housing or building in which the specified area is located. The term Real Estate also refers to business (occupation), which deals with the purchase, sale, mortgage or lease of land, buildings and houses (Dubenetskii, 2016). The real estate market is like the market of gold, coins and currency of well-known and old-fashioned investment markets in the world. To the extent that many investors see this type of market as one of the most reliable and secure markets for keeping their capital. Many people in the community even transfer capital or income from other activities and investments to this branch of investment, and believe that in the long run such investments will be the most profitable and least risky type of investment it creates (Kazantsev, 2013).

In order to do any transaction, it is better to use a competent and competent referral. For real estate, these are real estate companies that are legally authorized to conduct transactions as brokers. Of course, this does not mean that if a deal is made outside of these firms it is illegal or unenforceable, it is better to use these centers to ensure the transaction is correct. In fact, real estate companies must act as trustworthy experts on both sides, that is, buyer and seller, or landlord, and tenant, and master the property at bargain prices and appropriate conditions (Kolomak, 2011).

### 2.1. Commitments of Realtors

Certainly, there are commitments that all property consultants must adhere to and follow those principles, the property consultant must ultimately inform the parties of the transaction's honesty of the transaction details. Even if he carries out a deal only for one of the parties, the owner of the property cannot pay the bill or pay the religion instead of one of the parties to the transaction. Or perform their obligations unless one of the parties has permission to do so. The property consultant against each party to the transaction is responsible for the fraud or fault that he is performing. The company is responsible for all the objects and documents which, during the transaction, it is given to him unless proved that he did not have a role in missing or lost (Antonenko, 2016).

In any case, the firm is a party to the transaction, and its so-called iodine is a non-existent and should treat both parties as if they were amenable. If the real estate agent or the agent, contrary to their duty, does not act in the interest of the other party to whom it was delegated, or the promise will be condemned to the penalty of betrayal and will not qualify for any remuneration (Safronov, 2013). The firm is entitled to receive the payment of the transaction by mediation and guidance, and the transaction is definite, and if the conditional transaction is conditional, after the acquisition and fulfillment of that condition, the employee will be entitled to the remuneration. If the transaction is with the consent of the parties or through one Termination of the legal requirements, The firm has the right to receive a payment, provided that it is not an agent for termination of the transaction (Safronov, 2013).

### 2.2. Legal Challenges for Real Estate Companies

Although the contract has become customary, real estate consultants have become customary, but the fact is that this legal action can not only be interpreted as an action in the interests of the parties to the contract, but also as one of the legal problems of society It increases and causes tension. The important point is why regulatory contracts have become one of the issues in the community by trading companies (Nefedova and Treivish, 2014).

Documents held at the Office of the Registration of Documents and Real Estate, or the offices of the official documents or in the presence of other official agents within the limits of their competence and in accordance with legal provisions. Accordingly, the arrangement of the contract is not among the competencies of the real estate consultant because, as the name implies, it is their duty to provide brokerage and advice, not to conclude a contract. So regulatory documents are considered by ordinary real estate consultancy firms to always be considered doubtful, (Antonenko, 2016).

Regarding the fact that the regulatory contracts in the real estate consultancy firms are ordinary documents, if the property is registered in the property office, the state will only know the person who registered the property in his name, The result of the registration in the real estate office is having an official document and the official document is often considered as a positive way. The dispute over the transfer of ownership of the ordinary document has long been considered and has always been regarded as controversial (Morozov, 2005). Regarding the recognition of regulatory documents in real estate consultants as ordinary documents and the fact that sometimes there is a time gap between arranging a document in a real estate firm and setting up a formal document in the notary public, a lawyer's letter is usually set up. Given the fact that it is usually not possible to set up an official document urgently, the buyer often sells property to another and assigns all the powers and duties assigned to him by the power of attorney from his client to one another, and for himself no It does not have the right and the discretion. Such a document, which is one of the examples of common documents in the official document's office, is identified as subject to the attribution of title of the lawyer, subject to various interpretations (Dobrolyubova, 2017).

Usually, in transactions, the parties undertake, after a preliminary agreement, in a normal document (under the name of a vowel or memo) to appear at the appropriate time in the notary public and to take a formal document regarding the transfer of the property to be made. The obligated person is free to either appear in the office in due time or to refuse to pay damages to one another, consequently, if he is not present, he cannot be compelled to attend the office, but only the damage can be claimed (Kiselev, 2010).

### 3. Materials and Methods

To settle the issue of reasonable reflection of real estate in the financial statements of companies, the state registration of transactions with which takes some time, it can begin in one period and end in another reporting period, the authors analyzed the financial statements of the largest Russian companies (Semushin and Parshakov, 2012).

We studied the disclosure of accounting policies presented in the financial statements of large Russian companies for the period from 2011 to 2017 on the transactions under consideration (Ayvazyan *et al.*, 2015).

Also, the key audit issues disclosed in the audit opinions of companies after 2016 in accordance with the requirements of International standards of audit were studied in order to identify the facts of attracting the attention of users of reporting to transactions for the acquisition and sale of real estate (Kiselev, 2010).

### 4. Results

According to the Federal Law of the Russian Federation “On state registration of real estate” of 13.07.2015 N 218-FZ, with the changes which came into force since 02.01.2017, the carried-out state registration of emergence and transition of the rights to real estate is certified by the statement from the Unified State Register of Real Estate (further – USRRE).

Until 15.07.2016, the ownership of the property was confirmed by a Certificate of Ownership – a document on a special paper form with certain degrees of protection – watermarks, unique series and number (Kirillova and Kantor, 2011).

The purpose of stopping the issuance of such certificates of ownership of real estate was the fight against fraud, as there were cases when fraudsters on a false certificate sold the same object several times.

Currently, the state registration is that on the title document – the sales contract - a special registration inscription on the content of the registration action, the date and number of entry in the USRRE is indicated.

At the same time, if the title document is submitted for registration on paper, the registration action is to apply a stamp with the signature of the registrar and the seal of The Russian Real Estate Register. If the title document is submitted electronically, the file with the document shall be certified by the electronic digital signature (EDS) of the registrar.

Extract from the USRRE certifying the state registration of the rights is the document confirming the fact of its carrying out and existence in the USRRE of the data specified in it, including about the owner, the real estate object registered in the corresponding day under the corresponding number of the right, legal documents — the bases for registration of the right, for the date specified in it as date of issue.

According to the current legislation, only the record of the state registration of the right in the USRRE is the only proof of the existence of the registered right

The transfer of ownership of real estate under the sales contract of real estate to the buyer is subject to state registration. The right of ownership to the property at the buyer arises from the moment of state registration (paragraph 2, Article 223, paragraph 1, Article 551 of the Civil Code).

Most Russian specialists in the field of accounting for a long time agreed that income and expenses from the sale of real estate are recognized in accounting at the date of transfer of ownership (Dobrolyubova, 2017; Morozov, 2005).

What is the date? This can and should be the date of signing of the transfer act by the parties to the sales contract. At the same time, due to concerns that the transaction may not be registered by the state, the buyer establishes a later date in the contract – the date of state registration of the transaction in the USRRE. In the process of privatization and corporatization of state-owned enterprises, which was held en masse in the 90-ies of the last century in the Russian Federation on the balance sheets of many legal entities were real estate, the necessary title documents to which are not available. As a rule, this was due to their loss by those organizations that were privatized. The right of new owners for these objects no one disputes, but their registration on new owners is impossible.

Therefore, the parties to the sales contract of real estate agreed that the date of transfer of ownership will be the date of state registration, not the date of signing of the transfer act. As a result – the income and expenses were recognized in the accounting on the date of state registration of ownership of the property to the new owner. At the same time, experts unanimously referred to the requirement of the Russian national standard for accounting of income, approved by the Order of the Ministry of Finance of 06.05.1999 № 32n. (Antonenko, 2016; Nefedova and Treivish, 2014; Safronov, 2013).

The national accounting regulator in 2012 recommended to disclose information in the annual financial statements in connection with the disposal of real estate objects subject to state registration, indicating that in accordance with the Russian national standard for accounting of fixed assets, the value of the fixed asset that is disposed or is not capable of bringing economic benefits (income) to the organization in the future, is subject to write-off from accounting. Write-off of fixed assets from accounting is carried out upon termination of at least one condition of acceptance of the asset to accounting as such object.

Therefore, the organization transferring the real estate object, the property rights to which are subject to state registration, shall write off it from accounting at the time of the actual disposal, irrespective of the fact of state registration of the property rights.

Thus, the national accounting regulator of the Russian Federation stressed the need to reflect the disposal of the asset in accordance with the economic essence of the sale transaction, and not in accordance with the legal form, the private manifestation of which is for real estate state registration.

The income and expenses from write-off from accounting of objects of fixed assets are reflected in accounting in the accounting period to which they belong. That is, in the reporting period in which there is *the actual disposal of the object, and not in the period in which the registration occurred*. The income from sale and expenses from write-off of objects of fixed assets from accounting are subject to transfer to the account of profits and losses as other income and expenses in this period.

If the date of transfer of the property and the date of state registration fall on one reporting period, the delay in the recognition of income and expenses does not affect the reflection of the financial position and financial results in the statements, but if these dates relate to different periods, taking into account, as a rule, the high cost of real estate, the impact is likely to be significant.

If the moment of write-off from accounting of the real estate object on which property rights are subject to state registration, does not coincide with the moment of recognition of the income and expenses from disposal of fixed assets, i.e. when the specified income and expenses, according to the agreement, are recognized at the time of state registration of transfer of the property right, for reflection of the retired object of fixed assets until recognition of the income and expenses from its disposal the vast majority of the studied companies use the article "Stocks" recommended by the national regulator.

The item "Stocks" includes the sub-item "Goods shipped". In the case of its materiality, the sub-item "Goods shipped" which reflects the objects transferred to the buyer, but the ownership of which are not passed to the buyer yet, is reflected in the personal item of the balance sheet. If it is immaterial, it is disclosed in the notes to the balance sheet and the statement of financial results.

The item "Stocks", including the sub-item "Goods shipped", is qualified in the balance sheet as current assets.

Thus, in fact, the national regulator proposed to reporting companies to reflect the former object of fixed assets as fixed assets intended for sale, i.e. as it is accepted in accordance with International financial reporting standards.

However, this is the end of the similarity with IFRS, as it is important not only to transfer an item of property, plant and equipment to stocks, but also to reflect them at the cost of a possible sale after deduction of possible selling expenses. In reality, the companies in the re-qualification of fixed assets from existing fixed assets to fixed assets intended for sale (and in fact – already sold, remain only to register it), in the vast majority do not change the value of objects, i.e. they are reflected under the item "Stocks" and sub-item "Goods shipped", (hereinafter – "Transferred real estate") at the residual value of the property that is legally sold, but the state registration of the new owner is not occurred yet.

By the letter of 31.03.2011 № KE-4-3/5085@ "On the direction of the letter of the Ministry of Finance of the Russian Federation of March 22, 2011 07-0210/20" the Federal Tax Service brought the position of the Ministry of Finance of the Russian Federation to taxpayers and tax authorities on the issue of recording and acquisition, and sale of real estate subject to state registration.

## 5. Discussion

The legislation of the Russian Federation on registration of rights to real estate has changed several times over the past 30 years.

For this period the Federal Law of the Russian Federation "On state registration of the rights to real estate and transactions with it" of 21.07.1997 N 122-FZ which according to the edition of the Federal Law of 03.07.2016 N 361-FZ expires since January 1, 2020 was initially adopted.

Actually since January 1, 2017 the state registration of real estate is carried out in the order established by the Federal Law of 13.07.2015 N 218-FZ "On state registration of real estate".

Only one this fact suggests that not only the order of reflection in accounting and reporting, but also the legal regulation of registration of property rights to real estate has undergone significant changes (Dubenetskii, 2016; Kazantsev, 2013; Kolomak, 2011).

Accounting of disposal of fixed assets of organizations is conducted in accordance with the national standard of the Russian Federation on accounting of fixed assets (Federal accounting standard "Accounting of fixed assets").

The national fixed assets accounting standard of the Russian Federation does not link the acceptance of an asset for accounting as an object of fixed assets with the state registration of property rights to it and does not make any exceptions to the acceptance for accounting of objects subject to such registration in accordance with the current civil legislation.

This means that the organization receiving the property as a result of its acquisition, the ownership of which is subject to state registration, must take it into account at the time of actual receipt, regardless of the fact of state registration of property rights.

However, if such requirements are not directly in the national standard, in the methodological developments of the national regulator such dependence has been established.

And only starting from the financial statements for 2011 this requirement was removed. The necessary amendments to the regulations on accounting were introduced by the Ministry of Finance of Russia of 24.12.2010 № 186n "On making amendments in normative legal acts on accounting and the annulment of the Order of the Ministry of Finance of the Russian Federation from January 15, 1997 № 3" and in accordance with changes in the Regulations on conducting accounting and accounting reporting in the Russian Federation, approved by the Order of the Ministry of Finance of 29.07.1998 № 34n, and Guidelines for accounting of fixed assets, approved by the Order

of the Ministry of Finance of the Russian Federation of 13.10.2003 No. 91n, the rules establishing dependence of acceptance of real estate object on accounting on availability of the documents confirming state registration of the property right to such object were excluded (paragraph 41 and paragraph 52 respectively).

By analogy with the organization that receives the object for accounting, the organization that transfers the property, ownership of which is subject to state registration, should write it off from accounting at the time of actual disposal, also regardless of the fact of state registration of property rights.

Income and expenses from the write-off of fixed assets from accounting shall be credited to the profit and loss account as other income and expenses in the reporting period in which the transfer took place.

If the moment of write-off from accounting of the real estate object on which property rights are subject to state registration, does not coincide with the moment of recognition of the income and expenses from disposal of fixed assets (when the specified income and expenses are recognized at the time of state registration of transfer of the property right), for reflection of the left object of fixed assets until recognition of the income and expenses from its disposal the "Goods shipped" or, in case of materiality of the sum can be used to understand the economic essence, provide in the balance sheet a separate item "Transferred real estate".

The item "Goods shipped" is intended to summarize information about the presence and movement of shipped products (goods), the proceeds from the sale of which a certain time can not be recognized in accounting. Most often, this account is used by exporting organizations, as the moment of transfer of risks and benefits from ownership of the exported goods does not coincide with the moment of shipment of this product.

This account also includes finished products that have been transferred to other organizations for sale on a commission basis.

Goods shipped are valued at the cost of the actual cost of production and the cost of shipping products (goods) if such costs are subject, in accordance with accounting policy, distribution.

According to the unified plan of accounts of accounting accepted in the Russian Federation, the sub-item "Goods shipped" corresponds to sub-items "Finished goods" and "Goods of the same item" "Stocks" according to the issued documents (invoices, acceptance acts, etc.) on shipment of finished products (goods) or transfer them for sale on the commission basis.

At the proposed by national regulator recognition of the fact of the sale of the property the sub-item "Goods shipped" in the debit corresponds with the item "Fixed assets" on the credit, a single chart of accounts for this correspondence is not provided. The item "Transferred real estate objects" should correspond with the item "Fixed assets".

Taken into account for the sub-item "Goods shipped" the object is subsequently written off in the debit of the account "Sales" simultaneously with the recognition of revenue from sale of products (goods) or upon receipt of notification of the commission agent about sale of the goods transferred to him.

However, the sale of real estate, if this type of activity is not for the organization of current operating activities, should be reflected in the turnover not on account of "Sales" sub-account "Revenue" and under the item "Other income (expenses)".

In particular, following the recommendations of the national registrar on the date specified in the Certificate of registration of the property to the new owner, the amount recorded under the item "Goods shipped" should be written off by the accounting record on the debit of the item "Other expenses" and the credit of the item "Goods shipped". However, such correspondence is also not provided by the chart of accounts of the Russian Federation.

Analytical accounting for the item "Goods shipped" is conducted at the location and certain types of shipped products (goods).

**Value added tax.** When selling goods (including real estate) in the territory of the Russian Federation there is an object of taxation on VAT (subp. 1 p. 1 Article 146 of the Tax code). The exception is made by such real estate objects as land plots; their sale is not subject to VAT.

Federal Law No. 81-FZ of 20.04.2014 "On amendments to part two of the Tax Code of the Russian Federation" amended Chapter 21 "Value added tax" of the Tax Code of the Russian Federation and, in particular, the procedure for determining the tax base for VAT on the sale of real estate.

When selling a property, the tax base for VAT is determined on the basis of paragraph 3 of Article 167 of the Tax Code, according to which if the goods (in the situation under consideration – real estate) are not shipped and not transported, but there is a transfer of ownership of the goods (in the situation under consideration – real estate), then such transfer of ownership is equal to its shipment.

Despite the fact that the amendments were introduced into Art. 167 of the Tax Code and came into force on July 1, 2014, experts continued to persist, arguing that the moment of determining the tax base for VAT in the sale of real estate is not the date of the act of acceptance and transfer of the object, and the date of state registration of ownership (Sambursky and Khodorovsky, 2006).

Indeed, once this position was agreed and the arbitration courts (resolutions of FAS of the Ural district of 17.10.2011 № F096297/11 on the case № A71-12738/2010-A31, FAS of Moscow district of 21.03.2011 № KA-A40/1488-11 on the case № A40-19356/10-116-115), there was a letter of the Ministry of Finance that organization-the seller must set the invoice to the buyer within five calendar days from the date of state registration of ownership rights on the property (letter of the Ministry of Finance of Russia of 22.07.2008 № 03-07-11/261).

Since July 1, 2014, when selling real estate, VAT is charged on the date specified in the document confirming the fact of transfer of the object to the buyer, i.e. on the date specified in the transfer act or other document on the transfer of real estate. To resolve this issue, a special new paragraph 16 was introduced into Article 167 of the Tax Code.

On the date of transfer to the buyer of the property tax base for VAT is defined as the value of the building (real estate), established by the contract (excluding VAT) (paragraph 1 of Article 154 of the Tax Code).

Thus, there is an interesting situation – in tax accounting full clarity, which is not always the case, while in accounting there is no such clarity. And in many respects to that fault – the position of the national regulator in the field of accounting – the Ministry of Finance of the Russian Federation concerning use at reflection in accounting of implementation of real estate objects of the item “Goods shipped”.

If under the sales contract of real estate, the parties have agreed that the moment of transfer of ownership of the property is the date of registration of ownership, the reflection in the accounting:

- 1) disposal of the property must occur on the date of transfer of the property to the buyer, in connection with which the asset is subject to write-off from accounting (from the fixed assets) (regardless of the fact of state registration of the transfer of ownership of the building to the buyer) (p.29 Regulations on accounting “Accounting of fixed assets” RA 6/01, approved by the Order of the Ministry of Finance of Russia of 30.03.2001 № 26n, p. 76 Guidelines for accounting of fixed assets, approved by the Order of the Ministry of Finance of Russia of 13.10.2003 № 91n);
- 2) herewith the income and expenses connected with sale of the building (real estate) are recognized as of the date of transfer of the property right to it to the buyer (subp. “g” p. 12, p. 16 of the Regulations on accounting “Revenues of organization” RA9/99, approved by the Order of the Ministry of Finance of 06.05.1999 № 32n, p. 19 Regulations on accounting “Expenses of the organization” RA 10/99, approved by the Order of the Ministry of Finance of 06.05.1999 № 33n);
- 3) income and expenses from disposal of fixed assets are recognized as other (p.31 RA 6/01, p. 7 RA 9/99, p.11 RA10/99).

**Example.** The organization sells the property with a residual value of 9 000 000 monetary units for 11 800 000 monetary units, including VAT 1 800 000 monetary units (for example, the VAT rate is 18%).

**The first option.** Reflection in the financial statements in accordance with the recommendations of the national regulator.

On the date of transfer of the property to the buyer on the basis of the transfer act:

Debit “Stocks” (“Transferred real estate”)	9 000 000
Credit “Fixed assets”	9 000 000

VAT charged to the buyer of the building:

Debit “VAT charged on the sale of real estate	1 800 000
Credit “Fixed assets”	1 800 000

On the date of registration of the transfer of ownership of the building recognition of income from the sale of the property:

Debit “Payments with buyers and customers”	11 800 000
Credit “Other income	11 800 000

Accrued VAT from the income from the sale:

Debit “Other income”	1 800 000
Credit “VAT presented in the sale of real estate»	1 800 000

Recognition of expenses related to the sale of the property in the amount of the residual value of the property:

Debit “Other expenses”	9 000 000
Credit “Stocks” (“Transferred real estate”)	9 000 000

The disadvantages of this order of reflection in the accounting are the following:

- the transfer of the property actually took place, control over the object is actually lost, but this object continues to be present in the assets of the company;

- the VAT return reflects the amount of VAT, but does not reflect the amount of revenue from the sale of goods (works, services), property rights as a tax base for the calculation of VAT.

Therefore, it is necessary to offer other order of reflection in the accounting of transactions on realization of real estate objects.

**The second option.** Based on the principle of priority of economic content over the legal form to consider the fact of the transfer act thereby the economic content of the transaction, and the registration of rights to the new owner of real estate – legal form and therefore on the date of the transfer act to reflect in the accounting as well as for tax purposes, income and expenses related to the sale of real estate.

With this approach, there will be no difference in the time of recognition of income in accounting and tax accounting for the purposes of income tax and the date of determination of the tax base for VAT.

Let us leave the example conditions unchanged.

As of the date of signing of the transfer document:

*Income from the sale of real estate on the date of signing by the parties of the contract of transfer act is reflected:*

Debit "Payments with customers"	10 000 000
Credit "Other income"	10 000 000

VAT is accrued on the date of signing by the parties of the contract of transfer act:

Debit "Payments with customers"	1 800 000
Credit "Value added tax"	1 800 000

The cost of the sold property, plant and equipment is written off:

Debit account "Other expenses"	9 000 000
Credit "Fixed assets"	9 000 000

This accounting procedure is fully consistent with the principle of priority of economic content over legal form. In the event that the transaction is not registered, in other words, does not actually take place, the accounting records will be reversed in the next period as information on the refusal to register the object to the new owner.

The advantage of this method of reflection in the accounting is also that in this case the difference between accounting and tax accounting does not arise.

**The third option.** Based on the fact that the transfer of ownership under the contract, confirmed by the fact of state registration, is a key point for Russian companies in general, and Russian specialists in the field of accounting, it is proposed to use the item "Income of future periods" (Anokhin and Lachininskii, 2015; Ksenofontov *et al.*, 2017; Kuleshov, 2017).

In this order, the income from the sale of the property is recognized in the statement of financial results in the period when the registration of ownership of the property takes place. This will solve the problem with the use of the item "Transferred real estate" - it will not be involved. At the end of the reporting period, in which the object was transferred to the buyer under the contract, but has not been recorded in the state register yet, the financial result of the transaction will be reflected in the item "Income of future periods".

Let us leave the example conditions unchanged.

On the date of signing of the transfer act income from the sale of the property on the date of signing by the parties of the transfer act is reflected:

Debit "Payments with customers"	10 000 000
Credit "Incomes of the future periods"	10 000 000

VAT is accrued on the date of signing by the parties of the contract of transfer act:

Debit "Payments with customers"	1 800 000
Credit "Value added tax"	1 800 000

Expense under the sales contract of real estate is recognized:

Debit "Incomes of the future periods"	9 000 000
Credit "Fixed assets"	9 000 000

Deferred tax asset on income tax from the amount of the financial result from the sale of real estate for profit tax purposes is recognized  $(10\,000\,000 - 9\,000\,000) \times 20\%$ <sup>1</sup>:

Debit "Deferred tax assets"	200 000
Credit "Current income tax"	200 000

On the date of registration of ownership of the buyer the financial result of the sale of the property is recognize:

Debit "Incomes of the future periods"	1 000 000
Credit "Financial result of the reporting period"	1 000 000

Contingent tax income tax expense profit is accrued  $(1\,000\,000 \times 20\%)$ :

Debit "Financial result of the reporting period"	200 000
Credit "Current income tax"	200 000

Deferred tax asset is written off:

Debit "Current income tax"	200 000
Credit "Deferred tax assets"	200 000

**Profit tax.** For the purpose of calculation of the income tax of the organizations the revenue from sale of real estate object is recognized as a part of the income from sale proceeding from the contractual price of the building (without VAT) for date of transfer of real estate to the purchaser of this property according to the transfer act or other document on transfer of real estate (Art. 248, 249, 271 of the Tax Code of the Russian Federation).

<sup>1</sup> 20% - income tax rate in the Russian Federation.

The date of registration of the transfer of ownership of the property does not currently matter.

On the basis of the act of acceptance and transfer of the property organization-the seller may recognize in the tax accounting the proceeds from the sale of the property. The organization has the right to reduce the specified income on residual value of object of fixed assets (Art. 268 of the Tax Code of the Russian Federation). At the same time, depreciation is terminated from the 1st day of the month following the month in which the fixed asset was eliminated from the depreciable property (p. 5 of Article 259.1 of the Tax Code).

Thus, both in accounting and tax accounting the income and expense from the sale of the real estate object (regardless of the reservations about the state registration for the new owner) should be recognized on the date of transfer of this object to the buyer. This date is specified in the transfer act on the property. On the same date, the VAT base is determined.

Therefore, the long-awaited coincidence of recognition of income and expenses in accounting and tax accounting is achieved.

The state fee is not paid for the state registration of termination of rights in connection with the transfer of the right to a new right holder (Article 333.35 of the Tax Code).

The state fee for the state registration of the transfer of ownership of real estate under the sales contract of real estate shall be paid by the buyer of real estate. Thus for commission of the act of state registration of the property right to the new owner to put the copy of the payment order for payment of the state duty at submission of documents it is not required.

The buyer of the object - the applicant receives a receipt confirming the acceptance of documents for state registration.

Ownership of the object is considered to be registered from the date of entry of the transaction or right in the Unified State Register of Rights.

Until January 1, 2013, representatives of both the Executive and the Judiciary were contradictory:

- in some cases, they insisted on the inclusion of the value of the sold property in the income on the date of state registration of the transfer of ownership to the buyer (letters of the Ministry of Finance of Russia of 15.05.2013 № 03-03-06/1/16788; Federal Tax Service of the Russian Federation of 20.12.2012 № ED-4-3/21729@; resolution of the Presidium of the Supreme arbitration court of the Russian Federation of 08.11.2011 № 15726/10);

- in others - on the date of the transfer act (letter of the Ministry of Finance of the Russian Federation of 07.09.2012 № 03-03-06/2/100; resolution of the Federal arbitration court of the North-Western district of 21.12.2012 № A13-3137/2012);

- in the third case, even on this option – from the moment of submission of documents for state registration (letters of the Ministry of Finance of the Russian Federation of 07.02.2011 № 03-03-06/1/78 and 28.04.2010 № 03-0306/1/301).

And only on January 1, 2015 an amendment similar to the procedure for determining the tax base for VAT on the sale of real estate, but for corporate income tax was introduced. According to p. 33 of Art. 1 of the Federal Law No. 366-FZ of 24.11.2014 “On modification of part two of the Tax Code of the Russian Federation and separate legal acts of the Russian Federation”, Article 271 “The order of recognition of the income at the accrual method” of the Tax Code of the Russian Federation was supplemented with subparagraph 2.1.

According to p. 4 of Art. 271 of the Tax Code for non-operating income *the date of receipt of real estate under the transfer act* or other document on transfer (confirming transfer) of real estate is recognized as the date of receipt of the income. In fairness it should be noted that this rule was introduced not for the sales contract, but for the recognition of income in the form of dividends received in non-monetary form.

Non-operating income in the form of gratuitously received property and in other similar cases, the date of receipt of income is recognized in accordance with the subp. 1 paragraph 4 of Article 271 of the Tax Code of the Russian Federation date of signing the act of acceptance – transfer of the property.

Thus, it is reasonable to give preference to the first of the above options for recording transactions for the sale of real estate.

## 6. Conclusions

As a result of the study, the authors came to the following conclusions:

1. Due to the high cost of real estate, acquirers want to have an additional degree of confidence that they not only parted with the assets containing economic benefits (cash), but actually entered into property rights and subsequently they will not have problems with the use of the property. In this regard, in jurisdictions (in particular, in the Russian Federation) where such transactions are subject to state registration, they stipulate the moment of transfer of ownership (in fact – risks) until the moment of state registration;
2. The national accounting regulator of the Russian Federation recommends at such transactions for the period between transfer of object and its state registration on the new owner to recognize such object as a part of current assets (stocks), by addition of balance sheet the item “Transferred real estate objects” by analogy with the method of retraining of fixed assets accepted in IFRS in “non-current assets intended for sale”. According to the author, in this situation, the use of the method of retraining is inappropriate, as the object of fixed assets has actually already been sold, and ceased to be a product intended for sale. At the same time, most Russian companies follow the recommendations of the national regulator;
3. In the event that the transfer of the object to the buyer occurs at the end of one reporting period, and the state registration of the object to the new owner will occur in the next reporting period, according to the authors, the asset should be written off on the date of its transfer to the buyer, recognize the proceeds from



the sale, and the financial result should be recognized in the balance sheet under “Income of future periods”. When there is the event of state registration in the next reporting period income, the financial result of the sale is to recognize in the statement of financial results of the minimized financial result of this reporting period;

4. In accordance with the Tax Code currently in force in the Russian Federation, both the taxation of income from the sale of real estate (except land) with value added tax and the inclusion in the tax base of income tax of the financial result is made in the reporting period, when the transfer of the property from the seller to the buyer, and not on the date of state registration.
5. The most acceptable is the recognition of the financial result from the sale of real estate in accounting at the date of transfer of the object to the buyer, which will avoid, in particular, the differences between accounting and tax accounting. Such a transition will become possible as the terms of state registration of transactions are shortened, as well as due to natural wear and tear, the balance sheets of Russian enterprises will no longer include real estate objects recognized in the 90s of the XX century in the process of privatization and corporatization of former state-owned enterprises, certificates of ownership for which for various reasons are absent and registration of transactions with which the state refuses.

## References

- Anokhin, A. A. and Lachininskii, S. S. (2015). Evolution of the ideas and contents of geoeconomic studies. *Regional Research of Russia*, 5(1): 90-95.
- Antonenko, N. S. (2016). Change in basic ownership model in Russian big business. *Studies on Russian Economic Development*, 27(3): 298-310.
- Ayvazyan, S. A., Bereznyatsky, N. A., Brodsky, B. E. and Darkhovsky, B. S. (2015). Statistical analysis of models with variable structure. *Applied Econometrics*, 33(39): 84-105.
- Balsevich, A. (2008). Economics of law: Background and history of development. *Economic Issues*, (12): 60-71.
- Bykova, A. A., Molodchik, M. A. and Shamilova, E. G. (2017). Ownership concentration as a mechanism of corporate governance in Russian public companies: The impact on financial performance. *Applied Econometrics*, 45: 50-74. Available: <https://ideas.repec.org/a/ris/apltrx/0310.html>
- Dobrolyubova, E. I. (2017). Prospects of use of economic mechanisms alternative to the state control. *Economic Policy*, (4): 60-68. Available: <https://ideas.repec.org/a/rnp/ecopol/ep1743.html>
- Dubenetskii, Y. N. (2016). Economic mistakes and their consequences. *Studies on Russian Economic Development*, 4(27): 374-81.
- Efimenkov, V. I. and Vorobyova, O. A. (2006). Accounting as the most important information system in the context of globalization. *Economics of the Region*, (2): 88-95.
- Kazantsev, S. V. (2013). Dynamics of innovative activity in Russian regions. *Regional Research of Russia*, 3(1): 12-20.
- Kirillova, S. A. and Kantor, O. G. (2011). Regional growth: The quality of economic space. *Regional Research of Russia*, (3): 199-209. Available: <https://link.springer.com/article/10.1134%2FS207997051103004X>
- Kiselev, N. I. (2010). Alternative methods of principal components estimation. *Applied Econometrics*, (3): 127-39.
- Kolomak, E. A. (2011). Spatial externalities as a source of economic growth. *Regional Research of Russia*, (2): 114-19.
- Ksenofontov, M. Y., Shirov, A. A., Polzikov, D. A. and Yantovskii, A. A. (2017). Assessing multiplier effects in the Russian economy: Input-output approach. *Studies on Russian Economic Development*, 2(29): 109-15.
- Kuleshov, V. V. (2017). Ideological myths of modern economic theory and reality. *Studies on Russian Economic Development*, 28(1): 11-14.
- Morozov, V. V. (2005). Methodological bases of improvement of the mechanism of financing of investment activity in the region. *Economics of the Region*, (4): 71-83.
- Nefedova, T. G. and Treivish, A. I. (2014). Russia between the two capitals: Specifics of territorial changes. *Regional Research Of Russia*, 4(4): 207-19.
- Safronov, A. V. (2013). Improving the quality of investment processes in Moscow's Economy. *Studies on Russian Economic Development*, 24(1): 60-66. Available: <https://link.springer.com/article/10.1134/S1075700713010103>
- Sambursky, A. M. and Khodorovsky, M. Y. (2006). Analysis of modern concepts of cost management of industrial enterprise. *Economics of the Region*, 2(2): 96-107. Available: <http://www.economyofregion.com/archive/2006/17/471/>
- Semushin, A. V. and Parshakov, P. A. (2012). The effect of frequency data to assess performance of asset managers. *Applied Econometrics*, (1): 95-114.
- Volkova, O. N. (2018). Demarcation of the boundaries of economic discipline: A meaningful approach. *Economic Issues*, (2): 95-121.