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The policy of “Deoffshorisation”:

What to expect and
how to respond



Planned changes to legislation

Rules on controlled foreign corporations (CFC rules)

- CFC rules apply if a Russian legal entity or individual owns a significant share in the capital of a company that is a tax resident of a tax haven jurisdiction (e.g. the BVI, the Cayman Islands, Bermuda, etc.). The Russian shareholder will be obliged to include the undistributed profit of the tax haven company into its profits or personal income tax base.

- Criteria are planned that would clarify the procedure for determining tax residency in Russia as regards legal entities (e.g. based on the entity's country of registration, the location of place of its management, etc.). If a company is recognised as a Russian tax resident, its worldwide income will be subject to tax in Russia.

Defining tax residency for legal entities

Exchange of information between tax authorities

- There are plans to improve the information exchange system (including expanding the treaty network and developing more detailed guidelines for information disclosure), which would allow Russian tax authorities to obtain necessary information from the tax authorities of foreign countries more quickly, helping them to reveal cases of tax evasion more efficiently.

- We expect that income arising for a foreign entity from the sale of shares in a company that directly or indirectly (through one or more entities) owns real estate in Russia, may be taxed at the source in Russia at the 20% rate in accordance with domestic legislation.

Taxation of income from indirect sale of shares in real estate rich companies

*According to the action plan developed by the Russian Government

Planned changes to legislation

Defining a beneficial owner of income

- There are plans to introduce a single definition of the term “beneficial owner of income” for the purposes of international tax treaties in respect of dividends/ Interest/ royalties paid to non-residents. Unless the recipient of income is recognised as its beneficial owner, reduced withholding tax rates may not be applied in Russia.



Recognizing all transactions with tax haven companies as controlled for transfer pricing purposes

- The threshold for transactions with tax haven companies being subject to control for transfer pricing purposes is likely to be removed entirely (currently RUB 60 mln), i.e. a taxpayer shall be obliged to notify the tax authorities and prepare transfer pricing documentation in respect of all transactions with such companies.

Increasing the transparency of legal entities and other establishments, disclosure of information

It is possible that new rules will be introduced, according to which:

- Russian companies will have to disclose their beneficiaries (possibly in their financial statements). A unified register of beneficiaries of Russian companies may be introduced, with access provided to the tax authorities
- Banks and financial institutions will be required to disclose information about their clients' beneficiaries upon request from the tax authorities
- Tax authorities will gain access to audit secrets, i.e. the information obtained during a statutory audit of the company by independent auditors.



Anti-money laundering measures

- There are plans to introduce effective measures (possibly imposing criminal liability) to confront tax evasion and money laundering schemes.

Other changes to national legislation and law enforcement practice

Legislative basis for cooperation between auditors and supervisory authorities

Amendments to the property tax collection procedure (including from foreign companies)

Development of the procedure for foreign companies to register with the Russian tax authorities

Restrictions on the participation of offshore companies in state programmes, including receipt of government funding





Prevention of abuse of Double Tax Treaties

Analysis of the implementation of transfer pricing rules and their possible amendment in regard of transactions with offshore companies

Other trends



Other initiatives that correspond to international trends and are aimed at eliminating the loopholes of national tax legislation and international acts

Initiative	OECD	Russia
 Deductibility of interest expenses	<ul style="list-style-type: none"> Restrictions on the deductibility of interest and other financial payments made for the purposes of tax base erosion Drafting transfer pricing guidelines in respect of financial transactions between related parties 	<ul style="list-style-type: none"> Developing court practice regarding the application of “thin capitalisation” rules in relation to borrowings from “sister” companies (starting from 2011) Broadening the transfer pricing rules to loan transactions (2012)
 Digital goods and services	<ul style="list-style-type: none"> Taxation of extensive “digital presence” More effective way of collecting indirect taxes 	<ul style="list-style-type: none"> Strengthening customs clearance rules for individuals (2014) Lowering the price threshold for parcels imported to Russia for individuals (2014) Possible restrictions on online transactions in the future
 Automatic information exchange	<ul style="list-style-type: none"> Development of a multilateral agreement specifying the automatic exchange of tax-related information Alignment with FATCA standards 	<ul style="list-style-type: none"> Following the G20 initiatives (2013) Planned start of information exchange within G20 by the end of 2015 Prospective formal acceptance of FATCA
 Mutual agreement procedure	<ul style="list-style-type: none"> Development of more effective ways to resolve tax issues associated with the application of international tax treaties 	<ul style="list-style-type: none"> Authorising the RF Ministry of Finance to perform mutual agreement procedures stipulated by Double Tax Treaties (2012)

Potential risks and recommendations for their mitigation



A company within the Group is registered in one of the blacklisted offshore jurisdictions, or you as an individual own such a company

Evaluate the consequences for the Group/ individual and start developing an action plan, taking into account the facts and circumstances and prospective legislation. Consider removing this company from the Group.



A foreign company within the Group is registered in one of the conventional jurisdictions (Luxembourg, Cyprus, Switzerland), or you as an individual own such a company

Pay attention to any legislative initiatives associated with possible changes in the attitudes of the Russian fiscal authorities towards these jurisdictions.



A foreign company within the Group is actually managed from Russia/ performs no business activity in the country of its registration

Consider how to substantiate the required level of substance in the foreign jurisdiction and avoid making corporate decisions from Russia.



You are also considered to be at risk if:

- The main purpose or one of the main purposes of a foreign company included within the Group is to obtain tax benefits (lack of business or economic purpose)
- A foreign company's rights to dispose of income (specifically, "passive" one) and perform transactions are limited, and its revenues and expenses do not correspond to the level of its functions, risks and assets, the quantity of employees and their qualifications
- A company within your Group performs transactions with companies registered in offshore jurisdictions (regardless of transaction amount)
- A foreign company within the Group intends to sell shares in a company whose assets (including indirect assets) are more than 50% composed of real estate located in Russia.



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