



ProsperoScope

Prospects, comments, solutions

Introduction

The Federal Portal of Draft Regulatory Acts has published the Draft Order of the Federal Tax Authorities No MMB-7-17/ "On Approving the List of States and Territories Not Exchanging Tax Information with Russia" (hereinafter – Draft Order).

The Draft Order was undergoing public discussions until 6 November. There is no further progress as of today. It is scheduled to be enacted from 1 January 2016.

The current **list (hereafter – the List)** includes 119 states (including Austria, Malta, United Kingdom and Switzerland) and 18 territories (including the British Virgin Islands, Guernsey and Jersey islands).

The List will be enacted via paragraph 7 Art. 25.13-1 of the Russian Tax Code. According to this paragraph, profits of a controlled foreign company (hereinafter – CFC) will be exempt from taxation in accordance with the Russian Tax Code if the CFC is a tax resident in a state (territory) that is not on the List and with which Russia has a double taxation treaty in effect and if one of the following conditions is satisfied:

- the effective profit (income) tax rate of the CFC is at least 75% of the weighted average profit tax rate in Russia;
- the CFC is a licensed bank or an insurance company;
- the CFC is:
 - an issuer of traded bonds;
 - an organization entitled to receive interest income available for distribution under traded bonds;
 - an organization that has assumed the rights and obligations for traded bonds issued by another foreign organization.

If the CFC is a tax resident in a state (territory) included on the List, the profits of the CFC cannot be exempt from taxation in Russia based on the above conditions.

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Nevertheless, other exemption conditions (e.g. for active companies) still remain in force.

Although the Draft Order does not directly refer to it, the List may also be applied for the purposes of fulfilling Federal Law No 140-FZ of 8 June 2015 "On Voluntary Disclosures of Assets and Banking Accounts (Deposits) by Individuals and on Amendments to Certain Legislative Acts of the Russian Federation" (hereinafter – the Law). According to Art. 6 of the Law, to obtain the guarantees granted under the voluntary disclosure, the individuals are required to repatriate movable assets to Russia from states and territories in relation to which at least one of the following criteria applies:

- they are on the FATF list;
- they do not exchange tax information with Russia.

The movable assets disclosed by a declarant under the voluntary disclosure procedure located in a listed state (territory) are to be returned to Russia if the guarantees are to apply. Securities and vehicles located in the listed states (territories) fall into this group. You can find the list of guarantees granted under the voluntary declaration in our [LT in Focus](#) edition of 1 July 2015.

The Draft Order of the Federal Tax Authorities stipulates that the List may be updated on an annual basis.

Attached please find the List of states and territories published on the Federal Portal of Draft Laws and Regulations. We will keep you updated on further developments regarding this project.

Contacts

We hope you find this information useful and interesting. If you have any questions, please feel free to ask.

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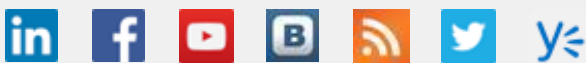


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