



ProsperoScope Prospects, comments, solutions

Introduction

From 1 January 2015 all individuals considered to be residents of the Russian Federation in accordance with the Russian currency control legislation (“currency control residents”) will be obliged to provide the tax authorities with statements of the movement of funds on their accounts (deposits) opened with banks located outside the territory of the Russian Federation (“foreign bank accounts”). However, when the Federal Law imposing this obligation was issued, neither the procedure for reporting, nor liability for failure to do so correctly was established, which resulted in lengthy discussion in the media and across social networks.

In late August/early September 2014 the RF Ministry of Finance published notifications on its official website with regard to the consideration of draft regulations in relation to the procedure for reporting on the movement of funds on foreign bank accounts/deposits and the introduction of administrative liability for failure to report this information correctly.

In this issue of ProsperoScope we provide an update on this topic.

18 September 2014

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Reporting procedure

First of all, we would like to remind you that the category of currency control residents includes individual Russian citizens and foreign citizens/stateless individuals with residency permits in the Russian Federation. An individual may be considered a non-resident for currency control purposes only if he/she permanently resides in a foreign country for at least one year. More information on the approach suggested by the Federal Service for Financial Monitoring with regard to determining an individual's status for currency control purposes may be found on its official portal at: http://www.rosfinnadzor.ru/work/valutnii_control/vopros_otvet/3971422/ (in Russian only).

The content of the draft regulation in respect of the procedure for reporting on the movement of funds on individuals' foreign bank accounts/deposits has yet to be officially published. However, according to publicly available information and, in particular, information indicated in the issued notifications, we assume that the reporting period will be one calendar year and that the reporting should be submitted to the tax authorities in the year following the reporting period, in which case the first reporting on the movement of funds on individuals' foreign bank accounts/deposits for 2015 would need to be submitted in 2016. Currently, the form of such a report has not been established.

We expect that bank statements will also need to be enclosed with the reporting, and may need to be provided in the form of a notarised translation into Russian.

The procedure proposed by the RF Ministry of Finance for reporting on the movement of funds on individuals' foreign bank accounts/deposits is currently at the stage of public discussion, and may be significantly revised when the final version of the updated regulation is issued.

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Liability

No liability is prescribed under the current legislation for individual currency control residents who fail to report correctly on the movement of funds on foreign bank accounts/deposits. However, liability is already established with respect to company officials, individual entrepreneurs and legal entities. According to the information contained in a notification on the draft Federal Law "On amendments to Article 15.25 of the RF Code of Administrative Offenses" published by the RF Ministry of Finance, individuals are expected to be subject to the same liability as company officials and individual entrepreneurs.

Therefore, if the draft of the Federal Law proposed by the RF Ministry of Finance is passed in its original form, the following provisions of Article 15.25 of the RF Code of Administrative Offenses, currently applicable to company officials and individual entrepreneurs, will also apply to individual

currency control residents:

Nature of violation	Liability
Failure to comply with the procedures for submitting accounting and reporting on currency transactions, reporting on the movement of funds on foreign bank accounts/deposits together with supporting banking documentation; violation of the established procedure for submitting supporting documentation and information related to currency transactions; violation of the established procedure for completing transaction passports; violation of the deadlines set for maintaining accounting and reporting documentation on currency transactions, supporting documentation and information related to currency transactions or transaction passports	Administrative fine in the amount of RUB 4,000 – 5,000
Failure to comply with the deadlines imposed for the submission of accounting and reporting on currency transactions, supporting documentation and information related to currency transactions, or for the submission of reporting on the movement of funds on foreign bank accounts/deposits together with supporting banking documentation	Determined by the duration of the delay as follows: <ul style="list-style-type: none"><li data-bbox="986 927 1369 1025">• up to 10 days – warning or administrative fine in the amount of RUB 500 – 1,000<li data-bbox="986 1070 1382 1133">• 11 – 30 days – administrative fine in the amount of RUB 2,000 – 3,000<li data-bbox="986 1178 1385 1240">• over 30 days – administrative fine in the amount of RUB 4,000 – 5,000.

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Contacts

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



Svetlana Meyer

Partner, Private Client Services

Tel. +7 (495) 787 06 00

 [Send e-mail](#)



Raisa Alexakhina

Partner, Legal Services

Тел.: +7 (495) 787 06 00

 [Send e-mail](#)



Vladimir

Krasnyuanchuk

Manager, Private Client
Services

Tel.: +7 (495) 787 06 00



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5 Lesnaya Street
Moscow, 125047, Russia

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