

# Legislative Tracking



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**31 August 2016**

**ConsultantPlus**

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=QUEST;n=160096>

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=QUEST;n=160085>

### **Clarifications on period of recognition of CFC profits on account of controlling party**

According to the letter of 19 August 2016, a Russian tax resident is recognised as a controlling party on the date on which it receives income in the form of CFC profits.

The date of receipt of CFC profits is recognised as 31 December of the calendar year following the tax period in which the annual reporting period established under the regulations applicable to the company ends. If the applicable regulations do not oblige the company to prepare and file financial reporting, the date of receipt is recognised as 31 December of the calendar year following the tax period in which the calendar year for which its profits are calculated ends.

Taking into account the transitional provisions of item 1, Article 3 of Federal Law No. [376-FZ](#) of 24 November 2014, the profits for the financial period beginning in 2015 are accounted for by the controlling party if the stake of the controlling party (a Russian tax resident) in the foreign company (foreign entity without legal personality) exceeds 50 percent as at the date of the first receipt of CFC profits, i.e. as at 31 December 2016.

Additionally, in the letter of 17 August 2016, the Ministry states that if on 31 December of the current tax period a taxpayer is a controlling party of a CFC and its participation in the CFC began in said tax period, then the CFC profits according to the financial reporting for the financial year that ended in the preceding tax period are accounted for in the tax base for the current tax period on the date of the receipt of the CFC profits.

Thus, if participation in a CFC began in 2016, then on 31 December 2016, the controlling party accounts for the CFC profits from the financial year ending in 2015.

Russian Ministry of Finance Letter No. 03-01-23/48759 of 19 August 2016

Russian Ministry of Finance Letter No. 03-01-23/48417 of 17 August 2016

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=QUEST;n=160084>

### **Clarifications on application of conditions for tax-exempt liquidation of foreign legal entity**

This letter clarifies the personal income tax exemption for income in the form of the value of property obtained as a result of the liquidation of a foreign organisation (foreign entity without legal personality).

In cases when the regulations applicable to the foreign organisation establish a minimum period of ownership of the shares (stakes, equity units) in this organisation and/or its subsidiaries and/or foreign entities without legal personality for the taxpayer, noncompliance with which obliges the taxpayer to pay the corresponding amount of foreign tax, and this period began before 1 January 2015 and ends after 1 January 2018, the condition that the liquidation of the foreign organisation (foreign entity without legal personality) be completed by 1 January 2018 as envisaged under item 60, Article 217 of the Russian Tax Code is considered met if the liquidation of the foreign organisation is completed within 365 consecutive calendar days from the end of the minimum period of ownership.

Russian Ministry of Finance Letter No. 03-04-05/47871 of 16 August 2016

**1 September 2016**

**Vedomosti**

<http://www.vedomosti.ru/economics/articles/2016/09/01/655259-nevozvrat-inostrantsem-dolga>

### **Russian Ministry of Finance initiatives on introduction of criminal liability for failure to repatriate credit**

The Russian Ministry of Finance is developing a draft law that proposes the introduction of criminal liability for failure to repatriate funds transferred as credit to non-residents of Russia.

The text of the draft law has not yet been officially published.

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