

Legislative Tracking



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17 March 2016

E-justice: catalogue of commercial cases

<http://kad.arbitr.ru/Card/a9357272-6987-4f94-94b3-10952c929443>

Russian Supreme Court confirmed that income tax does not have to be withheld when paying interest on controlled debt to Russian organisations affiliated with foreign parent companies

The Russian Supreme Court has ruled **in favour of the taxpayer** in the case of OOO Novaya Tabachnaya Kompaniya, regarding the withholding of income tax at the source upon the payment of interest on controlled debt to the address of a Russian organisation affiliated with a foreign parent company when said interest is reclassified into dividends in accordance with the thin capitalisation rules.

The reasons for the Supreme Court's decision have not yet been published. However, the ruling of the Judicial Panel of the Russian Supreme Court that sent the case to court indicated that item 4, Article 269 of the Russian Tax Code is applied to prevent foreign organisations from avoiding taxation in Russia **when dividends are paid under the guise of interest payments and tax is thus not withheld at the source** on the basis of regulations on interest payments in a double tax treaty.

Please note the following court practice, which has been established in regard to withholding income tax at the source in the case of controlled debt towards Russian entities: Federal Commercial Court of the West-Siberian District [Resolution](#) of 7 May 2014 on case No. A81-2782/2013 in favour of the tax authority; Eleventh Commercial Appeals Court [Resolution](#) of 8 September 2015 on case No. A55-10796/2014; Commercial Court of the North-Western District [Resolution](#) of 18 November 2014 on case No. A56-50567/2013 in favour of the taxpayer. The tax authorities have generally indicated in their clarifications that in this situation, income tax should not be withheld at the source (see Russian Ministry of Finance letters No. [03-08-05/43013](#) of 28 August 2014; No. [03-08-05/52149](#) of 16 October 2014; and No. [03-08-05/29163](#) of 18 June 2014).

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Official website of the Russian State Duma

[http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/120121F88651563143257F790048F39B/\\$FILE/1020371-6.PDF?OpenElement](http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/120121F88651563143257F790048F39B/$FILE/1020371-6.PDF?OpenElement)

Draft law banning offshore companies from obtaining state and municipal property introduced to the Russian State Duma

Draft law No. 1020371-6 “On the Introduction of Amendments to Article 5 of the Federal Law ‘On the Privatisation of State and Municipal Property’, and Article 2 of the Federal Law ‘On the Procedure for Foreign Investments in Companies with Strategic Significance for the Defence of the Country and Security of the State’” has been introduced to the Russian State Duma for consideration. The draft law proposes the following amendments:

- The extension of the list of entities that are not permitted to buy state or municipal property due to the presence of offshore companies in their structures, including Russian legal entities controlled directly or indirectly by an offshore company or by a group of entities that includes an offshore company;
- A ban on offshore companies and Russian legal entities controlled directly or indirectly by an offshore company carrying out transactions or other actions leading to control over companies with a strategic significance for state security;
- A ban on such companies carrying out transactions aimed at acquisition, occupancy or use of property that is part of a strategic organisation’s fixed production assets, and which is worth more than 25% of the net asset value of the balance value of assets.

The draft law is aimed at implementing the deoffshorisation policy and stimulating the return of capital that has been taken out of the country.

If adopted, the law will enter into force on the day of its official publication.

17 March 2016

Federal portal for draft regulations

<http://regulation.gov.ru/projects#npa=47096>

Initiative for establishment of a Russian development fund for information technology proposed

The Russian Ministry of Communications and Mass Media is preparing a draft Russian Government Resolution that would establish a development fund for information technology.” The main goal of the development fund is to facilitate the import substitution of high-tech products, including software, hardware and communications equipment, as well as facilitating the advancement of products, intellectual rights, work and services of Russian IT companies. The fund will support scientific, technical and innovation programmes and projects on a competitive basis.

18 March 2016

Kommersant

<http://www.kommersant.ru/doc/2940038>

Possible introduction of an infrastructure levy

An infrastructure levy has been proposed to finance the development of the Moscow airport hub. The proposed levy would assess airlines on each passenger and each ton of maximum take-off weight. The levy will be indexed to the rate of inflation annually, and its size will depend on the airports' requirements regarding airfield infrastructure and passenger traffic.

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