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The main amendments have been introduced to Article 269 of the RF Tax Code. In particular, with respect to debt obligations in foreign currency originating from before 1 October 2014, to calculate the maximum amount of interest expenses deductible for corporate income tax purposes during the period from 1 July 2014 – 31 December 2015, the amount of equity and controlled debt is to be determined without FX differences from after 1st July 2014.

Changes to Art. 251 and 270 of the RF Tax Code:

- Income of the Deposit Insurance Agency (hereinafter - "DIA") related to maintaining the stability of the banking system is exempt from taxation, provided this income is transferred to the federal budget in full.
- At the same time, the amounts of income transferred to the federal budget are deductible as expenses for corporate income tax purposes by the DIA.

Changes to Art. 269 of the Tax Code:

- The provision stipulating the application of the set limits of interest rates solely to debt obligations on controlled transactions with the participation of banks has been eliminated. According to the amendments, the set interest rates limits should be applied to all controlled transactions for the

purpose of determining the income and expenses of all parties involved. At that, income and expenses are to be recognized based on the actual rate if it exceeds the set minimum (for income) and if the actual rate is less than the set maximum (for expenses). Otherwise, income (expense) is recognized as interest calculated based on the actual rate taking into account the transfer pricing rules set out in Chapter V.I of the RF Tax Code).

- Special limit intervals have been introduced for debt obligations in RUB stemming from controlled transactions between Russian tax residents (Item 2, Article 105.14 of the Tax Code): from 0% to 180% of the Central Bank's key rate (for the period 1 Jan 2015 – 31 Dec 2015) and from 75% to 125% of the Central Bank's key rate starting from 1 Jan 2016 (17% during 1 Jan – 1 Feb 2015, 15% as of 2 Feb 2015). Thus, based on the current key rate, the set limit interval is from 0% to 27%.
- For other debt obligations in RUB the intervals are set from 75% of the Central Bank's refinancing rate (8.25%) to 180% of the Central Bank's key rate (1 Jan 2015 – 31 Dec 2015), and from 75% to 125% of the Central Bank's key rate (as of 1 Jan 2016). Thus, based on the current key rate, the interval on such obligations is from 6.19% to 27%.

- If the interest rate in the debt obligation is fixed, the Central Bank's key rate valid for the borrowing date should be applied. If a floating rate is utilized, the Central Bank's key rate valid for the date of recognition of interest as income (expense) is to be applied.
- Until the end of 2015, for the purposes of determining the maximum amount of interest on controlled debt in foreign currencies from before 1 Oct deductible for corporate income tax purposes during the period from 1 Jul 2014 to 31 Dec 2015, the amount of controlled debt is determined based on the lower of the two Central Bank's exchange rates: the exchange rate at the end of the reporting period OR the exchange rate valid for 1 Jul 2014 (1 USD = 33.84 RUB; 1 EUR = 46.18 RUB).
- The value of the borrower's owned capital should be determined regardless of positive or negative FX differences caused by the fluctuations of the Central Bank's exchange rate from 1 Jul 2014 till the end of the reporting period.
- The maximum amount of interest expenses deductible for corporate income tax purposes for the period 1 Dec – 31 Dec 2014 provided there are no debt obligations to Russian entities issued in the same quarter on comparable terms or at the tax payer's choice of deductible interest expenses for RUB loans, is deemed to be equal to the interest rate set out in the respective agreement but not exceed the Central Bank's refinancing rate multiplied by 3.5.

The provisions of this draft law apply to relations from after 1st Jan 2015.

It is worth noting that the draft law does not introduce the expected changes to thin capitalization rules adding loans from foreign sister companies to the list of controlled debts.

Contacts

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