

PRESS RELEASE

RUSSIA: Deoffshorization

On January 1, 2015, a law comes into force amending the Tax Code of the Russian Federation regarding the taxation of profits of controlled foreign companies and the income of foreign organizations.

“Controlled foreign company” and “Controlling entity”

A Federal Law of the Russian Federation of November 24, 2014, No 376-FZ introduced the concepts of “controlled foreign company” and “controlling entity” to the tax code. According to the law a controlled foreign company is a foreign organization that is not a resident of the Russian Federation and which is controlled by organizations or individuals who are residents of the Russian Federation. The controlling entity is a legal entity or individual holding a share of direct or indirect participation in the organization as follows:
in 2015 – more than 50%, in 2016 – 25%.

For Russian residents who jointly possess more than 50% of the controlled foreign company, an individual threshold is 10%. The law also specifies specific cases when a foreign entity is not recognized as a controlled entity, for example public companies, non-profit companies, entities established under the laws of a member of the Eurasian Economic Union. Another exception is a company that is permanently located in a state which has an international agreement on taxation and ensures exchange of information with the Russian Federation for tax purposes and for which the effective rate of taxation on income is not less than 75% of the weighted average tax rate for income tax. However, taxpayers with an interest in such organizations must submit documents to tax authorities to prove compliance with these conditions.

Notification

Taxpayers are required to provide to tax authorities a notice of interest in foreign organizations and a notice of controlled foreign companies. A notice of interest in foreign organizations must be provided not later than one month after the date of occurrence (percentage changes). A notice of interest in foreign organizations, for which grounds for providing arose prior to the entry into force of the Law No 376-FZ, must be provided not later than April 1, 2015. Notice of controlled foreign companies must be provided not later than March 20 of the year following the tax period in which the share of profits must be accounted for by the controlling entity.

Profit of controlled companies

Profits of a controlled foreign company must be taken into account in determining a tax base for organizations and individuals recognized as controlling entities. A share and the period of such interest should be taken into consideration as well. Together with tax returns for taxes on profits of a controlled entity, the taxpayers will need to submit the financial statements of the controlled company and the auditor’s report if an audit of such financial statements is required.

Profits of the controlled foreign company must be taken into account when calculating the taxable base of the controlling entity, but only if the profits exceed the approved minimum amounts:

- In 2015, 50 million rubles
- In 2016, 30 million rubles
- After 2017, 10 million rubles

Penalties

The law introduces a tax liability for controlling entities for noncompliance with new requirements. For failure to submit documents concerning the controlled company, the controlling entity will be charged a penalty in the amount of 100,000 rubles. For failure to submit a notice of interest in foreign organizations or for submission of false information, the controlling entity will be charged a penalty amounting to 50,000 rubles for each company. For failure to submit a notice of controlled foreign companies or for submission of false information the controlling entities will be charged 100,000 rubles for each company. A penalty amounting to 20% but not less than 100,000 rubles will be charged on taxes remaining fully or partially unpaid. This penalty will be applied for the tax years after 2018, but for the years 2015-2017 taxpayers can be held criminally liable if the tax not paid is not rendered in full.

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The name Ecovis, a combination of the terms economy and vision, express both its international character and its focus on the future and growth.

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