Korpus Prava

#1 / Winter, 2019

Analytics

Tax & Law Journal for Top Executives

Amendments in Legislation Enforced in 2019

Co-publisher

МГЮА

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Московская государственная юридическая академия
МГЮА

Dear readers,

We are happy to welcome you in the pages of our seasonal in-house journal "Korpus Prava.Analytics". Traditionally, the winter issue highlights interesting topics and major changes in legislation, which are relevant in the new year.

Every year the tax authorities introduce new tools and control measures, striving for transparency and meaningfulness. One of such tools is the international automatic exchange of financial information with the competent authorities of foreign countries (CRS-exchange). The senior lawyer Anna Senchenko in her article explains in detail the way it works.

In 2018, it became clear that the "digital era" had begun in the economy. So, in the

process of preparing for any transaction, you can find out information about the activities of the counterparty, using one of the information databases. What kind of information can be obtained through such databases, as well as other nuances, is revealed in the pages of our new issue.

Great attention was paid to the issue of counterparty verification in Hong Kong, since in 2018 Hong Kong companies providing corporate services became licensed, which implies compliance with the relevant legislation in force. What are the main functions of he Compliance Department, and what is included in the integrated assessment of clients — these and many other questions are highlighted in the article of our compliance-officer Irina Otrokhova.

In addition, in the pages of the magazine you will find interesting information about the amendments to the Inheritance Fund through the example of Alfred Nobel's testament, and also learn about current changes in legislation in 2019.

We hope that the materials we have prepared will be useful for you. Our experts are always happy to reply to your questions, comments and offers.

Enjoy reading!

Artem Paleev
Managing Partner
Korpus Prava


a hot stove

p. 15 The Main Rule of Reality Is Not To Get Lost in Your Illusions

p. 32 Major Changes in the Tax Legislation Effective from 2019

p. 50 On Certain Development Trends of the Case Law in Russia

p. 70 Efforts By Lawmakers

p. 87 Big Brother Chronicles: Peculiarities of Doing Business in the “Digital Age” of Taxation

p. 104 Inheritance Fund: Innovation in the Civil Law

p. 120 Compliance in Hong Kong. No Way Back

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THE MAIN RULE OF REALITY IS NOT TO GET LOST IN YOUR ILLUSIONS

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As the world is getting smaller, the approach to tax planning tends to become less formal, but more substantial and transparent. Tax authorities now have more techniques to collect information about their taxpayers from different sources, therefore, preferential tax treatments allowing to take income out to tax-free jurisdictions gradually become history.

At the same time, international tax law regulations are based on activities performed by international organizations. In particular, the OECD activities give an opportunity to define international standards and regulation methods in the taxation field. Such standards and methods based on the accumulated experience are reproduced by the national state regulation.

BEPS[1] Actions Plan as an important instrument of tax control

In 2013, the OECD developed BEPS Actions Plan, a plan against the tax base erosion and profit shifting.

The plan covers 15 interlinked focus areas. The main goal is to solve the problem of double non-taxation or incomplete taxation.

Objectives of the plan include risk control, increased transparency of operations, strengthening of tax sovereignty. BEPS steps are mandatory for the OECD member countries; the plan is recommended for implementation by outside observers (key partners and candidates).

1. Base Erosion Profit Shifting.

Although Russia is not a member of the OECD, it is still guided by the OECD tax policy recommendations, as evidenced by the following innovations:

- Provisions regulating transfer pricing;
- Provisions on controlling foreign companies;
- Provisions on the actual income recipient;
- Joining the OECD Convention on Mutual Administrative Assistance in Tax Matters.

One of the techniques tax authorities have to collect information about their tax residents around the world is the international automatic exchange of financial information with competent authorities of foreign states (territories)

(hereinafter — international exchange of information). As part of the international exchange (hereinafter — CRS-exchange), the process of collecting and reporting information is arranged as follows: financial institutions of all member countries collect certain information about their clients (individuals and legal entities), then submit the information to tax authorities of their country, and further, tax authorities exchange the data.

The exchange of information for the implementation of BEPS Actions Plan is based on the Unified standard for automatic exchange of financial information — Common Reporting standard (CRS) aimed at the identification of taxpayers' foreign accounts (including their owners and account status).

In November, the OECD prepared a report on the exchange for 2018. In 2018, 86 jurisdictions exchanged information bilaterally for about 4,500 times. Each exchange contained detailed information about financial accounts under the submitting jurisdiction and owned by tax residents of the receiving jurisdiction.

11 jurisdictions exchange unilaterally (jurisdictions that only provide information):

- Anguilla;
- Bahamas;
- Bahrain;
- Bermuda;
- British Virgin Islands;
- Cayman Islands;

- Marshall Islands;
- Nauru;
- Qatar;
- Turks and Caicos Islands;
- United Arab Emirates.

As of 2018, the record number of exchanges (64 exchange partner jurisdictions) was performed by Denmark, Finland, Ireland, Luxembourg, Poland, Portugal, Spain.

The Russian Federation, the Marshall Islands, Montserrat, Saint Vincent and the Grenadines have not yet participated in the exchange for technical reasons, and at the moment these reasons are being addressed.

At the same time, in December 2018, the List of states (territories) with which the Russian Federation carries out auto-

matic exchange of financial information was extended to include:

- Antigua and Barbuda;
- Hong Kong;
- Azerbaijan;
- Aruba;
- Macao;
- Bahamas;
- Bahrain;
- Vanuatu;
- Grenada;
- Qatar;
- Kuwait;
- Marshall Islands;
- Monaco;

- United Arab Emirates;
- Saint Kitts and Nevis[2].

Antigua and Barbuda, Brunei, Dominica, Israel, Niue, Qatar, Saint Martin, Trinidad and Tobago, Turkey and Vanuatu do not participate in the exchange due to the lack of a legal framework, which they nevertheless plan to implement in the near future.

The international exchange of information provides for:

- Requiring by the financial market organization from its clients the information about such clients, beneficiaries and (or) persons directly or indirectly controlling them;

2. Order of the Federal Tax Service of Russia No. MMV-7-17/784@ dated 04.12.2018 "On the approval of the List of states (territories) with which the automatic exchange of financial information is performed".

- Processing of such information, including document recording, and analysis of the adoption, including document recording, of reasonable and available measures under the circumstances to identify the tax residency of clients, beneficiaries and persons directly or indirectly controlling them;
- Verification of the accuracy and completeness of the information provided by the client, as well as its composition, conditions, procedure and terms of submission of this information to the federal executive body authorized to control and supervise taxes and duties.

The amount of information collected through the international exchange allows tax authorities to monitor:

- Tax residency of individuals;
- Controlled foreign companies owned by their tax residents;
- Actual income recipients and, therefore, valid application of preferential provisions of the double taxation treaty.

Control over the residence of individuals

When opening a bank account, a financial institution collects information and documents allowing to determine the tax residency of an individual as part of the procedures aimed at the admission and further monitoring of the client.

As a general rule, person's acquisition of the country's tax resident status depends on a number of factors, in particular:

- The number of days of stay in such country;
- Real estate held in the country;
- Actual locations of the management;
- Incorporation or registration locations for legal entities;
- Any other similar criterion.

Due to the variety of methods and criteria for determining the status, each member country of the exchange has developed its own rules for determining the tax residency[3].

The OECD clarified procedures for the admission and further monitoring of clients that received tax residency/citizenship by investment schemes[4].

3. http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency
4. http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/residence-citizenship-by-investment/

While residency/citizenship by investment schemes allow individuals to obtain citizenship or residence rights through local investments for perfectly legitimate reasons, they may also be potentially misused in order to hide their assets offshore by escaping reporting, including under the international exchange of information. In particular, identity cards and other documents obtained through such schemes may potentially be misused to misrepresent taxpayer's jurisdiction(s) of tax residency.

Potentially high-risk schemes are those that give access to a low personal income tax rate on offshore financial assets and do not require an individual to spend a significant amount of time to live under the jurisdiction of the tax residency offering such scheme.

Financial institutions are required to take the outcome of the OECD's analysis of high-risk schemes into account when performing their CRS due diligence obligations.

The OECD has analysed over 100 schemes offered by member jurisdictions of the international exchange of information, and has identified potentially high-risk ones. For example, such schemes include conditions provided for by Cyprus, Malta, UAE, Saint Kitts and Nevis.

Controlled foreign companies owned by their tax residents

Upon opening a bank account, a financial institution collects information and documents as part of the procedures

for the admission and further monitoring of clients, allowing to identify beneficiaries and persons directly or indirectly controlling them (clients), including verification of the accuracy and completeness of the information provided by clients.

Actual income recipients

The bank has information on incoming and outgoing payments on the client's account, and it allows to track transit-related operations, for example, incoming dividends, which are transferred to the actual income recipient(s) in the same amount in a short period of time. It should be noted that the status of the actual income recipient should also be monitored by the sources of payment. Moreover, recent amendments to the Tax Code of the Russian Federa-

tion clarified the frequency of checking the status of the actual income recipient. The actual right to income shall be determined for each individual dividend income payment and/or group of income payments under one agreement.

Summary

Therefore, one may claim with a degree of certainty that in the future, both at the international and national levels, tax control will be strengthened, and the transparency of international structures and business processes will increase. In order to comply with current trends in tax planning, it is necessary to move away from "artificial" tax minimization schemes and focus on real business processes and economic feasibility of activity structuring. A

MAJOR CHANGES IN THE TAX LEGISLATION EFFECTIVE FROM 2019

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At the end of 2018, several enactments were adopted to introduce significant amendments to the tax legislation of the Russian Federation.

In accordance with the explanatory note, draft laws were elaborated to achieve objectives set by the President of the Russian Federation in the Address to the Federal Assembly of the Russian Federation in order "to stimulate Russian business activities and improve business climate in the country by eliminating ambiguous interpretation of regulations provided for by the Tax Code of the Russian Federation and facilitating methods for their implementation".

This article reviews major amendments.

Legislation on controlled foreign companies (CFC)

Previously, a person was not deemed a controlling person in relation to a foreign company only in case of direct and (or) indirect participation in one or more public companies — Russian organizations. Now there is another reason, i. e. a person is not deemed a controlling person in case of direct and (or) indirect participation in one or more foreign organizations that meet the following conditions:

- Shares are listed on one or more foreign stock exchanges located in foreign member countries of OECD (except for the countries on the "black list" of the Ministry of Finance);

- The share of direct and (or) indirect participation of the controlling person in each such foreign organization does not exceed 50 percent;
- The total share of ordinary shares listed on foreign stock exchanges for all specified foreign stock exchanges exceeds 25 percent of the authorized capital formed by ordinary shares.

The concept of the actual income recipient

- The actual right to income is now determined in relation to each individual income payment in the form of dividends and (or) to a group of income payments under one agreement, rather than to the relations between the parties in general.

- Now the concept of the actual income recipient shall also apply regardless of the jurisdiction of the income recipient company (previously, the "transparent" approach was applied only to income payments to companies registered under jurisdictions covered by an international tax treaty).
- Special provisions are introduced for a Russian organization to be deemed an actual income recipient in cases when it directly participates in a foreign organization which admits having no actual right to income in the form of dividends on shares (participation interests) of this Russian organization.

Personal income tax

The procedure for the recognition of losses by participants (shareholders, members) upon liquidation of business companies has been clarified

It is established that the taxpayer's loss upon the liquidation or withdrawal from the organization is determined as the negative difference between the income in the form of the cost of the received property and the actual paid cost of the share.

Moreover, now income in the form of the excess amount of money received by the participant (shareholder) of the Russian organization upon the distribution of property during liquidation or withdrawal from the organization. However, the Tax Code of the Russian Federation currently uses the term "organization" (previously, a different term was used — "company"), which allows to conclude that it is possible to apply property deductions upon liquidation, including foreign organizations.

Tax benefits upon the sale of participation interests (shares)

The restriction in accordance whereto the income from the sale of shares (participation interests) owned by the

taxpayer for more than 5 years and acquired after 01.01.2011 was not subject to taxation, has been abolished. Now the date of acquisition of shares (participation interests) is not essential for applying the specified benefit.

Exemption of non-resident income from the sale of Russian real estate

Previously, the benefit providing exemption from taxation of the income from the sale of real estate (with more than 5-year period of ownership) applied only to individual tax residents of the Russian Federation. Now the said benefit also applies to non-residents. However, non-residents still have no right to apply property tax deductions upon the sale of Russian real estate owned for less than 5 years.

Specification of provisions on taxation of income from operations with property rights

Prior to amendments to the Tax Code of the Russian Federation, there was no certainty regarding accounting of expenses over operations with property rights upon the calculation and payment of personal income tax. The revised Tax Code of the Russian Federation sets out that received property rights upon the liquidation of the organization or withdrawal from it, as well as receivables presented for payment and received on a non-repayable basis or partially paid, shall be recognized for the taxpayer as income in kind.

Single tax payment

Since January 1, 2019, a single tax payment for individuals is introduced. Now individual taxpayers may fulfill their payment obligations regarding the transport tax, land tax, individual property tax by a single payment. A single payment may be made on behalf of the taxpayer by a third party.

Income tax

The list of income that may be omitted when calculating the income tax base has been expanded. Now this list is supplemented by the following types of income:

- Income in the form of cash received by the organization from the subsidiary or partnership (where the recipient organization is a participant)

within the amount of the previous monetary contribution to the assets of the subsidiary (partnership);

- Income in the form of results of works on transfer, reconstruction of fixed assets owned by the taxpayer, performed by third parties in connection with the creation of another capital construction project under the state ownership and financed from the budget of the Russian Federation.

In addition, the list of expenses that an organization is entitled to accept in order to reduce the income tax base has been expanded. Such expenses now also include recreational expenses of employees and their families in the territory of the Russian Federation.

VAT

In addition to the increase of VAT rate from 18% to 20% from 01.01.2019, other changes were also introduced.

Foreign organizations providing e-services are now obliged to calculate VAT regardless of the type of a buyer — an individual, a legal entity or an individual entrepreneur. Foreign organizations providing e-services, as well as intermediaries involved in mutual settlements with Russian buyers of e-services, are obliged to file an application for registration to the tax authority by February 15, 2019.

The list of operations exempt from VAT taxation (regular transportation of passengers and luggage, certain operations upon the conversion

of rental agreements into concession agreements, etc.) has been expanded.

Corporate property tax

Since 01.01.2019, movable property is exempt from corporate property tax.

Introduction of tax for the self-employed (professional income tax)

Since January 1, 2019, the Tax Code of the Russian Federation provides for the possibility of experiments to introduce taxes, duties, special tax treatments. Such experiments are based on federal laws and may be carried out within a limited period of time in the territory of one or more constituent entities of the Russian Federation.

The professional income tax has resulted from one of such experiments, which shall be carried out from 01.01.2019 to 31.12.2019 in Moscow, Moscow and Kaluga Regions, as well as in the Republic of Tatarstan.

Such special tax treatment may be applied by individuals (including individual entrepreneurs) who receive their income from activities where they have no employer and engage no employees.

At the same time, there are some restrictions for the application of such treatment, including but not limited to the sale of excisable goods and goods subject to mandatory labeling; extraction and (or) sale of minerals; receipt of income exceeding 2.4 million rubles in the current calendar year. Tax registration and tax payment may be performed using the free mobile application “My Tax”. The tax period for

such treatment is a calendar month, the tax rate of 4% (if in favor of individuals) and 6% (if in favor of individual entrepreneurs and legal entities). No filing of tax returns is required for this special treatment.

Tax inspectors will be able to request information from auditors

Since January 1, 2019, tax authorities have the right to request information and documents from auditors. In this case, such information may be requested from the auditor in two cases:

- If such information and documents were not provided by the client of the audit organization at the request of the tax authority as part of the on-site audit or as part of the audit of related party transactions;

- Upon the request of the competent authority of a foreign state (territory) in respect of the audited person.

Conditions for auditors to fulfill the said obligation are as follows:

- Requested information is required for the calculation of taxes, duties, insurance contributions;
- Information and data are obtained by the auditor in the course of audit activities and provision of other services related to audit activities.

Transfer pricing

The amount limit of 60 million rubles is established for the income from transactions to recognize transactions with related foreign entities as controlled (previously such transactions were recog-

nized as controlled regardless of the income amount received).

In addition, the total amount criterion of income for transactions between Russian related parties has been established, and now such transactions are recognized as related when the income from such transactions exceeds 1 billion rubles (previously, in some cases, transactions were recognized as related when exceeding the income amount of 60 million rubles or 100 million rubles).

Moreover, now some transactions between Russian related parties are not recognized as controlled at all.

The said innovations shall be applied to controlled transactions with income and/or expenses recognized in order to calculate the tax base from January 1, 2019 (regardless of the agreement date).

ON CERTAIN DEVELOPMENT TRENDS OF THE CASE LAW IN RUSSIA

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It is commonly known that technically the case law in the Russian legal system is not a source of law. Nevertheless, actual development trends in the resolution of certain legal issues are stipulated by the case law. Therefore, a thorough analysis of judicial acts coming from the court is a very valuable source of knowledge for a practicing lawyer allowing to understand the current position of courts on the issues under consideration (fortunately or unfortunately, only the current one, as the case law tends to change over time).

Under such circumstances, periodical Reviews of the Case Law of the Supreme Court of the Russian Federation approved by its Presidium are of particular interest. Thus, the Presidium of the Supreme Court of the Russian Federation issued the fourth review for 2018 close to the

New Year[1]. The 157-page document covers the case law of the presidium and judicial boards of the Supreme Court, and provides explanations on issues arising in the case law.

In addition, amendments were made to the previous review of the Supreme Court. According to the Supreme Court, federal law No. 338-FZ dated August 3, 2018 "On Amendments to Certain Legislative Acts of the Russian Federation" made amendments to Article 22 of Notary Fundamentals of the Russian Federation No. 4462-I dated February 11, 1993. This article covers the most interesting aspects of the review.

The claim of the person that has created the fictitious debt of the bankrupt

1. Review of the Case Law of the Supreme Court of the Russian Federation No. 4 (2018) (approved by the Presidium of the Supreme Court of the Russian Federation on 26.12.2018).

debtor is not deemed justified and is not subject to inclusion in the register of claims by the debtor's creditors.

In accordance with the Bankruptcy Law from the date of passing the judgment by the arbitration court on declaring the debtor bankrupt and on initiating bankruptcy proceedings, the maturity date for the debtor's liabilities arisen prior to bankruptcy proceedings shall be deemed due.

Creditors' claims under liabilities (with the exception of current payments and claims stipulated by the law) may be submitted only in the course of bankruptcy proceedings.

The validity of claims shall be proved in accordance with the adversarial principle. The creditor claiming against the debtor, as well as persons that object to these claims, are obliged to prove the

circumstances they refer to as the basis of their claims or objections. Only claims with sufficient submitted evidence of the debt existence and amount may be recognized as confirmed.

The performance by the guarantor related to the debtor of the latter's debt obligations at its own expense is lawful behavior in itself and does not serve as an evidence of the corporate nature of these legal relations, as defined in the eighth paragraph of Article 2 of the Bankruptcy Law.

It was proved that the "creditor" simultaneously participated in the capitals of the debtor company and the creditor under the principal obligation. Being the beneficiary of both legal entities and the person affecting their decisions, it freely transferred assets from one person (debtor company) to another (creditor under the main obligation) for its own

purposes without taking into account the interests of controlled organizations and their creditors. Through mutual loans to controlled legal entities the person artificially increased the company's debt to the prejudice of independent creditors. The guarantee was used as an instrument allowing to take the position of a pledge creditor upon the bankruptcy of the company, and to claim a significant part of the cost of the debtor's liquid assets by essentially retaining it.

The court is unable to dismiss the tenant's objection on the reduction in accordance with the terms of the lease agreement of the charged rental by the cost of the inseparable improvements made by the tenant with the reference to a counterclaim required to be filed by the tenant. This claim may be executed in the form of an objection.

Any party to the agreement, which is not duly registered with the state registration authorities, is not entitled to refer to its non-conclusion on this basis.

If the creditor accepts cash in fulfillment of the obligation under the agreement, the corresponding obligation shall be deemed discharged, including in cases where the agreement provided for non-cash payment settlement.

In the agreement the parties agree that the sub-tenant's expenses for the improvement of the leased property and repair works shall be reimbursed by reducing the rental established for the use of the premises by the amount of actually incurred costs.

Thus, the terms of this agreement expressly indicate that the cost of certain types of works and the amount specified in the agreement shall be reimbursed to

the tenant by reducing the current rental, i. e. this deduction is expressly specified in the agreement as the procedure for rental calculation.

Under such terms of the agreement, the rental is calculated in accordance with the procedure established in the agreement, and thus, the tenant's obligation to pay the specified rental is determined.

Upon offsetting counterclaims of the same kind, obligations of the parties shall terminate on the maturity date of the obligation with the later maturity date due, including in cases where the set-off claim is made by filing a counterclaim.

The provisions of the Civil Code of the Russian Federation determine that in order to offset under a unilateral claim, counterclaims have to be of the same kind, their maturity term has to be

already due (except for the cases provided by the law, when offsetting the counter-claim of the same kind is allowed with the maturity date still undue).

Filing a set-off claim means an execution of will of the party to a unilateral transaction to terminate counter-obligations and also compliance with the law requirements for the set-off procedure. The date of such claim shall not affect the termination date of the obligation, which shall be determined by the maturity date of the obligation with the later due maturity date.

Filing a counterclaim aimed at the set-off of initial claims is actually the same execution of the party's will, issued as a statement of claim and filed in accordance with the procedural law. Changes in the registration order of such expression of will – filing a statement

of claim instead of filing a claim to the debtor/creditor – should not lead to any changes in the termination date of the obligation, since the reasons for set-off under Article 410 of the Civil Code of the Russian Federation (counterclaims of the same kind and their due maturity term) remain the same. In any other cases, the material moment of recognition of the obligation under the agreement as terminated depends on procedural features of the dispute settlement, over which this party has no influence.

There are no fundamental differences in legal consequences for the person who fulfilled the obligation under the agreement and the person whose obligation was discharged by the set-off. Therefore, charging a penalty for the claim discharged by the set-off for the period from the maturity date of the later

obligation until the filing of a set-off claim, and even more so until the court judgment enforcing the set-off, does not correlate with charging the penalty as a liability for improper performance of the obligation.

The receipt of a payment claim by the guarantor after the validity period of the bank guarantee shall not serve the reason for the guarantor's refusal to make a payment, if the said claim was sent by the beneficiary to the guarantor during the validity period of the bank guarantee and nothing otherwise is specified in the guarantee itself.

In the case under consideration, the controversy was caused by the question of whether the payment claim was filed during the validity guarantee period.

Legal regulations for bank guarantees do not prevent banks from the

participation in setting guarantee terms and including the provision on making payments upon the claim received before the expiration of the validity guarantee period.

However, the guarantee in question has no such provision, so bank's objections regarding the payment contradict the law and the content of the guarantee.

The delivery of the letter with the required documents during the validity guarantee period by the company to the organization undertaken in order to receive payments indicates compliance with the procedure provided for by Article 194 of the Civil Code of the Russian Federation and the lack of bad faith in the implementation of the right to receive payments.

Regarding the guarantee provision on the payment claim to be filed, the

court of the first instance reasonably extended the procedure prescribed thereby to include the company, and deemed the company's actions based thereupon as the proper filing of the payment claim, so that the company bears no risks in connection with the delivery of the claim.

In legal relations under the bank guarantee in accordance with Article 165.1 of the Civil Code of the Russian Federation, the delivery of the beneficiary's (company's) letter determines the due payment date for the guarantor (bank) and the liability for its delay.

The terms allowing the guarantor to refuse meeting beneficiary's claims are set in Article 376 of the Civil Code of the Russian Federation, and such regulation shall be applied when discussing the validity of a specific refusal to pay. Article 165.1 of the Civil Code of the Russian

Federation does not cover the grounds for refusal of guarantee payments.

The passport confirming a high class of energy efficiency of the commercial property does not serve as the reason for the application of the tax benefit provided for in Clause 21 of Article 381 of the Tax Code of the Russian Federation.

The tax authority decided to hold the company liable for the tax offense, which additionally charged the corporate property tax and corresponding penalties and fines. The said resolution was based on the fact of incomplete corporate property tax payment due to unlawful application of tax benefits provided for in Clause 21 of Article 381 of the Tax Code of the Russian Federation, as well as not-disclosure of information on 24 commercial property objects in the tax returns.

In accordance with Clause 21 of Article 381 of the Tax Code of the Russian Federation organizations are exempt from the property tax in respect of newly introduced objects with a high class of energy efficiency, provided such objects, in accordance with the legislation of the Russian Federation, are subject to classification by energy efficiency.

Interconnected provisions of the Federal law "On energy saving and increase of energy efficiency, and on amendments to certain legislative acts of the Russian Federation" specify that the class of energy efficiency, as a specific feature reflecting the level of energy efficiency of products, is determined in respect of goods (equipment and other movable property), as well as in respect of apartment buildings.

At the same time, the Federal law has provided no definition of energy efficiency classes in respect of the said objects and contains no references to subordinate regulatory acts, which should define the rules for assigning energy efficiency classes to non-residential real estate.

Thus, the benefit provided for in Clause 21 of Article 381 of the Tax Code of the Russian Federation serves to stimulate the use of advanced energy-efficient equipment, increase energy efficiency of residential real estate, and does not apply to commercial real estate.

In view of the above, energy efficiency passports submitted by the taxpayer in respect of real estate objects gave no grounds for using the tax benefit provided for in Clause 21 of Article 381 of the Tax Code of the Russian Federation.

Application of energy passports issued by the taxpayer itself for the purposes of taxation, in case the legislation provides no criteria for determining energy efficiency classes of non-residential buildings, structures, and constructions, indicates the provision of individual tax benefits, which is unacceptable in accordance with the Tax Code of the Russian Federation.

Late submission of the primary income tax return by the taxpayer, as well as documents verifying the right to apply 0 percent tax rate, is not in itself a reason for deprivation of the tax benefit, which was applied by the taxpayer during the expired tax period.

In accordance with Clause 1 of Article 284.1 of the Tax Code of the Russian Federation, organizations engaged in medical activities in accordance with the

legislation of the Russian Federation may apply 0 percent tax rate subject to the conditions set by this article.

As a general rule, taxpayers declare the exercise of their right to the tax benefit in tax returns (Clause 1 of Article 80 of the Tax Code of the Russian Federation), the filing thereof initiates tax control measures implemented by the tax authority in the form of an in-house tax audit.

Therefore, tax benefits are granted based on the results of a tax audit, during which all documents submitted by the taxpayer (available to the tax authority) verifying the conditions stipulated by the law for the use of the benefit, including those received after filing the tax return prior to the end of the tax audit, should be examined.

Missed deadline for filing the primary income tax return and information on meeting the conditions for the application of 0 percent tax rate is not in itself a reason for deprivation of the tax benefit, which was applied by the taxpayer during the expired tax period.

The courts established that the tax authority acted inconsistently by resolving on additional tax charges and application of tax liability measures to the company following the results of the in-house audit of the updated tax return submitted by the company, but without compliance with the rules of the in-house tax audit and review of its results, which are stipulated by the tax legislation, which cannot be recognized as lawful.

EFFORTS BY LAWMAKERS

Svetlana Sviridenkova

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Since January 1, 2019, numerous changes to the Tax Code and other laws of the Russian Federation have become effective. The most debatable among them are VAT rate increases and changes in the procedure of pension assignment and payments, but one should not forget about other innovations.

Paperless statements

Accounting (financial) statements for 2018 may be executed both on paper and in the form of an e-document certified by an electronic digital signature. These amendments were introduced to the law "On Accounting" in November 2018.

However, in case the legislation of the Russian Federation or any agreement require submission of accounting (financial) statements to another person or

state authority on paper, the entity shall at the request of another person or state authority and at its own expense make paper copies of accounting (financial) statements executed as e-documents.

Thus, as a general rule, organizations are allowed not to print out accounting statements.

However, there are cases when organizations still have to execute original accounting (financial) statements on paper.

For example, during the audit, because in the Russian Federation the auditor's report is issued for accounting (financial) statements, which are executed on paper (accounting (financial) statements are an integral part of the report).

Submission of statements

Starting from 2020 (thus, we are talking about the final documentation for 2019), organizations will be required to submit reports not to statistical authorities, but to the tax authorities at the place of registration (with some exceptions) in the form of e-documents certified by the e-signature via telecommunication channels. In case of mandatory audit, the auditor's report shall also be submitted to the tax authority.

Submission terms for the auditor's report (in case financial statements are subject to mandatory audit) remain the same: within 10 days from the date following the date of the auditor's report, but not later than 31 December of the year following the reporting year.

Thus, the obligation to submit statements and auditor's reports to the tax authorities is reintroduced. As all organizations are required to submit VAT returns exclusively in e-form, those organizations that apply the general taxation system have their telecommunication channels already set up for submission of statements to the tax authorities, and therefore, no further difficulties with the said changes should arise.

Due to the submission of auditor's reports directly to the tax authorities, tax officers may strengthen their control, for example, in case of submission of the auditor's report with a modified opinion on the accuracy of statements.

New forms, old rules

Modification of report forms has become a traditional New Year change:

Name of the report form	Changes
2-NDFL	Different forms of certificates will be used for submission to employees and the tax authority. The certificate for the tax authority now looks like a tax return, despite the fact that the content has not changed. The certificate for employees has not changed.

Land tax return	Introduction of the line reflecting the coefficient of change in the land plot cadastral cost, for the calculation of which it is required to fill in two sections 2 of the Tax Return (with revised and previous cost).
Statistical reporting (1-entity, P-2, P-3, P-4, P-6, P-5 (m), etc.)	New forms have been introduced without significant changes in the content. A list of forms to be submitted to the organization is available on the website of the Reporting System: https://websbor.gks.ru/online/#!/gs/statistic-codes.

“Child” allowances: minimum and maximum

In 2019, minimum and maximum amounts of “child” allowances will be as follows:

Type of allowance	Minimum	Maximum
Maternity allowance (140 days of sick leave)	51,919 rubles 00 kopecks	301,096 rubles 60 kopecks
Maternity allowance for preterm delivery (156 days of sick leave)	57,852 rubles 60 kopecks	335,507 rubles 64 kopecks

Maternity allowance for multi-fetal pregnancy (194 days of sick leave)	71,944 rubles 90 kopecks	417,233 rubles 86 kopecks
Child care allowance for a child of up to 1.5 years old (first child) for working mothers	4,512 rubles 00 kopecks	26,152 rubles 39 kopecks
Child care allowance for a child of up to 1.5 years old (second child) for working mothers	6,284 rubles 65 kopecks	26,152 rubles 39 kopecks

Child care allowance for a child of up to 1.5 years old (first child) for working mothers with the employment period of less than 6 months	3,142 rubles 33 kopecks	—
Child care allowance for a child up to 1.5 years old (second child) for working mothers with the employment period of less than 6 months	6,284 rubles 65 kopecks	—

The final amount of allowance will be known after indexation as of February 1, 2019.

There is a limit to everything, including insurance premiums

The limit base for insurance premiums has also increased, and since January 1, 2019, amounts as follows:

Insurance premiums	Limit base for insurance premiums
Pension Fund	1,150,000 rubles
Social Insurance Fund	865,000 rubles

Insurance premiums payable to the Medical Insurance Fund shall be calculated on all earnings of the employee.

It should be noted that since January 1, 2019, the rates of insurance premiums for pension insurance in the amount of 22% within the limit base for insurance premiums and 10% in case of its excess has become constant due to the revision of the provisions of Article 425 and the abolition of the provisions of Article 426 of the Tax Code of the Russian Federation.

New obligations and new penalties

Since January 16, 2019, amendments to the law "On the legal status of foreign citizens in the Russian Federation" has become effective, and according thereto the inviting party (employer) shall ensure compliance with the rules of stay (residence) in the Russian Federation by the invited foreign citizen, namely:

- Compliance of the declared purpose of entry into the Russian Federation with the actual activity or occupation carried out during the stay (residence) in the Russian Federation;
- Timely departure of the invited foreign citizen from the Russian Federation upon the expiration of his/her stay in the Russian Federation.

The Code of Administrative Offences provides for the imposition of large penalties for the violation of the said provisions:

For individuals	**For officials**	**For legal entities**
from 2,000 rubles to 4,000 rubles	from 45,000 rubles to 50,000 rubles	from 400,000 rubles to 500,000 rubles

Want to stay healthy? Have a check-up!

Since January 1, 2019, employers are obliged to give their employees a work leave for a medical check-up with the preservation of their job positions and average earnings. The reason for a work leave shall be a written statement of the employee.

As a general rule, an employee has the right to the work leave of one working day once every three years.

Employees of the retirement age (recipients of an old-age pension or a retirement pension) and of the pre-retirement age are entitled to the work leave of two working days once a year.

“Interview” with an auditor

Since January 1, 2019, amendments to part one of the Tax Code of the Russian Federation have become effective, and according thereto the tax authorities shall have an opportunity to obtain information about taxpayers from audit organizations and individual auditors.

Now for tax control purposes the tax authorities shall be able to collect, store and use documents (information) received from the auditors concerning their provision of professional services.

Despite the fact that this issue has already set off some panic, things are not all that bad: tax authorities may request information from the auditor only in the following cases:

- On-site tax audit;
- Verification of calculation and payment of taxes in connection with transactions between related parties;
- Receipt of requests from foreign countries.

It is too soon to talk about the fact that the tax authorities will be able to obtain information, which may later be used against the taxpayer. Nevertheless, it is highly unlikely that auditors will be willing to disclose information and provide tax authorities with the "leverage" over their clients.

In addition, it should be noted that auditors and tax inspectors pursue completely different goals when conducting inspections, and therefore, auditors may simply lack the required information. A

BIG BROTHER CHRONICLES: PECULIARITIES OF DOING BUSINESS IN THE “DIGITAL AGE” OF TAXATION

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One of the most discussed topics throughout 2018 was active implementation of a risk-based approach among tax authorities. It seems that anyone who directly or indirectly faces any tax liabilities was able to experience it. Moreover, last year the digitalization of the economy touched even those who had nothing to do with the issue. This article covers the highlights of 2018 associated with the advent of the "digital era" of taxation.

Electronic information resources for taxpayers

In 2015, the Federal Tax Service of Russia refused to grant monopoly powers to collect and process tax and statistical information to Interfax news agency, and various resources flooded the market of

information reference systems trying to compete with the giant. And although none of the competitors has achieved any significant success in the total volume of the services rendered, smaller companies have shown themselves capable of solving certain tasks to the highest standard, such as providing information for court cases, enforcement proceedings, tax liabilities, etc.

In fact, all information bases available to taxpayers are renewed from the same sources. In turn, existing databases allow to conduct full compliance and learn about the bona fide of the counterparty, detect the interdependence of organizations with other organizations or individuals, assess financial risks when working with the counterparty.

On the one hand, such free access to information about contractors gives

taxpayers an opportunity to ensure their own safety and protect themselves from mala fide contractors, but on the other hand, it causes the verification by such databases to become an essential part of the pre-contractual work. Moreover, judging from the experience, the taxpayer may be deemed to have failed to exercise due diligence, even if the counterparty has acquired signs of mala fide after entering into the agreement therewith, but the taxpayer still continued to pay or deliver to such counterparty.

Nowadays, the minimum check of the counterparty includes not only and not so much a request for copies of constituent documents from the counterparty, but the search for information about it using all available databases. First of all, it is reasonable to assess whether the counterparty's sole executive body is "mass"

or not, whether the counterparty is registered at an incorrect address or at a mass registration address, whether it has interdependent persons with significant tax debts or the ones that have been excluded from the Unified State Register of Legal Entities. In addition, it is reasonable to assess the financial performance of the organization, i. e. the ratio of income and expenses, the amount of net assets, as well as their dynamics, if available. It is worth paying attention to the incorporation date of the organization: if the organization is new, it is worth wondering why the counterparty started working through a new organization. A significantly low number of the counterparty's employees that are unable to fulfill the obligations assumed by the counterparty is also a reason to become alerted.

It has become mandatory to keep the profile of your own organization up to par. If the questions above may be readdressed, the attitude of contractors is highly likely to be affected.

From the moment of its emergence in the market to the present day, information databases available to a wide range of taxpayers have turned the assessment of the counterparty's mala fide risks from a nice addition to an obligatory compliance point. Currently, most large and medium-sized companies practice studying the counterparty's profile and making decisions based thereupon.

Databases of tax authorities as an information source for tax audits

Nowadays, tax authorities are equipped not only with databases available to taxpayers, but also with information resources developed by the government, which allow to conduct automated analysis for the implementation of a risk-based approach. Software and information bases of the Federal Tax Service of Russia and other state bodies, including the Pension Fund and the Social Insurance Fund, the Federal Customs Service and the Ministry of Internal Affairs of Russia, are available to tax inspectors and allow to detect possible violations of the tax legislation by any taxpayer.

It means that when inspectors get ready for the audit, they already have

the information about the persons with which the taxpayer has made any transactions, whether there are organizations among them with former and current taxpayer's employees currently employed, and information about the organizations showing signs of mala fide among the taxpayer's counterparties. Any action of the taxpayer bearing signs of being undertaken to obtain unjustified tax benefits is already known to the tax authority at the time of the audit.

Tax planning in modern Russia has long ceased to mean deliberate tax evasion. It has come to a state when every bona fide taxpayer should assess in advance and take into account the rational component of each transaction and be ready to explain the specific purpose and reasons for each business transaction. Business transactions should not only

meet formal requirements for their registration, but also have reasonable actual justification. Therefore, the objective of tax planning now is the development of cost-effective solutions, where potential tax savings have minimal value compared to other benefits. Reasonability has become the main word in the unofficial tax dictionary of 2018.

Voluntary disclosure of tax information and self-defense against tax "gaps"

Russian tax authorities have long had a technical and legal opportunity to provide all interested parties with the information on problems with the confirmation of the right to VAT refund. At the end of 2016, the Federal Tax Service of Russia even approved a special form,

which any taxpayer may use to provide a free access to its tax information[1]. At the time, the logical question was: What are the chances that organizations on their own initiative will give up their right to tax secrets and expose their own problems. However, as one may expect, this dubious action was not accidental. The first "call" came from the agro-industrial field.

Non-profit organizations uniting companies of the agro-industrial complex[2] gained the support of the Federal Antimonopoly Service and the Public Chamber, and in October 2018, they issued a declaratory instrument – the Charter of AIC in the sphere of agricultural products turnover[3]. Here are some

1. Order of the Federal Tax Service of Russia No. MMV-7-17/615 dated 15.11.2016.
2. Hereinafter the term "agro-industrial complex" shall be abbreviated to "AIC".
3. The text of the Charter is available on the special website: https://xn----7sbb4am3adqy8h.xn--p1ai/o-hartii

quotes for the reader to get an idea about the document:

- Participants of the agricultural products turnover draw benefits when everyone carries the tax burden in a bona fide manner according to the legislation of the Russian Federation … so that all market participants develop intolerance against tax evading companies;
- Methods of illegal tax optimization are a manifestation of unfair competition and should be condemned by market participants;
- [Charter members] seek to purchase agricultural products directly from agricultural producers, processors, or commission firms, as well as from other bona fide market participants.

The Charter not only declares principles of a careful approach to the choice of counterparties sharing its principles of bona fide tax payments and refusal to use "schemes" to save VAT, but its signing also serves another, much more significant purpose. The Charter initiates the formation of the so-called "Information resource for open sharing of information with market participants about persons that have signs of an incomplete source of tax benefits in the form of VAT deductions according to the Automated Control System VAT-2"[4].

That is why the form of consent to the disclosure of tax information was introduced! By voluntarily joining the formation of the Information Resource

4. More information on the resource functioning is available on the Charter website: https://xn----7sb-b4am3adqy8h.xn--p1ai/nalogovye-razryvy.

Charter members not only provide access to their tax information themselves, but offer and, to the best of their abilities, enable counterparties to do the same. Coordinated actions of market participants resulted in a significant part of AIC already forming the Information Resource. According to incoming data, inspections of the Federal Tax Service of Russia are also actively involved in the promotion of the Information Resource.

Despite the fact that at first glance the Information Resource seems to serve a good purpose and allow to quickly monitor, whether the taxpayer has a confirmed VAT source, participation in its formation does not look safe. Charter member organizations already include disclosure provisions in agreements with counterparties, and some of them are ready to withdraw from entering into

an agreement with the counterparty on the grounds that the latter is not ready to join the formation of the Information Resource. Pursuant to the antimonopoly legislation, such behavior may indicate that companies in the industry enter into competition limiting agreements.

In addition, neither on the website of the Charter, nor in any other sources one is able to find the proof that the information included in the Information Resource is sufficiently protected and cannot get into the hands of intruders. One more questionable issue is whether the disclosure of tax information by one taxpayer (bona fide by default as he/she has provided access to his/her tax information) will allow to identify mala fide counterparties, if the counterparty has more than one business activity, and therefore, may have completely different

and unrelated sources of tax base formation.

Finally, financial risk indices and debts, including debts on taxes, are available in other much more advanced sources. Previously mentioned information databases provide sufficient data to draw conclusions on the bona fide or mala fide of organizations.

Following objective assessment of the Information Resource development on the basis of the Charter, it is impossible not to draw attention to the fact that purposes of its existence limit competition rather than protect the Charter members. Despite this, with the support and (possibly) driven by the will of a number of quasi-state entities, representatives of other economic sectors will follow the example of AIC and will also start collecting information and forming

their own information resources. As a result, the amount of information disclosed by each individual taxpayer may exceed all reasonable limits, and very soon we will have to forget about the tax secrecy regime stipulated by the law. A

INHERITANCE FUND: INNOVATION IN THE CIVIL LAW

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Leading Lawyer

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Many people see earning money not just as a necessity, but as a fascinating process, which often results in a certain amount of undistributed assets. Sooner or later each person faces the question: What now?

There are bank accounts, immovable and movable property and heirs. How does one properly arrange the transfer of assets? Who does one transfer them to and with what reservations? Answers to these questions are not always clear and obvious.

Historically, not all wealthy people pass their wealth to apparent heirs. Wills are drawn up not only in favour of strangers, but sometimes even pets get lucky. Obviously, such wills are disputed over, and often the court takes the side of the relatives of the deceased.

High-profile cases of will disputes become public, such as the renowned Nobel's will. Everyone knows that the famous inventor wrote a will according to which his savings went to the Nobel Foundation. Nowadays, there is hardly anyone who has not heard about this jury prize, which is awarded annually in Stockholm. This tradition was initiated on November 7, 1895, when the scientist drew up the following will at the Swedish-Norwegian club in Paris:

"I, the undersigned, Alfred Bernhard Nobel, after mature deliberation, hereby declare the following to be my last will and testament with regard to such property as I may leave upon my death... The capital, converted to safe securities by my executors, is to constitute a fund, the interest on which is to be distributed annually as prizes to those who, during

the preceding year, have conferred the greatest benefit to humankind.

The interest is to be divided into five equal parts and distributed as follows: one part to the person who made the most important discovery or invention in the field of physics; one part to the person who made the most important chemical discovery or improvement; one part to the person who made the most important discovery within the domain of physiology or medicine; one part to the person who, in the field of literature, produced the most outstanding work in an idealistic direction; and one part to the person who has done the most or best to advance fellowship among nations, the abolition or reduction of standing armies, and the establishment and promotion of peace congresses.

... It is my express wish that when awarding the prizes, no consideration be given to nationality, but that the prize be awarded to the worthiest person, whether or not they are Scandinavian".

Thus, the most renowned inheritance fund has been created.

The idea of inheritance funds has widely spread throughout Europe, and it is widely known that our fellow countrymen use this option to distribute their assets after death.

In 2018, amendments to the Civil Code regulating the institute of inheritance funds entered into force. Thus, our legislator is trying to adapt the Russian law to the requirements and demands of the modern world.

The process of creating inheritance funds in Russia has just begun, and apparently, in the near future, the Civil

Code will be amended to reflect up-to-date requirements, so that these regulations will actually work, rather than remain ink on paper.

So then, what is the Inheritance Fund in accordance with the Russian law?

In accordance with the Civil Code, the Inheritance Fund is a fund created in the manner prescribed by the Civil Code, pursuant to the will of the citizen and on the basis of his property, engaged in the management of such citizen's property received under the succession by inheritance permanently or for a specified period of time in accordance with the management terms of the inheritance fund.

Under the specified circumstances, in order for the property to be placed under management as the Inheritance Fund

after the death of a citizen, several conditions should be met.

Firstly, the creation of the fund should be mentioned in the will. In addition, the will providing for the creation of an inheritance fund should include:

- Resolution of the testator on the creation of the inheritance fund;
- The charter of the fund determining the structure of its bodies;
- Management terms over the inheritance fund which shall contain:
    a) Provisions on the transfer to beneficiaries of the fund or to certain categories of persons of all the property of the inheritance fund or part thereof, including under the circumstances the occurrence thereof is unknown.

b) The procedure for the transfer to beneficiaries of the fund or certain categories of persons of all or part of all the property of the fund or part thereof, including income from the fund's activities.

The procedure shall indicate the type and size of the transferred property (property right) or the procedure for their determination, period or frequency of the property transfer, and also circumstances upon the occurrence of which such transfer is performed.

Such will should be notarized.

Secondly, the notary in charge of the inheritance case should perform certain actions determined by the legislator:

- To send an offer to give consent to the exercise of powers of the sole executive body of the inheritance

fund to a person who in accordance with the resolution on the creation of the inheritance fund is appointed by the sole executive body of the inheritance fund (or may be defined as a person to whom these powers are assigned);

- To send an application for the creation of the inheritance fund to the authorized registration authority with the resolution on the creation of the fund and the charter attached. This application shall be sent no later than three days after the opening date of the inheritance case;
- To issue the certificate of inheritance rights to the fund after its creation.

The property of the inheritance fund is formed upon the creation of the fund in the course of its activities, as well as by

the income from the management of the property of the inheritance fund.

There should be noted that according to the current legislation, funds should pursue social, charitable, cultural, educational or other socially useful purposes. However, the inheritance fund is created in the interests of beneficiaries, which contradicts the law "On Non-Profit Organizations". The legislator is likely to correct this defect in the near future, but at the moment it is still effective.

Beneficiary

Beneficiaries are persons that may receive the property of the fund in part or in full.

Beneficiaries may be either heirs or other citizens that are not related to the deceased person, or even the unborn. One

may become a beneficiary under certain conditions, as in the example given at the beginning of the article with the Nobel Foundation.

The legislator has banned appointment of a commercial organization as a beneficiary. The beneficiary is not allowed to act as the sole executive body of the inheritance fund and as a member of the collegial executive body of the inheritance fund.

Beneficiaries are entitled to:

- Receive part or all of the fund's property, including income from its activities, in accordance with the management terms;
- Receive information about the fund's activities in accordance with the management terms;

- Require an audit of the fund's activities at its own expense; by resolution of the board of trustees, the beneficiary may be reimbursed for the cost of the auditor's services.

The rights of a citizen as a beneficiary of the inheritance fund are not inheritable; they are inalienable, and not subject to forfeiture over obligations of the beneficiary. The beneficiary is not liable for the obligations of the inheritance fund, and the fund is not liable for the obligations of the beneficiary.

In order to understand the connection of the beneficiary with the fund's property, one may compare it with the participation in a limited liability company. Thus, if a company owns real estate, participants of the company are not entitled to dispose of this property at

their own discretion, however, the property may be transferred to them after the liquidation of the company. Participants are also entitled to income in the form of dividends received by the company from property management.

Creation of an inheritance fund is a convenient method to keep the business after the death of its owner. Thus, if heirs have no idea or ability to continue the family business, it is better to place it under management through the established fund.

In addition, the transfer of assets to the inheritance fund allows to withdraw persons who are heirs with a mandatory share from the circle of heirs.

The emergence of the inheritance fund concept in the Russian legislation is obviously a positive thing, but there are a few unfinished issues that sooner

or later will have to be considered by our legislator.

Firstly, the fund may be created only after the death of the testator. Although, judging by the foreign experience, it is more reasonable to create such a fund during the lifetime of the assets owner. In this case, the testator may assess the fund's efficiency, as well as monitor and follow the process of the fund's creation.

Secondly, only one person may establish an inheritance fund, while the property of spouses is jointly owned. The joint will, as well as the joint inheritance fund make it easier to transfer family assets to heirs.

Thirdly, there is no regulation covering taxation of income received by heirs from the fund's activities. Given that inheritance income is exempt from taxation, it would be logical to assume

that payments to beneficiaries from the activities of the inheritance fund would also be either tax exempt or a preferential tax rate would be introduced. A

COMPLIANCE IN HONG KONG. NO WAY BACK

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Korpus Prava (Cyprus)

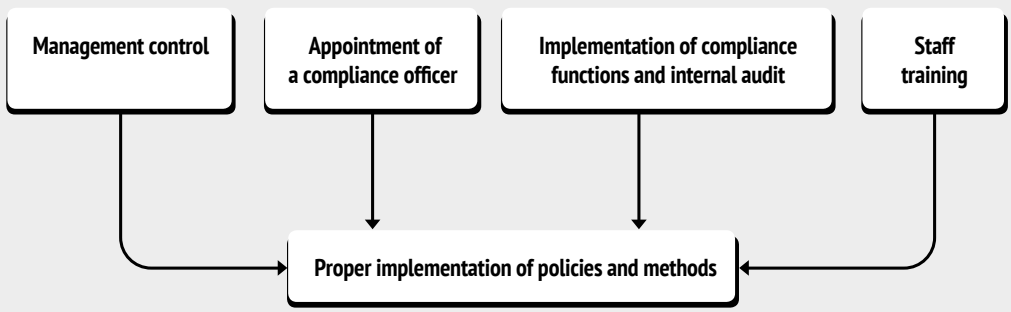
The past year brought significant changes to Hong Kong corporate administrators. Since 2018, provision of corporate services and nominal services has become licensed, and the Registrar of Companies has become responsible for issuing licenses.

After getting the license, corporate administrators are obliged to comply with the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 (hereinafter – the Law). Obviously, similar law existed in Hong Kong before, but it did not contain such a number of requirements. In terms of its content and the amount of procedures, the new Law actually brings Hong Kong closer to European countries regarding the level of protection of client funds from illegal use. Requirements provided for by the Law actually duplicate various issues con-

tained in European Union Directives AML 3 and AML 4.

Measures to be undertaken by corporate administrators can be schematically represented as follows (Scheme 1).

The company's management should first create the Compliance Department in the company, which should comprise of a compliance officer, and a money laundering reporting officer. In small companies these positions may be held by one person.



Scheme 1.

Major functions of the Compliance Department are as follows:

- Risk assessment;
- Comprehensive assessment of clients;
- Current monitoring of clients;
- Reporting on suspicious transactions;
- Accounting of documents and information;
- Staff training.

Let us briefly review each of them.

Risk assessment

Before entering into a service agreement with a client, the compliance officer shall weigh the risks that the organization may have as a result of the relationship with the client. To assess risks a certain amount of information about the potential client is requested in advance, with

special attention paid to the amount and source of income. The compliance officer shall ensure that funds and assets invested in a new company were obtained legally.

Comprehensive assessment of clients

Before accepting the client for service, the compliance officer shall carry out "Know your Client" (KYC) procedure, in the course thereof he collects documents, creates an economic profile of the client, and checks the client and the source of his income for legality. The client is assigned with a risk level: low, medium or high.

Current monitoring of clients

Depending on the risk level assigned to the client, the compliance officer shall conduct current monitoring of the company. The higher the risk level assigned to the client, the larger number of procedures the compliance officer shall carry out. During the current monitoring, the compliance officer checks whether the company's activity declared upon registration complies with the current one, and in case significant differences are detected, he requests additional information and assesses risks for the company in case it continues its relations with the client.

Reporting on suspicious transactions

If the company has a bank account, the compliance officer regularly (e. g. every six months) requests bank statements and checks transactions for legality suspicion signs. In case of detecting huge transactions, transactions without payment references or transactions indicating that the company conducts activities significantly different from those stated upon registration, the compliance officer may request supporting documents. In case of detecting suspicious transactions, the compliance officer is obliged to file a report to the police on such transactions.

Accounting of documents and information

The compliance officer is obliged to keep on file collected documents and information about the clients, as well as forms verifying the client's undergoing KYC procedure, reports on transaction checks and other required documents.

Staff training

At least once a year the compliance officer shall train staff to construe the Law, as well as to detect suspicious transactions. In case employees of the administrator company detect suspicious transactions, they shall immediately file a relevant internal report to the compliance officer.

The requirements of the Law above are rather grave. In case of non-compli-

ance, the company may lose its license, and the compliance officer shall be held liable for the performance of his duties up to criminal penalties. Penalties that may be imposed on the administrator company are also quite significant.

Our company has held its position on the market for more than fifteen years, and our Compliance team has an impressive work experience in Europe, shows a high level of professionalism and knowledge of the Law. Should any questions arise on the application of the Anti-Money Laundering and Counter-Terrorist Financing law in Hong Kong or any other jurisdictions, you may always contact us. Our experts will be glad to help you. A

About the Company

Korpus Prava was established in 2003 in Moscow, Russia. Together with our offices in Russia, Cyprus, Malta, Latvia and Hong Kong we offer clients a truly international service. Our highly qualified and friendly staff is available to provide to the clients a flexible, reliable and efficient service.

The mission of the Company is to raise the business value of the client and bring down risks.

Korpus Prava offers services in:

- Legal and tax consulting
- Transformation of financial statements to IFRS

- International tax planning
- Project consulting
- Corporate services
- Capital transactions / M&A
- Tax disputes
- Economic disputes and bankruptcy
- Real estate transactions
- Intellectual property
- Financial Consulting

The company is mentioned in the rankings of the leading international directory
“Legal 500” that is completely and comprehensively overtaking the global scope of legal services.

Korpus Prava was nominated as the best legal firm in Russia according to the authoritative magazine “The Lawyer”; it takes one of the leading positions amongst Top 50 legal firms in Cyprus, and it has also been recognised as the best international legal firm for tax planning in Cyprus. Korpus Prava Private Wealth Practice has taken fifth place in Private Banking and Private Wealth sector in Russia, in the category of Succession Planning Advice and Trusts according to the annual rankings of Private Banking Russia Survey 2016 of the prestigious magazine “Euromoney” (as of February, 2016).

Korpus Prava is a member of Cyprus Fiduciary Association (CFA) and Franco-Russian Chamber of Commerce and Industry (CCIFR). It takes part in the development

of business community, business presentations and the exchange of professional experience.

Our certified specialists conduct seminars and consultations for accountants and the representatives of company financial services; they act as experts, and they are published in popular financial publications.

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Korpus Prava Private Wealth

Legal and Tax Support of Individual Clients

In 2014, as a result of longstanding cooperation with Private Banking subdivisions of leading private banks of Russia and Europe, we have created a team and launched a new activity on legal and tax support of individual clients.

Private Wealth team works in close cooperation with experts on other activities in all offices of the company.

Such service is provided both on the project basis (support of transactions on acquisition or sale of assets, structuring of investments in Russia and abroad and other), and on the subscription basis.

Private Wealth activity includes legal and tax services in Russia and abroad:

- Family and Inheritance
- Land and Real Estate
- Private Yachts and Planes
- Investments Structuring
- Bank Accounts and International Transactions
- Tax Planning
- Tax Returns
- Trusts and Funds
- Residence Permit and Citizenship in EU Countries
- Family Office Support
- Assets Protection

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