

The Institute of Certified Public Accountants of Cyprus

PRESS RELEASE

Introduction

On the occasion of the signing of the law concerning de-offshorization by the Russian President on 25/11/2014 and the relevant articles of the last few days, the Institute of Certified Public Accountants of Cyprus (ICPAC) wishes to publicise its views.

At first it is noted that the international business and tax environment is evolving, having as main challenges what is promoted by the G20, OECD, the European Union Code of Conduct on Business Taxation, the project concerning Base Erosion and Profit Shifting (BEPS) as well as the unilateral actions of countries, such as Russia with the de-offshorization legislation.

Acting proactively to the above changes, ICPAC has long begun studying the aforesaid developments as well as their expected impact. Additionally it made the government aware of the need for possible amendment of the legislation, so as to prepare in the best possible way to face the new challenges and any negative effects.

As the de-offshorization issue is more topical, ICPAC wishes to publicise its position on this matter.

What is de-offshorization

It is a package of measures introduced by the Russian government with a view to modernizing the country's taxation system, aiming at enhancing transparency and compliance on the basis of taxation standards which are applied for many years in various European Union countries.

De-offshorization consists of three main pillars:

- The Controlled Foreign Company (CFC) rules
- The verification of Tax Residence
- The concept of the Beneficial Owner

The CFC rules provide that natural and legal persons who are tax residents in Russia and hold shares in companies that are tax residents of third countries (e.g. Cyprus) are obliged to declare their participation in such companies to the Russian tax authorities. The profits derived from such companies will be included in the taxable income of the natural and/or legal persons who hold the shares of these companies and, accordingly, will be taxed in Russia. The de-offshorization law provides for exemptions from the taxation of such profits, provided certain specified criteria are satisfied.

De-offshorization also provides that companies which are tax residents in third countries and their effective management, may be judged, on the basis of specified

criteria that it is conducted in Russia, then these companies will be considered as Tax Residents of Russia and will be accordingly treated by the Russian authorities.

The concept of the Beneficial Owner stipulates that income earned by a non-Russian company tax resident of a third country, which however is derived from operations / investments in Russia (e.g. dividends, interest, royalties), will not enjoy the benefit of reduced withholding tax provided for in the Double Tax Treaties of Russia with third countries, if it is considered that this company is not the beneficial owner of the income.

This legislation will be effective from 1 January 2015.

How is Cyprus affected

The de-offshorization law, as all other upcoming challenges, will inevitably affect Cyprus, since a large part of the services rendered to companies by Cypriot professionals refers to Russian interest companies.

Prima facie it appears that a large number of Russian interest companies are not covered by the exemptions of the CFC rules, whilst the status of such companies will need to be clarified as far as the tax residence and beneficial ownership is concerned, based on the de-offshorization criteria. This may lead to an increase of the tax obligations of these companies.

Actions by the State

The Ministry of Finance with the assistance of ICPAC and other bodies, has appointed a team of experts coming from the Ministry and various other bodies including ICPAC, to examine the aforesaid issues and to prepare accordingly. The purpose of this work is the preparation of a framework which will take into account the above mentioned expected developments, so as to promote relevant changes to the existing tax legislation. The work of this committee is already in progress.

Actions by ICPAC

ICPAC has highlighted the above matters promptly and followed closely the finalization process of the de-offshorization legislation. In parallel, it promoted its position to the Ministry of Finance, proposing various solutions for the taxation issues, such as, inter alia, a proposal for the handling of matters related to Double Tax Treaties and acceleration of exchanging tax information with foreign tax authorities.

ICPAC participates actively in the Committee appointed by the Ministry of Finance for the amendment of the tax legislation and co-operates closely with the Ministry, the Taxation Department and the rest of the bodies concerned, and continues to monitor closely the international developments on taxation issues through its own tax committee.

In parallel ICPAC supports the actions of the Taxation Department and the Ministry of Finance in relation to the other significant tax developments, such as matters of the EU Code of Conduct on Business Taxation, the Global Forum for Transparency and

Exchange of Tax Information for Tax Purposes and the negotiations of the double tax treaties.

Conclusion

The constantly changing international tax environment and the operating framework of international companies will inevitably affect the legal and tax planning of international groups and will have an impact on countries where such companies are established.

Our goal is for Cyprus to prepare properly and adequately so as to be in a position to address any negative effects but also to exploit the opportunities that will be presented.

In relation to de-offshorization, what the Russian government seeks is the enhancement of transparency and the compliance of Russian interest companies and the companies that operate in Russia. The legislation affects all countries that do business with Russian companies and Russian interests, eliminating any specific advantages, hence leading all countries to a common denominator.

Therefore, provided Cyprus proceeds timely with the relevant legislative amendments and operating arrangements, in conjunction with the high level of service offered by its professionals and the relatively lower cost of providing such services, it is expected that, with proper planning, there will be no significant negative impact to Cyprus from the implementation of the de-offshorization legislation by Russia. By so doing, Cyprus may gain a comparative advantage against other countries.

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