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Changes in taxation for controlled foreign companies

On 21 of October, the Draft Law “On Amendments to Parts One and Two of the Tax Code of Russian Federation”, was adopted in the second reading, second reading in the State Duma. Subsequently, it was adopted in the third reading and sent to the Federation Council Committee on Budget and Financial Markets and Policy.

This proposal for improving the legislation of Russian Federation is intended to eliminate uncertainty in the application of the investment tax deduction. That should become an incentive for increasing of business activity in Russian Federation.

To achieve these goals, a number of changes to the current legislation were proposed:

1) Define the concept of a foreign holding (sub-holding) company. If a foreign company simultaneously observes a number of conditions, it will be recognized as a foreign holding or sub-holding company. The prerequisites include the following:

1. 75% in the authorized (pooled) capital (fund) of a foreign organization must belong to:

- Russian organization - in case of recognition as a holding company;

- a foreign holding company - for recognition as a sub-holding company;

2. 50% participation in at least one other foreign organization;

3. at least a year of ownership of mentioned shares.

2) Exclude dividend income and the corresponding tax amount from the calculation of the tax rate for profits of controlled foreign companies. But only if the actual recipient of dividends is Russian tax resident.

3) Transition to the general procedure for adjusting the profits of controlled foreign companies in case of transactions with financial derivatives.

4) Reduce income from the sale of property rights (interests, shares) by the amount of the contribution made to the property of subsidiaries.

5) Regulate the procedure for accounting for tax calculated and (or) paid by controlled foreign companies in a foreign jurisdiction after the date of submitting a tax return on controlled foreign companies' profits for the relevant financial year.

Link to the bill: <https://sozd.duma.gov.ru/bill/990129-7>

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