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Practical aspects of application of the Multilateral Instrument in Kazakhstan

On February 6, 2020, the Parliament of Kazakhstan ratified the Multilateral Convention to Implement Tax Treaty-Related Measures to Prevent Base Erosion and Profit Shifting (“**MLI**”). Provided that the President of Kazakhstan signs the law on ratification in 2020, it is expected that the MLI’s provisions on withholding taxation will become effective from January 1, 2021.

MLI was developed by the OECD’s tax committee and is intended to modify the existing International Double Tax Treaties in order to tackle the aggressive tax avoidance strategies in international business.

The extreme globalization of the economy and the global financial crisis put the issue of aggressive tax avoidance to one of the main agendas of the business community. The loopholes in the international tax rules resulted in a shift of nearly 660 billion USD in 2012, which is equivalent 0,9 of world GDP. Because of abuse of inconsistencies in the international tax legislation, in October 2015 the final recommendations on fifteen Base Erosion and Profit Shifting (“**BEPS**”) were released by OECD. Even though Kazakhstan is not a member of OECD, Kazakhstan aims to reach the taxation standards of OECD in order to be recognized as a country with a favorable investment climate.

Currently, Kazakhstan has already adopted recommendations of OECD on BEPS Action 3 by including a new provision to the Tax Code on Controlled Foreign Company Rules. In addition, the recommendations on Action 13 about the transfer pricing documentation and country-by-country reporting was also incorporated to the Kazakh law on transfer pricing.

By ratifying MLI Kazakhstan is also going to adopt another two actions on BEPS: Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances and Action 7: Preventing the artificial avoidance of permanent establishment status.

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