

EXTENSION OF THE LIST OF OFFSHORE ZONES - WHAT TO EXPECT?

27.06.2023

Dear colleagues,

[Order No. 86n](#) (hereinafter referred to as the Order) "On Approval of the List of States and Territories Providing a Preferential Tax Regime and (or) Not Providing Disclosure and Provision of Information for Financial Transactions (Offshore Zones)" dated 05.06.2023 was published on 15.06.

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The list of offshore zones has been more than doubled and now includes 91 countries (previously 40 jurisdictions).

The new edition of the List includes such countries as the UK, Switzerland, the USA, Canada, Australia, Japan, South Korea, Singapore, Taiwan, as well as EU countries, including Germany, Austria, Italy and others.

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The changes will come into force **on 1st of July 2023**.

Consequences of the extension of the list of offshore zones:

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1. Uncertainty with the renewal of SME status of foreign subsidiaries

Previously SME status was available as well for those companies in which the foreign shareholding exceeded 49%. The necessary condition was that the subsidiary and the parent company met the SME criteria established in the Russian Federation (not exceeding the size and income thresholds for a medium-sized business).

More information can be found in our [review](#) of 07.06.2023.

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In addition to numerical thresholds in terms of income and number of employees, one of the essential criteria for SME status is the **restriction on the participation** of foreign legal entities whose register state is included in the list of **offshore zones** (not more than 49 percent).

Thus, the expansion of the list will lead to the suspension of the inclusion in the SME register of subsidiaries whose participants are registered in the jurisdictions included in the new List.

No further clarifications on the subject are currently available from the regulatory authorities.

2. Applying the controlled transaction criteria for all contracts concluded, including those with non-related companies, with an annual turnover exceeding 120 million rubles;

3. Non-applying of tax benefits by Russian companies for gratuitous income resulting from the receipt of property or the transfer of property rights;

4. Consequences for Russian companies with subsidiaries abroad:

a. Non-applying of preferential tax rates (e.g. 10%) for dividends, interest and royalties paid by holding companies from Russia to foreign companies;

b. Non-applying of a preferential tax rate on dividends from "unfriendly"

countries;

c. Non-applying of the preferential income tax rate on the sale of shares in companies registered in the listed countries, if the holding period criteria (5 years) is exceeded.

The introduction of the new Order probably prepares the ground for subsequent changes to the double taxation avoidance agreements (DTAAs). Until the relevant articles of certain provisions of the DTAA are amended, we do not expect any changes to the tax rates on dividend payments from Russia to parent companies.

We are closely monitoring the situation and would be happy to offer support on the above issues.

Please do not hesitate to contact us for any questions!

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