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IN-HOUSE SERVICES AND SHAREHOLDER ACTIVITY

Dear clients and partners,

In August 2020, the Russian Federal Tax Service issued a [Letter](#) detailing the tax authorities' approach to the analysis of in-house services. In particular, it drew attention to the fact that in-house activity can be considered as service if it provides economic benefit to the company-taxpayer, **is not a shareholder activity** and similar services can be purchased from the third parties.

In-house services include administrative support, financial services, legal advice, internal control and audit, services related to the development of production and sales, and information technology support.

Nevertheless, taxpayers still have questions regarding shareholder activities.

In February 2021, the Federal Tax Service published another [Letter](#) further defining the term "shareholder activity".

As defined by the Federal Tax Service, shareholder activity:

- is based on the needs of the shareholders themselves, not the individual members of the group of companies;
- economic benefit from such activities is evident for the whole group;
- the members of the group of companies would not engage third independent parties to provide such services against payment.

In addition to the characteristics, the Letter also included a list of specific functions related to shareholder activity.

Strategic management functions:

1. drafting of the development strategy of the group of companies;
2. market research;
3. evaluating the relevance and costs in implementing investment projects.

Business planning and control functions:

1. strategic planning and budgeting;
2. consolidated financial and management accounting;
3. analysis of the effectiveness of investments in the group of companies;
4. controlling of the financial and business activities of the group;
5. financing of the group of companies;
6. developing standards, methods, guidelines and/or other internal regulations to be applied to group of companies;
7. implementing and controlling compliance with such standards, methods, guidelines and/or other internal regulations;
8. approval of significant decisions and transactions.

However, in practice, some of the functions mentioned above may not be related to shareholder activity. Taxpaying organizations in Russian Federation should take an individual approach to each specific case.

The test to identify shareholder activity includes three questions:

- Has the subsidiary in Russia received a benefit from the service rendered, and if so, what kind of benefit?
- Is the benefit obvious and defined, and how is it expressed?
- Would a subsidiary in Russia pay an independent company to provide a similar service?

SWILAR 000

CEO
Daria Pogodina
ul. Lesnaja 43
127055 Moscow
Tel.: +7 499 978 3787

swilar GmbH

CEO
Tobias Schmid
Erikaweg 32
D-86899 Landsberg / Lech
Tel.: +49 8191 9898377

CEO
Dr. Georg Schneider
Schlehenweg 14
D-53913 Swisttal
Tel.: +49 2226 908258

Please note that if the nature of payments abroad is disputed, expenses may be excluded from the income tax base and the relevant payments may be reclassified as dividends or other passive income with an additional withholding tax charge in Russia (up to 15% for countries without a signed CIT). It is also possible that fines and penalties of up to 20% of the underpaid tax will be imposed.

Our experts are ready to provide you with expert assistance in analyzing the current situation with regard to in-house services and assessing the need for changes in documents and processes.

Contacts:

Natalia Safiulina, Chief accountant **swilar** OOO

M: natalia.safiulina@swilar.ru, T: + 7 499 978 37 87 (ext. 304)

Eugenia Chernova, Project Leader Controlling and Reporting **swilar** OOO

E-Mail: eugenia.chernova@swilar.ru , T: +7 499 978 37 87 (ext. 310)