

INTRODUCTION OF A BAN ON THE PROVISION OF BUDGET SUPPORT TO CERTAIN CATEGORIES OF COMPANIES

Newsletter

Amendments¹ have been introduced to the Budget Code of the Russian Federation pursuant to which certain bans will be introduced on providing subsidies, public funds and state as well as municipal guarantees starting from the budget for 2017. The amendments also ban certain methods of disposal of budget funds.

Ban on providing subsidies and public funds

According to the new version of the Budget Code the provision of subsidies and public funds to the following categories of legal entities is prohibited:

- foreign legal entities, including offshore companies²;
- Russian legal entities, the equity interests of offshore companies in the authorized capital of which exceed 50 per cent.

Accordingly, Russian legal entities with equity interests of offshore companies in their authorized capital that do not exceed 50 per cent can still receive subsidies and public funds.

If monetary funds were provided in violation of this ban on the provision of subsidies to a legal entity, these funds must be returned to the corresponding budget.

It should be noted that the new version of the Budget Code does not ban the provision of subsidies or public funds to Russian legal entities whose participants/shareholders include foreign companies, provided that their participants/shareholders are not offshore companies (i.e. have not been included in the corresponding list of the Ministry of Finance).

Ban on provision of state and municipal guarantees

Another new provision of the Budget Code bans the provision of state or municipal guarantees in following cases:

- if the principals under the guarantees are foreign legal entities, including offshore companies, or Russian legal entities in which the equity interests of offshore companies in authorized capital exceed 50 per cent;

- if the beneficiaries under the guarantee are foreign legal entities.

If state or municipal guarantees are provided in violation of this ban, these guarantees and the agreements on their provision will be null and void, and the obligations under these guarantees will not be executed. If nevertheless the obligation under these guarantees are performed (in full or in part), the monetary funds received will be subject to return by the beneficiary to the corresponding budget.

The ban on the provision of state guarantees of the Russian Federation under which a foreign legal entity is the principal or beneficiary will not apply if the guarantees are provided to support the export of industrial products (goods, work, services).

Similar to the provision of subsidies and public funds, the new version of the Budget Code does not stipulate a ban to the provision of guarantees if the principals or beneficiaries under the guarantees are Russian legal entities with non-offshore foreign companies as participants/shareholders. According to the wording of the Budget Code, the provision of state or municipal guarantees is also not prohibited in those cases when the beneficiaries under the guarantees are Russian legal entities with equity interests of offshore companies in their authorized capital not exceeding 50 per cent.

Therefore, any Russian legal entity, regardless of the place of registration of its participants/shareholders, may be a beneficiary under state or municipal guarantees.

Ban on converting the funds provided into foreign currency

The new version of the Budget Code introduces a mandatory condition on subsidies, which must be included in the agreements (contracts) on the provision of subsidies for financial support of expenditures on the production (sale) of goods, performance of work, rendering of services, pursuant to which it is prohibited to convert the funds received as subsidies into a foreign currency.

¹ Amendments introduced by Federal Law No. 23-FZ dated 15 February 2016 "On Amending the Budget Code of the Russian Federation".

² The list of states and territories classified as offshore zones is approved by the Ministry of Finance of the Russian Federation. Currently a list has been approved that enters into force from 1 January 2008, with the latest amendments dated 2 October 2014. The Ministry of Finance is preparing new amendments to the list.



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If this condition is breached, the provided funds will be subject to return to the corresponding budget.

Transactions performed in accordance with the currency legislation of the Russian Federation during the purchase (supply) of high-technology imported equipment, raw materials and components, as well as other transactions related to the achievement by the legal entities of the goals for which the subsidies were provided, are exempt from the ban on the purchase of foreign currency.



Falk Tischendorf
Attorney-at-law, Partner
Head of the Representative Office
BEITEN BURKHARDT Moscow
E-mail: Falk.Tischendorf@bblaw.com



Anna Klimova
Lawyer, Attorney-at-law (New York), LL.M.
Associate
BEITEN BURKHARDT Moscow
E-mail: Anna.Klimova@bblaw.com

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Editor in charge

Anna Klimova



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BEITEN BURKHARDT · RECHTSANWÄLTE (ATTORNEYS-AT-LAW)

MOSCOW · TURCHANINOV PER. 6/2 · 119034 MOSCOW · TEL.: +7 495 2329635 · FAX: +7 495 2329633
FALK TISCHENDORF · FALK.TISCHENDORF@BBLAW.COM

ST. PETERSBURG · MARATA STR. 47-49 LIT. A · OFFICE 402 · 191002 ST. PETERSBURG · TEL.: +7 812 4496000 · FAX: +7 812 4496001
NATALIA WILKE · NATALIA.WILKE@BBLAW.COM

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