

German-Russian Tax Practice

April 2018

Tax amnesty in Russia

Second stage of the tax amnesty in Russia

A Law extending the tax amnesty of capital and the tax-free liquidation of foreign companies entered into force in Russia on 1 March 2018. The tax amnesty has been extended until the end of February 2019.

The first stage of the tax amnesty occurred in 2015-2016 and provided taxpayers with an opportunity to disclose their foreign assets that had not previously been declared, including real estate, foreign bank accounts and deposits, shares and participation interests in foreign companies, without incurring any penalties. The amnesty rules also apply to the beneficial owners of the indicated assets.

Who should take note of the second stage of the tax amnesty

The tax amnesty might be of significance for you in the following instances:

- You are a Russian tax resident and
 - You own shares or interests in the capital of a foreign (non-Russian) company, and this equity interest exceeds 10% of the total capital of the company, or
 - You are the founder of an unincorporated foreign structure (trust, property management arrangement or alike), or
 - You have controlling interest in a foreign (non-Russian) company (controlled foreign company or CFC).

Russian tax residents are individuals who spend more than 183 days in a calendar year in Russia, regardless of their country of permanent residence. A person has a controlling interest in a foreign company if such person is capable by virtue of direct or indirect participation in the capital of CFC or by virtue of other circumstances of exerting a specific influence over the decisions being adopted by this company during the distribution of profits.

- You are Russian tax resident and simultaneously a Russian citizen (or a foreign citizen who is permanently resident in Russia), and at the same time you have bank accounts or deposits outside Russia.

Why the tax amnesty rules might be of significance for you

In certain instances, Russian tax residents are required to notify the Russian tax authorities that they have assets outside Russia. If you

are covered by any of the aforementioned instances, it is possible that you might have violated this duty and failed to duly file the necessary notices.

In particular, the notice on participation in a foreign company must be filed not later than three months from the start date of your participation (change in your interest). A notice on a CFC must be filed by 20 March of the year following the year in which the taxable profits of the CFC are recognised.

In addition, Russian citizens and foreign citizens with a residence permit in Russia who spend more than 183 days in a calendar year in the country must notify the tax authorities of their foreign bank accounts and deposits and provide annual reports on the movement of funds on these accounts. In previous years, this obligation could apply if you were in Russia for less than 183 days.

Rights and advantages conferred by the tax amnesty

Both stages of the tax amnesty allow the aforementioned individuals to file a special tax declaration on previously undeclared foreign assets in Russia and, in this way, to return their foreign assets within the framework of Russian law, enabling them to freely use these assets in their Russian and/or international operations.

The filing of a special declaration (with some exceptions) releases the filer from the obligation to pay taxes on the declared assets or foreign bank accounts (deposits). In addition, anyone filing a special declaration in Russia is exempted from tax, administrative and criminal liability for violations associated with the acquisition of foreign assets, and the use and disposal of assets (accounts, deposits).

In addition to the disclosure privilege, the law provides individual income tax relief for controlling individuals on repatriated capital received from the liquidation of a CFC if the CFC is liquidated by 1 March 2019.

The declaration may be filed before 28 February 2019, inclusive, either in person or through a representative.

Information on the sources of income used to acquire the assets being declared or deposited on the bank account may be indicated in any format (through a description) or may be supported with documents.

If you filed a declaration during the first stage of the tax amnesty, you can still file a declaration during the new stage of the amnesty in relation to the already declared assets and/or other assets.

How can BEITEN BURKHARDT help

Tax consultants at BEITEN BURKHARDT are prepared to provide you with the following advisory and practical assistance if you have assets outside Russia:

- check your tax residence (primarily in German, Russia or in both countries, as well as in other jurisdictions);
- ascertain your obligations to declare assets located outside Russia;
- prepare a plan for declaring and restructuring assets, if necessary;
- assess the subsequent tax burden on your assets in Russia and other countries;
- prepare a special declaration and file it on your behalf, if necessary.



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