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No. 376-FZ

FEDERAL LAW ¹

ON THE INTRODUCTION OF AMENDMENTS TO PARTS ONE AND TWO OF THE TAX CODE OF THE RUSSIAN FEDERATION (REGARDING TAXATION OF THE PROFITS OF CONTROLLED FOREIGN COMPANIES AND INCOME OF FOREIGN ORGANIZATIONS)

Adopted
by the State Duma on
18 November 2014

Approved
by the Federation Council on
19 November 2014

Article 1

To introduce the following amendments to Part One of the Tax Code of the Russian Federation (Collection of Legislation of the Russian Federation, 1998, No. 31, article 3824; 1999, No. 28, article 3487; 2002, No. 1, article 2; 2003, No. 22, article 2066; No. 27, article 2700; No. 52, article 5037; 2004, No. 27, article 2711; No. 31, article 3231; No. 45, article 4377; 2005, No. 45, article 4585; 2006, No. 31, article 3436; 2007, No. 1, article 31; No. 22, article 2563; 2008, No. 30, article 3616; No. 48, article 5519; 2009, No. 30, article 3739; No. 51, article 6155; 2010, No. 31, article 4198; No. 48, article 6247; No. 49, article 6420; 2011, No. 27, article 3873; No. 30, article 4575, 4593; No. 47, article 6611; No. 49, article 7014; 2012, No. 26, article 3447; No. 27, article 3588; 2013, No. 26, article 3207; No. 30, article 4081; No. 40, articles 5037, 5038; No. 44, article 5640; 2014, No. 14, article 1544; No. 23, article 2924; No. 26, article 3404; No. 45, articles 6157, 6158):

1) To revise article 7 as follows:

"Article 7. International treaties on tax issues

1. If an international treaty of the Russian Federation containing provisions regarding taxation and duties establishes other rules and norms than the ones stipulated by this Code and regulatory and legal acts on taxes and/or duties adopted in accordance therewith, the rules and norms of the international treaties of the Russian Federation shall apply.

2. The person that has the actual right to income for the purposes of this Code and the application of international treaties of the Russian Federation on tax issues is the person that has the right, by virtue of direct and/or indirect participation in the organization or control over the organization, or by virtue of other circumstances, to use for itself and/or dispose of such income, or the person for whose benefit another person has the power to dispose of such income. When determining the person that has the actual right to income, the functions being exercised by the persons referred to in this clause, and also the risks being assumed by them, shall be considered.

3. If an international treaty of the Russian Federation on tax issues provides for the application of reduced tax rates or an exemption from taxation in respect of Russian source income of foreign persons that have the actual right to such income, for the purposes of applying that international treaty a foreign person shall not be

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treated as having the actual right to such income if such person has limited power to dispose of the income, [or] exercises intermediary functions relating to the income for the benefit of another person, without performing any other functions and without itself assuming any risks, paying such income directly or indirectly (in full or in part) to such other person, which person would not have the right, if such Russian source income had been received directly, to apply the provisions of the international treaty of the Russian Federation on tax issues referred to in this clause.

4. If Russian source income is paid to a foreign person, whose domicile is a country (territory) with which there is an international treaty of the Russian Federation on tax issues, and such person has no actual right to such income, if the source of payment knows the person that does have the actual right to such income (or part thereof), the income to be paid shall be subject to tax pursuant to the following procedure:

1) If the person that has the actual right to the income to be paid (or part thereof) is recognized in accordance with this Code as a tax resident of the Russian Federation, the income to be paid (or part thereof) shall be subject to tax in accordance with the provisions of the corresponding chapters of Part Two of this Code applicable to taxpayers that are tax residents of the Russian Federation, without the withholding of the corresponding tax in respect of the income to be paid (or part thereof) at the source of payment, subject to notification of the tax authority at the place of the tax registration of the organization which is the source of payment of the income pursuant to the procedure to be established by the federal executive authority responsible for control and supervision in the area of taxes and duties;

2) If the person that has the actual right to the income to be paid (part thereof) is a foreign person covered by an international treaty of the Russian Federation on tax issue, the provisions of this international treaty of the Russian Federation shall apply to the person that has the actual right to the income to be paid (part thereof) in accordance with the procedure stipulated by the international treaty of the Russian Federation.”;

2) In clause 2 of article 11:

a) To paragraphs seven to nine as follows:

“an unincorporated foreign structure – organizational form established in accordance with the legislation of the foreign country (territory) created without the formation of a legal entity (in particular, a fund, partnership, trust, other form of collective investments vehicle and/or trust management), which has the right in accordance with its own personal law to engage in activities aimed at generating income (profits) for the benefit of its participants (unit holders, grantors or other persons) or other beneficiaries;

foreign financial intermediaries – foreign stock exchanges and foreign depositary-clearing organizations included in the list approved by the Central Bank of the Russian Federation by agreement with the Ministry of Finance of the Russian Federation;

public companies – Russian and foreign organizations that are issuers of securities, which (or the depositary receipts for which) have undergone listing procedures and/or have been admitted for trading on one or several Russian stock exchanges which have a corresponding license, or stock exchanges included in the list of foreign financial intermediaries.”;

b) To consider paragraphs seven – twenty-four accordingly paragraphs ten – twenty-seven;

3) To add part three to article 19 as follows:

“In the instances stipulated by this Code, taxpayers are recognized to be unincorporated foreign structures”;

4) In article 23:

a) To revise sub-clause 2 of clause 2 as follows:

“2) On its participation in Russian organizations (except for instances of participation in business partnerships and limited liability companies) if the direct participation interest exceeds 10 percent – no later than one month since the start of this participation”;

b) To add clauses 3.1 and 3.2 as follows:

“3.1. Taxpayers, in addition to the obligations stipulated by clauses 1 and 2 of this article, are required to notify the tax authority accordingly at the domicile of the organization, place of residence of the individual pursuant to the procedure and by the deadlines stipulated by article 25.14 of this Code:

1) Of their participation in foreign organizations (if such a participation interest exceeds 10 percent). For the purposes of this sub-clause, the participation interest in the foreign organization shall be determined pursuant to the procedure established by article 105.2 of this Code;

2) Of the foundation of unincorporated foreign structures, and also of control over them or the actual right to the income received by such a structure (including instances where the taxpayer acts as the founder of such a structure or person which has the actual right to the income (profits) of such a structure in the event of its distribution);

3) Of the controlled foreign companies in respect of which they are the controlling persons.

3.2. Foreign organizations and also unincorporated foreign structures owning property recognized as a taxable item in accordance with article 374 of this Code, in addition to the obligations stipulated by this article, are required in the instances and pursuant to the procedure stipulated by this Code to notify the tax authority at

the location of the immovable property of the participants of this foreign organization (in the case of an unincorporated foreign structure – information on its founders, beneficiaries and managers).

If the foreign organization (unincorporated foreign structure) has several immovable properties referred to in this clause, the notice shall be submitted to the tax authority at the location of one of the immovable properties at the discretion of this person.”;

5) To add chapter 3.4 to section II as follows:

“Chapter 3.4. CONTROLLED FOREIGN COMPANIES AND CONTROLLING PERSONS

Article 25.13. Controlled foreign companies and controlling persons

1. For the purposes of this Code, a controlled foreign company, unless otherwise stipulated by clause 7 of this article, shall be recognized to be a foreign organization which meets simultaneously all the following terms and conditions:

1) The organization is not recognized to be a tax resident of the Russian Federation;

2) The controlling persons of the organization are organizations and/or individuals recognized as tax residents of the Russian Federation.

2. For the purposes of this Code, a controlled foreign company is also recognized to be an unincorporated foreign structure, the controlling persons of which are organizations and/or individuals recognized as tax residents of the Russian Federation.

3. For the purposes of this Code, the following persons are recognized as the controlling person of the organization (including the unincorporated foreign structure referred to in clause 2 of this article):

1) Individual or legal entity having a participation interest or more than 25 percent in the organization;

2) Individual or legal entity having a participation interest of more than 10 percent in the organization (in the case of individuals – jointly with spouses and minors) if the participation interest of all the persons recognized as tax residents of the Russian Federation in this organization (in the case of individuals – jointly with spouses and minors) exceeds 50 percent.

4. For the purposes of clause 3 of this article, the participation interest of the organization in another organization or individual in the organization shall be determined in accordance with the procedure stipulated by article 105.2 of this Code. At the same time, when determining the individual's interest in the organization, sole participation and participation jointly with spouses and minors shall be taken into account.

5. For the purposes of this Code, the controlling person of the organization may be recognized (pursuant to the procedure stipulated by clauses 8 - 12 of article 25.14 of this Code) to be the person that does not meet the indicia established by clause 3 of this article, but exercises controls over this organization for its benefit or for the benefit of his/her spouse and minors.

For the purposes of this Code, the exercise of control over the organization is recognized to be the exertion of or the ability to exert a decisive influence on the decisions being adopted by such an organization on the distribution of the after-tax profits (income) received by the organization by virtue of direct or indirect participation in such an organization, participation in the contract (agreement), the subject of which is the management of this organization, or other specifics of relations between the person and the organization and/or other persons.

The exercise of control over an unincorporated foreign structure referred to in clause 2 of this article, for the purposes of this Code is recognized to be the exertion of or the ability to exert a decisive influence on the decisions being adopted by the person managing the assets of such a structure, regarding the distribution of the received after-tax profits (income) between its participants (unit holders, grantors or other persons) or other beneficiaries by virtue of the legislation of a foreign country or treaty.

6. A person that is a tax resident of the Russian Federation may recognize itself/himself/herself as the controlling person of the organization (unincorporated foreign structure referred to in clause 2 of this article) on the grounds stipulated by clauses 3 - 5 of this article, whereof a corresponding notice shall be sent pursuant to the procedure stipulated by this Code.

7. The profits of the controlled foreign company shall be exempt from taxation in accordance with this Code if this organization meets one of these terms and conditions:

1) It is a non-profit organization which does not distribute received profits (income) between the shareholders (participants, founders) or other persons in accordance with its personal law;

2) It is formed in accordance with the legislation of a member state of the Eurasian Economic Union;

3) Its domicile is a country (territory) with which there is an international treaty of the Russian Federation on tax issues, except for countries (territories), which do not exchange information for tax purposes with the Russian Federation, and the effective income (profits) tax rate for this foreign organization, determined based on the results of the period, for which the financial statements are prepared for the financial year in accordance with the personal law of such an organization, is no less than 75 percent of the weighted average tax rate for corporate profits tax.

The list of countries (territories) which do not exchange information for tax purposes with the Russian Federation shall be approved by the federal executive authority responsible for control and supervision in the area of taxes and duties;

4) Its domicile is a country (territory) with which there is an international treaty of the Russian Federation on tax issues, stipulating the avoidance of double taxation of income, except for countries (territories) which do not exchange information for tax purposes with the Russian Federation, and the share of the income of such an organization referred to in sub-clauses 1-12 of clause 4 of article 309.1 of this Code, for the period for which the financial statements are prepared for the financial year in accordance with the personal law of this foreign organization, is no more than 20 percent of the total amount of all the income of the organization based on the data of the financial statements prepared by the foreign company in accordance with its personal law for this period.

For the purposes of this Code, financial statements shall be understood to mean the unconsolidated financial statements of the organization;

5) It is an unincorporated foreign structure and meets all the following terms and conditions:

the founder of such a structure after its creation (establishment, foundation) in accordance with the personal law of this structure and foundation documents may not obtain title to the assets of this structure;

the rights of the founder of such a structure related to its personal status in this structure (including rights to the alienation of the property, determination of the beneficial owners (beneficiaries) and other rights) in accordance with the personal law of this structure and its foundation documents may not be transferred to another person after its creation, except for instances of the transfer of rights pursuant to the procedure for inheritance or universal legal succession;

the founder of such a structure may not obtain directly or indirectly any profits (income) of the structure to be distributed between all its participants (unit holders, grantors, or other persons).

For the purposes of this sub-clause, the indirect receipt by the person of the profits (income) of the unincorporated foreign structure is recognized as the receipt by the related party of the profits (income) of the structure on behalf of this person.

The criterion for not recognizing the unincorporated foreign structure as a controlled foreign company established by this sub-clause may not be deemed to have been met if the unincorporated foreign structure is able, in accordance with its personal law and foundation documents, to distribute the profits between its participants (unit holders, grantors or other persons);

6) It is a bank or insurance company operating in accordance with its personal law on the basis of a banking or insurance license or other special permit, and the country (territory) of its domicile is a country (territory), with which the Russian Federation has an international treaty signed by the Russian Federation on tax issues, except for countries (territories) included in the list to be approved in accordance with sub-clause 3 of this clause;

7) It is the issuer of marketable bonds or organization authorized to obtain interest income to be paid on the marketable bonds, or organization, which has been assigned rights and obligations in respect of the issued marketable bonds, the issuer of which is another foreign organization, subject to compliance with the requirements imposed on such foreign organizations and marketable bonds established by sub-clause 8, clause and clause 2.1 of article 310 of this Code. At the same time, for the purpose of applying this sub-clause, the share of such income for the period for which the financial statements are prepared for the financial year in accordance with the personal law of the foreign organization is no less than 90 percent of the total income of such an organization for this period;

8) It participates in projects in accordance with production-sharing agreements, concession agreements, license agreements or service agreements (contracts) analogous to production-sharing agreements on risk terms or other analogous agreements with the government of a corresponding country (territory) or the institutes authorized by such a government (state executive authorities, state companies).

At the same time, for the purposes of this sub-clause, the share of income referred to in this clause for the period for which the financial statements are prepared for the financial year in accordance with the personal law of the foreign organization is no less than 90 percent of the total income of said organization for this period;

9) It is the operator of a new offshore hydrocarbon field or direct shareholder (participant) of the operator of the new offshore hydrocarbon field.

8. For the purposes of sub-clause 3 of clause 7 of this article:

1) The effective income (profit) tax rate of the foreign organization is determined according to the following formula:

$$TR_{\text{eff}} = \frac{T}{I},$$

where for the purposes of this sub-clause:

TR_{eff} is the effective income (profits) tax rate of the foreign organization;

T is the amount of tax on the income (profits) calculated by the foreign organization and its standalone division in accordance with its personal law, and tax on income withheld on the income (profits) of this organization at the source of payment of such income;

I is the amount of income (profits) of the foreign organization, to be determined in accordance with the first paragraph of clause 1 of article 25.15 of this Code.

If the taxes on income (profits) considered when calculating indicator T should be calculated and/or withheld in other periods than the period for which the indicator I was calculated, the taxpayer may adjust the indicator T by the amount of the taxes that are classified as income (profits) considered when calculating indicator I and should be calculated in accordance with the personal law of the foreign company and/or withheld in other periods than the period for which the indicator I is calculated.

If, based on the results of the tax period the foreign organization (unincorporated foreign structure) has no income or if the amount of the indicator I is negative or equal to zero, the effective rate shall not be calculated, while such a foreign organization (unincorporated foreign structure) shall be recognized as a controlled foreign company;

2) The weighted average tax rate of corporate profits tax is determined according to the following formula:

$$TR_{wav} = \frac{TR1 \times I1 + TR2 \times I2}{I1 + I2},$$

where for the purposes of this clause:

I1 is the amount of profits of the foreign organization, to be determined in accordance with the first paragraph of clause 1 of article 25.15 of this Code, net of the income to be determined in accordance with sub-clause 1, clause 4 of article 309.1 of this Code. If during the calculation the indicator I1 assumes a negative value, its value is accepted as equal to zero;

I2 is the amount of the income of the foreign organization to be determined in accordance with sub-clause 1, clause 4 of article 309.1 of this Code;

TR1 is the rate of the corporate profits tax established by the first paragraph, clause 1 of article 284 of this Code;

TR2 is the rate of corporate profits tax established by sub-clause 2, clause 3 of article 284 of this Code.

9. Sub-clauses 1, 3 - 9 of clause 7 of this article shall apply, provided that the taxpayer exercising control over the foreign organization (the unincorporated foreign structure) submits to the tax authority supporting documents that confirm compliance with the terms and conditions established by these sub-clauses.

The documents referred to in this clause shall be submitted by the deadline stipulated by the second paragraph of clause 3, article 25.14 of this Code and should be translated into Russian in the part required for the application of these provisions.

10. Recognition of the organization (individual) which is the management company (who is the managing partner or other person exercising the fund management functions) of the investment fund (unit investment fund or other form of collective investments) – foreign organization (unincorporated foreign structure) as a tax resident of the Russian Federation shall not serve as grounds *per se* for recognizing this investment fund (unit investment fund or other form of collective investments vehicle) as a controlled foreign company in respect of which the organization (individual) referred to in this clause is the controlling person.

Article 25.14. Notice on participation in foreign organizations and notice on controlled foreign companies

1. Taxpayers recognized as tax residents of the Russian Federation shall notify the tax authority in the instances and pursuant to the procedure stipulated by this Code:

- 1) Of their participation in foreign organizations (on the foundation of unincorporated foreign structures);
- 2) Of the controlled foreign companies in respect of which they are the controlling persons.

2. Taxpayers recognized as tax residents of the Russian Federation shall submit the notice on controlled foreign companies.

3. The notice on participation in foreign organizations shall be submitted no later than one month since the date of the emergence of the participation interest (change in the participation interest) in said foreign organization, which serves as the grounds for the submission of such a notice.

The notice on controlled foreign companies shall be submitted no later than 20 March of the year following the tax period in which the share of the profits of the controlled foreign company should be booked at the controlling person.

If the grounds for the submission of such a notice have not changed after the submission of the notice on participation in foreign organizations, repeat notices shall not be submitted.

In the event of termination of participation in foreign organizations, the taxpayer shall duly notify the tax authority no later than one month since the termination date of participation.

4. Taxpayers shall submit notices on participation in foreign organizations and notices on controlled foreign companies to the tax authority at their location (place of residence).

Taxpayers classified in accordance with article 83 of this Code as major taxpayers shall submit notices on participation in foreign organizations and notices on controlled foreign companies to the tax authority where they are registered for tax purposes as major taxpayers.

Taxpayers shall submit notices on foreign organizations and notices on controlled foreign companies to the tax authority according to the established forms (formats) electronically.

Individual taxpayers shall have the right to submit these notices on paper.

The forms and formats of the notice on participation in foreign organizations and the notice on controlled foreign companies, and also the procedure for completing forms and the procedure for submitting the notice on participation in foreign organizations and on controlled foreign companies electronically shall be approved by the federal executive authority responsible for control and supervision in the area of taxes and duties on agreement with the Ministry of Finance of the Russian Federation.

5. The notice on participation in foreign organizations should contain the following information:

1) Date of the emergence of grounds for the submission of the notice;
2) Name of the foreign organization (unincorporated foreign structure), in respect of which the taxpayer has submitted the notice on participation (on foundation);

3) The registration number (numbers) assigned to the foreign organization in the country (on the territory) of its registration (incorporation), the code (codes) of the foreign organization as a taxpayer in the country (on the territory) of its registration (incorporation) (or their analogs), where applicable;

4) The participation interest of the taxpayer in the foreign organization, the disclosure of the procedure for the taxpayer's participation in the foreign organization in the event of indirect participation, indicating the following information:

the information stipulated by sub-clauses 2 and 3 of this clause – on each subsequent organization through which indirect participation in the foreign organization is performed;

the participation interest in each subsequent organization through which indirect participation in the foreign organization is performed;

5) the end date of participation in the foreign organization (unincorporated foreign structure).

6. The notice on controlled foreign companies should contain the following information:

1) The period for which the notice is provided;

2) The name of the foreign organization (unincorporated foreign structure);

3) The registration number (numbers) assigned to the foreign organization in the country (on the territory) of its registration (incorporation), the code (codes) of the foreign organization as a taxpayer in the country (on the territory) of its registration (incorporation) (or their analogs), where applicable;

4) The date which is the last day of the period for which the financial statements of the organization (unincorporated foreign structure) are prepared for the financial year in accordance with its personal law;

5) The preparation date of the financial statements of the foreign organization for the financial year in accordance with its personal law, and also the closing date of the tax period for the profits tax (income tax) in accordance with its personal law;

6) The date of the preparation of the auditor's report on the financial statements of the foreign organization for the financial year (in the event of a statutory audit in accordance with the personal law of this organization);

7) The participation interest of the taxpayer in the foreign organization, disclosure of the procedure for the taxpayer's participation in the foreign organization in the event of indirect participation, indicating the following information:

the information stipulated by sub-clauses 2 and 3 of this clause – in respect of each subsequent organization through which the indirect participation in the foreign organization is performed;

the participation interest in each subsequent organization through which the indirect participation in the foreign organization is performed;

8) Description of the grounds for recognizing the taxpayer as the controlling person of the controlled foreign company;

9) Description of the grounds for exempting the profits of the controlled foreign company from taxation in accordance with this Code.

7. If it is discovered that the information is incomplete, there are inaccuracies or errors in the completion of the submitted notice on participation in foreign organizations or notice on controlled foreign companies, the taxpayer shall have the right to submit an updated notice.

If the updated notice is filed before the moment when the taxpayer learned that the tax authority had established that unreliable data had been reported in the notice, the taxpayer shall be released from the liability stipulated by article 129.6 of this Code.

8. If the taxpayer has information, *inter alia*, received from the competent authorities of foreign countries as part of the exchange of information for tax purposes in accordance with international treaties of the Russian Federation, demonstrating that the taxpayer is the controlling person of a foreign organization (unincorporated foreign structure), but such a person did not send the notice stipulated by clause 2 of this notice to the tax authority, in particular, in the instances not referred to in clause 3 of article 25.13 of this Code, the tax authority

shall send a demand to this taxpayer for the submission of the necessary clarifications within twenty days or the submission of the notice stipulated by clause 2 of this article by the deadline established by the tax authority.

9. The demand of the tax authority referred to in clause 8 of this article should contain the following information:

1) The name of the taxpayer to which the notice is being sent;

2) The name of the foreign organizations (unincorporated foreign structures) in respect of which the tax authority has information demonstrating that the taxpayer is their controlling person;

3) The registration number (numbers) assigned to the foreign organization (unincorporated foreign structure) referred to in sub-clause 2 of this clause, in the country (on the territory) of its registration (incorporation), the code (codes) of the foreign organization (unincorporated foreign structure) as a taxpayer in the country (on the territory) of its registration (incorporation) (or their analogs), where applicable;

4) Description of the grounds at the tax authority's disposal for recognizing the taxpayer to be the controlling person of the foreign organization (unincorporated foreign structure).

10. The taxpayer submitting clarifications to the tax authority on the facts set out in the demand sent in accordance with clauses 8 and 9 of this article shall have the right, at the same time as the clarifications, to additionally submit documents to the tax authority which show that there are no grounds for recognizing the taxpayer as the controlling person of the foreign organization.

11. The tax authority is required to consider the clarifications and documents submitted by the taxpayer. If the tax authority establishes, after the consideration of the submitted clarifications and documents, or in the absence thereof, grounds for recognizing the taxpayer as the controlling person of the foreign organization (unincorporated foreign structure), an official of the tax authority shall send a notice to this taxpayer on the foreign companies controlled by this person for recognizing such a person as the controlling person.

This notice should contain the information stipulated by clause 9 of this article.

12. The person sent the notice referred to in clause 11 of this article has the right to contest this notice in court within three months of the date of the receipt of the notice. At the same time, this person shall notify the tax authority thereof within three days of the filing of a corresponding court application.

Prior to the entry into legal force of the court act adopted on the basis of the results of the consideration of the challenge to the notice, the person sent the notice may not be recognized as the controlling person of the foreign organization (unincorporated foreign structure) for the purposes of this Code.

If the person did not contest the notice sent thereto on the foreign companies controlled thereby, that person is deemed, on the expiration of three months from the date when this notice is received, to have recognized itself/himself/herself as the controlling person of the foreign company. Furthermore, this person is subject to the provisions of this Code in respect of controlling persons.

Article 25.15. Procedure for booking the profits of the controlled foreign company for taxation

1. For the purposes of this Code, the profits (losses) of the controlled foreign company are recognized to be the amount of the profits (losses) of this company calculated in accordance with article 309.1 of this Code.

The profits of the controlled foreign company are reduced by the amount of the dividends paid by this foreign company in the calendar year after the year for which the financial statements are prepared in accordance with the personal law of such a company, with due account of the interim dividends paid during the financial year for which these financial statements are prepared, with due account of the specifics stipulated by 309.1 of this Code.

The profits of the controlled foreign company, which is an unincorporated foreign structure, are reduced by the amount of the profits distributed in favor of the controlling persons of such a structure and/or in favor of the participants (unit holders or other persons) or other beneficial owners. At the same time, such a reduction is possible if a respective amount of tax has been paid on this amount by the controlling persons, participants (unit holders or other persons) or other beneficial owners.

2. The profits of the controlled foreign company to be determined in accordance with this Code are equated to the profits of the organization (income of the individuals) (hereinafter referred to in this chapter as profits and income respectively) received by the taxpayer recognized as the controlling person of this controlled foreign company and shall be booked when determining the tax base for taxes at the taxpayers recognized as the controlling persons of this controlled foreign company in accordance with the chapters of Part Two of this Code, with due account of the specifics established by this article.

3. The profits of the controlled foreign company shall be booked when determining the tax base at the taxpayer – controlling person in a proportion corresponding to the participation interest of this person in the controlled foreign company on the date of the adoption of the decision to distribute the profits, and if such a decision is not adopted on 31 December of the year as the end of the period for which the financial statements are prepared for the financial year in accordance with the personal law of this company – at the end of a corresponding period.

If it proves impossible to determine the proportion of the profits of the controlled foreign company in accordance with the first paragraph of this clause, the profits of such a controlled foreign company shall be

booked when determining the tax base of the taxpayer – controlling person, proceeding from the amount of profits to which the taxpayer has (shall have) the right if distributed between the persons having actual rights to such profits (income).

4. In the event of the indirect participation of the taxpayer – controlling person in the controlled foreign company, provided that such a participation is performed through organizations which are the controlling persons of this controlled foreign company and are recognized as tax residents of the Russian Federation, the profits of this controlled foreign company booked when determining the tax base of such a taxpayer shall be reduced by the amounts of the profits to be booked at the time of taxation at other controlling persons through which the indirect participation of such a controlling person in the controlled foreign company is performed, in a proportion commensurate to the participation interest of this controlling person in the organization through which indirect participation in the controlled foreign company is performed.

At the same time, if as a result of the application of the first paragraph of this clause the amount of the profits of the controlled foreign company to be considered when determining the tax base at the taxpayer – controlling person is equal to zero, the taxpayer shall not report the respective amount of profits in the corporate tax return (personal income tax return).

5. The taxpayer – controlling person shall submit the tax return for the tax when determining the tax base for which the profits of the foreign company controlled by this person are considered, attaching the following documents:

1) The financial statements of the controlled foreign company, or in the absence of financial statements, other documents;

2) The auditor's report on the financial statements of the controlled foreign company referred to in sub-clause 1 of this clause, if the performance of a statutory audit of such financial statements is established in accordance with the personal law of this controlled foreign company.

6. The documents (copies thereof) referred to in clause 5 of this article prepared in a foreign language should be translated into Russian.

If it proves impossible to submit the auditor's report on the financial statements at the same time as the submission of the tax return in accordance with clause 5 of this article, the auditor's report shall be submitted no later than one month from the day reported in the notice on controlled foreign companies as the date of the preparation of the auditor's report on the financial statements.

7. The profits of the controlled foreign company shall be considered when determining the tax base for the tax period for a corresponding tax in accordance with clause 1 of this article if the amount calculated in accordance with article 309.1 of this Code exceeded RUB 10,000,000.

8. If based on the results of the period, for which the financial statements are prepared for the financial year in accordance with the personal law of such a company, the foreign organization is unable to distribute the profits (in full or in part) between the participants (unit holders, grantors or other persons) owing to the obligation established by the personal law of such an organization to allocate these profits for an increase in the charter capital, such profits shall not be considered when determining the tax base of the taxpayer – controlling person.;

6) In clause 5 of article 31:

a) To add a fourth paragraph as follows:

“to the taxpayer – foreign organization (except for an international organization, diplomatic mission) not operating in the Russian Federation through a standalone division – at the address submitted to the tax authority for sending the documents referred to in this clause contained in the Unified State Register of Taxpayers.”;

b) To consider paragraphs four – six paragraphs five-seven accordingly;

7) To add clause 12 to article 84 as follows:

“12. The provisions of this article shall apply to registration and deregistration at the tax authorities of the foreign organization which recognized itself to be a tax resident of the Russian Federation or the foreign organization recognized as a tax resident of the Russian Federation based on the results of tax control measures, with due account of the specifics stipulated by this clause and the procedure established by the Ministry of Finance of the Russian Federation in accordance with clause 1 of this article.

Registration and deregistration at the tax authorities of the foreign organization which recognized itself to be a tax resident of the Russian Federation shall be performed by the tax authority on the basis of the application of such a foreign organization after an audit of compliance with the requirements established by this Code, pursuant to the procedure and by the deadlines established by the Ministry of Finance of the Russian Federation in accordance with clause 1 of this article.”;

8) To add paragraphs to clause 2 of article 88 as follows:

“If the tax return (calculation) was not submitted by the taxpayer – controlling person of the organization recognized as such in accordance with chapter 3.4 of this Code to the tax authority by the established deadline, the competent officials of the tax authority shall have the right to perform a desk tax audit on the basis of the documents (information) on the taxpayer at their disposal, and also data on other analogous taxpayers within three months of the expiration date of the deadline for submitting such a tax return (calculation) established by legislation on taxes and duties.

If the taxpayer submits the tax return prior to the end of the desk tax audit of documents (information) at the disposal of the tax authority, the desk tax audit shall cease and a new desk tax audit shall start on the basis of the submitted tax return. Termination of the desk tax audit shall imply termination of all the actions of the tax authority in respect of the documents (information) at the disposal of the tax authority. At the same time, the documents (information) obtained by the tax authority within the framework of the terminated desk tax audit may be used during the performance of tax control measures in respect of the taxpayer.”;

9) In clause 5 of article 100:

- a) To add to the first paragraph the words “, unless otherwise stipulated by this clause”;
- b) To add a paragraph as follows:

“The tax audit report shall be sent to the tax organization (except for an international organization, diplomatic mission) which does not operate in the Russian Federation through a standalone division by registered mail to the address referred to in the Unified State Register of Taxpayers. The date of the handover of this report shall be deemed the twentieth day, counted from the date when the registered letter was sent.”;

10) To revise clause 3 of article 105.1 as follows:

“3. For the purposes of this article, the participation interest of the individual in the organization is deemed to be the aggregate participation interest of this individual and its related parties in this organization referred to in sub-clause 11, clause 2 of this article.”;

11) In article 105.2:

- a) In clause 1 to replace the words “of this chapter” by the words “of this Code”;
- b) To add clauses 3.1-3.3 as follows:

“3.1. When determining the participation interest of one organization in another organization, the participation exercised through ownership of securities acquired within the framework of a REPO contract concluded in accordance with the Federal Law “On the Securities Market”, or a transaction recognized as a REPO transaction in accordance with the legislation of the foreign country, shall not be taken into account. At the same time, for the purpose of determining the direct and/or indirect participation interest, such securities shall be booked at the person that is the seller of the securities under the first part of the REPO, except for instances where the securities sold by the seller under the first part of the REPO were received by the latter under another REPO transaction or a securities lending transaction.

In the event of the non-performance or incomplete performance of the second part of the REPO, the determination of the participation interest of one organization in another organization shall be performed without taking account of the specifics established by this clause.

3.2. When determining the participation interest of one organization in another organization, the participation exercised through ownership of securities obtained within the framework of securities lending contract concluded in accordance with the legislation of the Russian Federation or the legislation of a foreign country shall not be taken into account. At the same time, for the purposes of determining the direct and/or indirect participation interest, such securities shall be booked at the person which is the lender (lends the securities), except for instances where the securities transferred within the framework of the securities lending contract were received by the lender under another securities lending transaction or REPO transaction.

In the event of the non-performance or incomplete performance of obligations relating to the return of the securities under securities lending transactions, the participation interest of one organization in another organization shall be determined without taking account of the specifics established by this clause.

3.3. When determining the participation interest in the organization, the participation of the individual or organization in an unincorporated foreign structure, which has the right in accordance with its personal law to participate in the capital of other organizations or in other unincorporated foreign structures, shall be taken into account.”;

12) To revise the first paragraph of clause 1 of article 122 as follows:

“1. Non-payment or incomplete payment of the amounts of tax (duty) as a result of the understatement of the tax base, other incorrect calculation of the tax (duty) or other illegitimate actions (inaction) unless such an action contains indicia of the tax offenses stipulated by articles 129.3 and 129.5 of this Code.”;

13) In Article 126:

a) To revise the first paragraph of clause 1 as follows:

“1. The non-submission by the taxpayer (payer of the duty, tax agent) to the tax authorities by the established deadline of the documents and/or other information stipulated by this Code and other acts of legislation on taxes and duties unless such an action contains indicia of the tax offenses stipulated by articles 119, 129.4 and 129.6 of this Code, and also clause 1.1 of this article.”;

b) To add clause 1.1 as follows:

“1.1. The non-submission to the tax authority of the documents stipulated by clause 5 of article 25.15 of this Code expressed in the refusal of the controlling person to submit the documents at its disposal, and equally other avoidance of the submission of such documents or the submission of documents with patently inaccurate information

shall result in the collection of a fine from the controlling person in the amount of RUB 100,000.”;

14) To add clause 2.1 to article 129.1 as follows:

“2.1. The illegitimate non-submission by the taxpayer – foreign organization (unincorporated foreign structure) (late submission) of the information stipulated by clause 2.3 of article 23 of this Code to the tax authority shall result in the collection of a fine of 100 percent of the amount of corporate property tax calculated in respect of the immovable property belonging to this foreign organization (unincorporated foreign structure), which did not submit (submitted late) the information stipulated by clause 3.2 of article 23 of this Code. At the same time, the amount of the fine shall be calculated commensurate to the participation interest in the organization on which information was not submitted (was submitted late) or if it proves impossible to determine the participation interest of the person in the organization (unincorporated foreign structure) commensurate to the number of participants.”;

15) To add articles 129.5 and 129.6 to chapter 16 as follows:

“Article 129.5. Non-payment or incomplete payment of the amounts of the tax as a result of the non-inclusion of the share of profits of the controlled foreign company in the tax base

Non-payment or incomplete payment by the controlling person - individual taxpayer or corporate taxpayer - of the amounts of the tax as a result of the non-inclusion in the tax base of the share of the profits of the controlled foreign company

shall result in the collection of a fine of 20 percent of the amount of the unpaid tax in respect of the profits of the controlled foreign company that should have been included in the personal income tax base for controlling persons who are individual taxpayers and in the corporate profits tax base for controlling persons that are corporate taxpayers, but no less than RUB 100,000.

Article 129.6. The illegitimate non-submission of a notice on controlled foreign companies, notice on participation in foreign organizations, the submission of inaccurate information in the notice on controlled foreign companies, notice on participation in foreign organizations

1. The illegitimate non-submission by the controlling person of notice on controlled foreign companies for the calendar year to the tax authority by the established deadline or the submission by the controlling person of a notice on controlled foreign companies containing inaccurate information to the tax authority,

shall result in the collection of a fine of RUB 100,000 for each controlled foreign company, the data on which were not submitted or in respect of which inaccurate information was submitted.

2. The illegitimate non-submission by the taxpayer of a notice on participation in foreign organizations to the tax authority by the established deadline or the submission of a notice on participation in foreign organizations that contains inaccurate information,

shall result in the collection of a fine of RUB 50,000 in respect of each foreign organization, data on which were not submitted or in respect of which inaccurate information was submitted.”.

Article 2

To contribute the following amendments to Part Two of the Tax Code of the Russian Federation (Collection of Legislation of the Russian Federation, 2000, No. 32, article 3340; 2001, No. 1, article 18; No. 23, article 2289; No. 33, article 3413; No. 49, article 4554; No. 53, article 5023; 2002, No. 1, article 4; No. 22, article 2026; No. 30, articles 3021, 3027, 3033; 2003, No. 1, articles 2, 6, 8; No. 21, article 1958; No. 28, article 2886; No. 46, articles 4435, 4443; No. 52, articles 5030; 2004, No. 27, articles 2711, 2715; No. 31, articles 3220, 3231; No. 34, articles 3518, 3520, 3522, 3525; No. 35, article 3607; No. 41, article 3994; 2005, No. 1, articles 30, 38; No. 24, article 2312; No. 27, articles 2707, 2710, 2717; No. 30, articles 3104, 3112, 3128; No. 52, article 5581; 2006, No. 3, article 280; No. 12, article 1233; No. 23, article 2382; No. 31, articles 3436, 3443, 3452; No. 45, article 4627; No. 50, articles 5279, 5286; No. 52, article 5498; 2007, No. 1, articles 20, 31, 39; No. 13, article 1465; No. 21, article 2462; No. 22, articles 2563, 2564; No. 23, article 2691; No. 31, articles 3991, 4013; No. 45, article 5416; No. 49, articles 6045, 6071; No. 50, articles 6237, 6245; 2008, No. 18, article 1942; No. 27, article 3126; No. 30, articles 3591, 3611, 3614; No. 48, articles 5500, 5519; No. 49, article 5723; No. 52, article 6237; 2009, No. 1, articles 13, 21, 31; No. 11, article 1265; No. 18, article 2147; No. 23, article 2772; No. 29, articles 3598, 3639; No. 30, article 3739; No. 39, article 4534; No. 45, article 5271; No. 48, articles 5711, 5725, 5726, 5731, 5733, 5734; No. 51, articles 6153, 6155; No. 52, articles 6444, 6455; 2010, No. 15, article 1737; No. 19, article 2291; No. 31, articles 4176, 4198; No. 32, article 4298; No. 40, article 4969; No. 47, article 6034; No. 48, article 6247; No. 49, article 6409; 2011, No. 1, articles 7, 9, 21, 37; No. 11, article 1492; No. 23, article 3262; No. 24, article 3357; No. 26, article 3652; No. 27, article 3881; No. 29, article 4291; No. 30, articles 4563, 4575, 4583, 4587, 4593, 4597; No. 45, article 6335; No. 47, articles 6610, 6611; No. 48, articles 6729, 6731; No. 49, articles 7014, 7015, 7016, 7017, 7037, 7043; 2012, No. 10, article 1164; No. 14, article 1545; No. 19, article 2281; No. 25, article 3268; No. 26, article 3447; No. 27, article 3588; No. 41, articles 5526, 5527; No. 49, articles 6750, 6751; No. 53, articles 7596, 7604, 7607; 2013, No. 19, article 2321; No. 23, articles 2866, 2889; No. 27, article 3444; No. 30, articles 4046, 4048, 4081, 4084; No. 40, articles 5037, 5038; No. 44, articles 5640, 5645; No. 48, article 6165; No. 51, article 6699; No. 52, article 6985; 2014, No. 8, article 737; No. 14, article 1544; No. 16,

articles 1835, 1838; No.19, articles 2313, 2314, 2321; No. 26, article 3373; No. 30, article 4220; No. 40, article 5316; No. 45, article 6157):

1) To add sub-clause 8.1 to clause 3 of article 2008 as follows:

“8.1) The amounts of the profits of the controlled foreign company to be determined in accordance with this Code – in the case of individuals recognized in accordance with this Code as the controlling persons of this company.”;

2) To add a paragraph to clause 3 of article 210 as follows:

“When determining the tax base in accordance with this clause, the income of the controlling person in the form of the amounts of profits of the foreign company controlled by this person should not be reduced by the amount of tax deductions stipulated by articles 218 - 221 of this Code.”;

3) To add clause 58 to article 217 as follows:

“58) Income in the form of dividends to which the taxpayer has an actual right and on which tax is withheld, with due account of the provisions of article 312 of this Code. Furthermore taxpayers are required to submit supporting documents that confirm the withholding of the tax by the tax agent.”;

4) To add clause 1.1 to article 223 as follows:

“1.1. In the case of income in the form of the amounts of the profits of the controlled foreign company, the date of the actual receipt of the income is deemed to be the last date of the tax period for personal income tax following the tax period on which the date of the completion of the period occurs, for which the financial statements are prepared for the financial year in accordance with the personal law of this company in accordance with the legislation of the foreign country (territory) of the domicile (registration) of the foreign organization.”;

5) To add clause 3 to article 232 as follows:

“3. When calculating the amounts of the tax in respect of the income of the controlled foreign company, the procedure for the offset of the amount of tax paid in the foreign country stipulated by clause 11 of article 309.1 of this Code shall apply to the income of the controlled foreign company.”;

6) To add clause 5 to article 246 as follows:

“5. For the purposes of this chapter, foreign organizations recognized as tax residents of the Russian Federation pursuant to the procedure established by article 246.2 of this Code are equated to Russian organizations.”;

7) To add article 246.2 as follows:

“Article 246.2. Organizations recognized as tax residents of the Russian Federation

1. For the purposes of this Code, the following organizations are recognized as tax residents of the Russian Federation:

1) Russian organizations;

2) Foreign organizations recognized as tax residents of the Russian Federation in accordance with an international treaty on the tax issues – for the purposes of applying this international treaty;

3) Foreign organizations, whose place of effective management is the Russian Federation unless otherwise stipulated by an international treaty on tax issues.

2. For the purposes of sub-clause 3, clause 1 of this article, the Russian Federation is recognized as the place of effective management of the foreign organization, if such a foreign organization and its activities meet at the very least one of the following terms and conditions:

1) Most of the meetings of the board of directors (or another analogous body of the organization, other than the executive body) are held in the Russian Federation. For the purposes of this sub-clause, most of the meetings are understood to mean the majority of the meetings, in other words a situation where more meetings are held in the Russian Federation than in another country;

2) The executive body (executive bodies) of the organization performs its activities in respect of this organization on a regular basis from the Russian Federation. For the purposes of this sub-clause, the performance of activities in the Russian Federation in a scope which is significantly less than in another country (countries) is not recognized to be the regular performance of activities;

3) The key (leading) officials of the organization (persons authorized and assuming liability for the planning, management and control of the activities of the enterprise) perform their activities primarily through the steering management of this foreign organization in the Russian Federation. For the purposes of this sub-clause, steering management is understood to mean the adoption of decisions and performance of other actions in respect of issues pertaining to the day-to-day operations of the organization, which fall within the competence of the executive management bodies.

3. The performance of the following activities of the foreign organization in the Russian Federation *per se* may not be considered effective management of the foreign organization in the Russian Federation:

1) Preparation and/or adoption of decisions on issues pertaining to the competence of the general meeting of shareholders (participants) of the foreign organization;

2) Preparation for the holding of the board of directors of the foreign organization;

3) Exercise in the Russian Federation of certain functions within the framework of the planning and control of the activities of the foreign organization. Such functions include, *inter alia*, strategic planning, budgeting, preparation and compilation of the consolidated financial statements, internal audit and internal control, and also the adoption (approval) of standards, methodologies and/or policies, which apply to all or a material proportion of the subsidiaries of this organization.

4. The foreign organization is considered to be an organization, whose effective management is performed outside the Russian Federation, in particular if its sales activities are performed using its own qualified personnel and assets in the country (on the territory) of its domicile with which there is an international treaty of the Russian Federation on tax issues. Furthermore, the foreign organization shall submit supporting documentation that confirms the performance of the terms and conditions referred to in this clause.

5. If none of the terms and conditions stipulated by sub-clauses 1 and 2, clause 2 of this article are met in respect of the foreign organization or only one of them is met, the Russian Federation shall be recognized as the place of effective management of this foreign organization in the event of compliance with at least one of the following terms and conditions:

1) The accounting or management accounting of the organization (except for actions relating to the preparation of consolidated financial statements) is performed in the Russian Federation;

2) The records management of the organization is performed in the Russian Federation;

3) The operational management of the organization's personnel is performed in the Russian Federation.

6. Regardless of whether the foreign organization meets the terms and conditions stipulated by clauses 2 - 5 of this article, such a foreign organization may only be recognized as a tax resident of the Russian Federation pursuant to the procedure stipulated by clause 7 of this article if such an organization meets at least one of the following terms and conditions:

1) The foreign organization has its domicile in a country with which there is an effective treaty of the Russian Federation on tax issues, and is recognized as the tax resident of this foreign country in accordance with the provisions established by this international treaty;

2) The foreign organization as the main line of business participates in projects in accordance with production sharing agreements, concession agreements, license agreements or service agreements (contracts) on risk terms or other analogous agreements with the government of the corresponding country (territory) or with the institutes (state executive bodies, state companies) authorized by this government;

3) The foreign organization, the direct (indirect) shareholder (participant) of which is a Russian controlling person that has a direct (indirect) participation interest in the charter (joint) capital of such a foreign organization of no less than 50 percent for at least 365 calendar days, subject to simultaneous compliance with all the following terms and conditions:

The assets of such a foreign organization based on the data of its financial statements consist more than 50 percent of investments in foreign subsidiaries, which meet the requirements of sub-clause 4, clause 7 of article 25.13 of this Code, and are not tax residents of the Russian Federation and the country or territory, the domicile of which is not included in the list of countries and territories to be approved by the Ministry of Finance of the Russian Federation in accordance with sub-clause 1, clause 3 of article 284 of this Code;

Such a foreign organization has a participation interest of at least 50 percent in the charter (joint) capital of such subsidiaries;

This foreign organization has no income (profits) or at least 95 percent constitutes income referred to in sub-clause 1, clause 4 of article 309.1 of this Code and received directly or indirectly from such subsidiaries;

4) The foreign organization is the operator of a new offshore hydrocarbon field or direct shareholder (participant) of the operator of the new offshore hydrocarbon field.

7. Unless otherwise stipulated by an international treaty of the Russian Federation on tax issues, and also this article, the foreign organization which has a domicile in a foreign country with which there is an effective international treaty on tax issues and operates in the Russian Federation through a standalone division, shall have the right to recognize itself as a tax resident of the Russian Federation, and also (if the foreign organization previously recognized itself as the tax resident of the Russian Federation) to waive its status as a tax resident of the Russian Federation.

If the foreign organization recognized itself as a tax resident of the Russian Federation, provided that the foreign organization compiled with the provisions of this Code and other regulatory and legal acts of the Russian Federation in respect of tax residents of the Russian Federation, such a foreign organization is not recognized as a controlled foreign company on the basis of article 25.13 of this Code.

The foreign organization referred to in this clause shall notify the tax authority where a standalone division is registered for tax purposes that it has recognized itself as a tax resident of the Russian Federation, and also that it has waived its status as a tax resident of the Russian Federation pursuant to the procedure to be determined by the Ministry of Finance of the Russian Federation according to the form to be approved by the federal executive authority responsible for control and supervision in the area of taxes and duties.

8. The recognition of an organization (individual), which is the management company (who is the managing partner or other person exercising the fund management functions) of the investment fund (unit investment fund or other form of collective investments vehicle) – foreign organization (unincorporated foreign structure) as a tax

resident of the Russian Federation shall not serve as grounds *per se* for the recognition of this investment fund (unit investment fund or other form of collective investment vehicle) as a tax resident of the Russian Federation.

9. A foreign organization, which is the issuer of marketable bonds or organization authorized to receive interest income to be paid on the marketable bonds, or organization which has been assigned rights and obligations in respect of the issued marketable bonds, the issuer of which is another foreign organization, may not be recognized as a tax resident of the Russian Federation, subject to compliance with the requirements imposed on such foreign organizations and marketable bonds established by sub-clause 8, clause 2 and clause 2.1 of article 310 of this Code. At the same time, for the purpose of applying this sub-clause, the share of such income for the period for which the financial statements are prepared for the financial year in accordance with the personal law of the foreign organization, is no less than 90 percent of the total income of this organization for this period.”;

8) To add clause 25 to part two of article 250 as follows:

“25) In the form of the profits of the controlled foreign company, to be determined in accordance with this Code – in the case of organizations recognized in accordance with this Code as the controlling persons of this foreign company.”;

9) In clause 1 of article 251:

a) To revise sub-clause 11 as follows:

“11) In the form of property received by the Russian organization for no consideration:

from the organization if the charter (joint) capital of the receiving party consists more than 50 percent of the contribution (interest) of the transferring organization;

from the organization if the charter (joint) capital of the transferring party consists more than 50 percent of the contribution (interest) of the receiving organization and on the date of the transfer of the property, the receiving organization owns this contribution (interest) in the charter (joint) capital by right of title on the date of the transfer of the property. At the same time, if the organization transferring the property is a foreign organization, the income referred to in this sub-clause shall not be considered when determining the tax base only in instances where the country of the domicile of the transferring organization is not included in the list of countries and territories to be approved by the Ministry of Finance of the Russian Federation in accordance with sub-clause 1, clause 3 of article 284 of this Code;

from an individual if the charter (joint) capital of the receiving party consists more than 50 percent of the contribution (interest) of this individual.

At the same time, the received property shall not be recognized as income for tax purposes only in cases where this property is not transferred to third parties within one year of the date of its receipt (except for cash);”;

b) To add sub-clause 50 as follows:

“50) In the form of dividends to which the Russian organization has the actual right and from which tax has been withheld, with due account of the provisions of article 312 of this Code. Furthermore, taxpayers are required to confirm in supporting documentation the withholding of the tax by the tax agent.”;

10) To add to the first paragraph of sub-clause 2.1, clause 2 of article 268 the following words “unless otherwise stipulated by clause 9 of article 309.1 of this Code”;

11) To add sub-clause 12 to clause 4 of article 271 as follows:

“12) The date of receipt of income in the form of the profits of the controlled foreign company is recognized to be 31 December of the calendar year following the tax period on which the date of the end of the period occurs, for which the financial statements are prepared for the financial year in accordance with the personal law of this company in accordance with the legislation of the foreign country (territory) of domicile (registration) of the foreign organization (unincorporated foreign structure), and if such company has no obligation in accordance with the personal law to prepare and submit financial statements – 31 December of the calendar day following the tax period when the date of the end of the financial period occurs.”.

12) To add to the first paragraph of clause 1 of article 273 after the words “microfinance organizations” the words “, organizations recognized in accordance with this Code as the controlling persons of the controlled foreign companies,”;

13) To add clause 21 to article 274 as follows:

“21. The tax base to be determined by controlling persons on the profits of the foreign companies controlled thereby shall be determined with due account of the specifics established by article 309.1 of this Code, and shall not be reduced by the amount of expenses on other activities, and also the losses incurred from other activities of the controlling persons.”;

14) To add clause 2.2 to article 277 as follows:

“2.2. In the event of the liquidation of a foreign organization, income in the form of the value of the received property (property rights) shall not be included in the tax base of its shareholder (participant, unit holder) recognized as the controlling person of this foreign organization in accordance with chapter 3.4 of this Code. The value of this property (property rights), except for cash, shall for the purposes of this clause be booked in the accounts proceeding from the value of the property confirmed in supporting documentation according to the accounting data of the liquidated foreign organization, but no more than the market value of such property

(property rights), to be determined with due account of the provisions of article 105.3 of this Code, and no more than the value of the shares (interests, units) of the liquidated organization actually paid (irrespective of the form of payment) confirmed in documentation by corresponding shareholders (participants, unit holders) of this organization, net of the cash and foreign currency received during the distribution of the property (property rights) of the organization being liquidated. At the same time, the aggregate value of the received property (property rights) shall be booked pursuant to the following procedure:

1) property items (property rights) to be depreciated, and also the rights of claim on debt obligations should be booked at the value confirmed in supporting documentation (residual value), to be determined according to the accounting data of the foreign organization being liquidated;

2) The value of the other property (property rights) shall be distributed on a straight-line basis to other types of property (property rights) to be distributed commensurate to the value confirmed by supporting documentation according to the accounting data of the organization being liquidated.”;

15) To add to the second paragraph of clause 1 of article 278.1 the words “, and also the income of the participants of the consolidated group of taxpayers that are the controlling persons of the controlled foreign companies in the form of the profits of the foreign companies controlled thereby”;

16) To add to the fourth paragraph of clause 1 of article 280 the words “with due account of the specifics stipulated by clause 9 of article 309.1 of this Code”;

17) To add to the first paragraph of clause 1 of article 283 after the figures “268.1,” the figures “274.”;

18) In article 284:

a) In clause 1:

To revise the seventh paragraph as follows:

“The provisions of this clause shall not apply.”;

To add paragraphs as follows:

“by the taxpayers referred to in clause 1 of article 275.2 of this Code when calculating the tax base in the event of the performance of activities related to the production of hydrocarbons at a new offshore hydrocarbon field;

in the event of the calculation of the tax base by taxpayers – controlling persons on the profits of the foreign company controlled thereby.”;

b) To add clause 1.6 as follows:

“1.6. The tax rate is established at 20 percent on the tax base to be determined by the taxpayers – controlling persons on income in the form of the profits of foreign companies controlled thereby.”;

19) In clause 2 of article 284.1, to replace the words “by clauses 3 and 4” by the words “by clauses 1.6, 3 and 4”;

20) To add sub-clause 4 to clause 2 of article 284.2 as follows:

“4) if the shares constitute the charter capital of Russian organizations, of which no more than 50 percent of the assets consist directly or indirectly of immovable property located in the Russian Federation, except for shares that comply with the term established by sub-clause 2 of this clause.”;

21) In article 309:

a) In clause 1:

To revise the first paragraph as follows:

“1. The following types of income received by the foreign organization, which are not related to its entrepreneurial activities in the Russian Federation, shall be classified as the Russian source income of the foreign organization and are subject to tax.”;

To revise sub-clause 5 as follows:

“5) income from the sale of the shares (interests) of organizations, of which more than 50 percent of the assets consists directly or indirectly of immovable property located in the Russian Federation, and also financial instruments derived from such shares (interests), except for shares deemed to be trading on an organized securities market in accordance with clause 9 of article 280 of this Code.”;

b) To add clause 1.1 as follows:

“1.1. The income referred to in sub-clauses 1-4 and 6-10 of clause 1 of this article shall be subject to tax withheld at the source of payment of the income.”;

22) To add article 309.1 as follows:

“Article 309.1. Specifics of the taxation of the profits of controlled foreign companies

1. The profits (losses) of the controlled foreign company are recognized to be the pre-tax profits (losses) of this company according to the data of its financial statements prepared in accordance with the personal law of this company for the financial year if these financial statements are subject to a statutory audit in accordance with its personal law, provided that the domicile of this controlled foreign company is a foreign country with there is an international treaty of the Russian Federation on tax issues, with due account of the specifics stipulated by this article.

In the instances not referred to in the first paragraph of this clause, the profits (losses) of the controlled foreign company shall be recognized as the amount of the profits (losses) of this company determined according to the rules established by this chapter, without considering the specifics stipulated by this article (except for the provisions of the third paragraph of clause 2 of this article).

2. The profits (losses) of the controlled foreign company, to be determined according to the data of the financial statements of this company and denominated in a foreign currency, shall be converted into rubles, with the application of the average exchange rate of the foreign currency to the Russian ruble established by the Central Bank of the Russian Federation, to be determined for the period for which the financial statements are prepared in accordance with the personal law of such a company.

The amount of the profits (losses) of each controlled foreign company should be confirmed in supporting documentation by its financial statements prepared in accordance with the personal law of this company for a corresponding period (periods), attaching its financial statements and tax reporting.

If the amount of the profits (losses) of the controlled foreign company is determined in accordance with the second paragraph of clause 1 of this article, the amount of the profits (losses) of the controlled foreign company should be confirmed by other documents, which make it possible to determine the amount of the profits. Such documents may, in particular, be statements from the current accounts of the foreign controlled organization, source documents confirming the performed transactions pursuant to standard business practice of the foreign company.

3. When determining the profits of the controlled foreign company, the income (expenses) of this company in the form of amounts from the revaluation of securities, financial derivatives at market value and also in the form of expenses on the establishment of provisions and income from the restoration of provisions shall not be booked.

4. When determining the profits of the controlled foreign company for the purposes of this Code, the following income of this Company shall be considered:

1) The dividends obtained by this foreign company;

2) The income obtained as a result of the distribution of the profits or property of organizations, other persons or associations, *inter alia* at the time of their liquidation;

3) Interest income from any type of debt obligations, including bonds with the right to participate in profits and convertible bonds;

4) Income from the use of rights to intellectual property items. Such income includes, *inter alia*, any type of payments received as reimbursement for the use or provision of the right to use any copyright to works of literature, art or science, including motion picture films and films and recordings for television or radio, the use (provision of the right of use) of any patents, trademarks, drafts or models, plans, the secret formula or process or the use (provision of the right of use) of information concerning industrial, commercial or scientific experience;

5) Income from the sale of shares (interests) and/or assignment of rights in the foreign organization which is not a legal entity under foreign law;

6) Income under operations with term transaction financial instruments (financial derivatives);

7) Income from the sale of immovable property;

8) Income from the lease or sublease of property, including income from leasing transactions, except for income from the lease or sub-lease of ships or aircraft and/or vehicles, and also containers used in international transport. Furthermore, income from leasing transactions related to the acquisition and use of the subject of the lease by the lessee shall be calculated proceeding from the total amount of the lease payment, net of the reimbursement of the cost of the lease property (in leasing) to the lessor;

9) Income from the sale (including redemption) of the investment units of unit investment funds;

10) Income from the provision of consulting, legal, accounting, audit, engineering, advertising, marketing services, information processing services, and also from the performance of R&D and experimental development work;

11) Income from staff secondment services;

12) Other income analogous to the income referred to in sub-clauses 1-11 of this clause;

13) Other income.

5. For the purposes of this Code, the income referred to in sub-clauses 1-12 of clause 4 of this article is recognized as income from passive activities, the income referred to in sub-clause 13 of clause 4 of this article is recognized as income from active activities.

Furthermore income referred to in sub-clause 3, clause 4 of this article may be classified as income from active activities in cases where the generation of profits from such income is performed on the basis of a special permit (license) and constitutes the main goal of the activities of the foreign company which is a bank in accordance with the legislation of the foreign country.

6. The tax base of the controlled foreign company shall be determined separately in respect of each controlled foreign company.

7. In cases where it is determined based on the data of the financial statements of the controlled foreign company prepared for the financial year in accordance with its personal law that it has incurred a loss, this loss

may be carried forward to future periods without any restriction and deducted when determining the tax base of this company unless otherwise established by this clause.

According to the data of the financial statements, the losses of the controlled foreign company may not be carried forward to future periods if the taxpayer - controlling person did not submit a notice on the controlled foreign company for the period for which these losses were incurred.

8. The losses incurred by the controlled foreign company before 1 January 2015, according to the data of the financial statements prepared in accordance with its personal law, may be carried forward to future periods in an amount that does not exceed the amount of the losses for the three financial years preceding 1 January 2015 and shall be deducted when determining the tax base of this company.

9. In cases where the income of a controlled foreign company to be considered when determining the tax base are received as a result of the performance of a controlled transaction with the taxpayer, in respect of which the completeness of the calculation and payment of taxes has been audited in connection with the performance of transactions between related parties and in accordance with a decision adopted based on the results of this audit which has entered into force, the transaction price was adjusted for the purpose of additionally accruing tax, for the purpose of determining the tax base the respective income of the controlled foreign company shall be determined with due account of this adjustment.

10. Income received by the controlled foreign company from the sale of the securities and/or property rights (including interests, units) in favor of the organization recognized to be the controlling person of this controlled foreign company in accordance with the provisions of chapter 3.4 of this Code, or its Russian related party, and also the expenses of the controlled foreign company related to the generation of such income, when determining the profits of the controlled foreign company to be booked at the taxpayer – controlling person, shall be considered when determining the tax base in the amount of the value confirmed by supporting documentation according to the accounting data of the controlled foreign company on the date of the transfer of title to these securities and/or property rights (including interests, units), but not more than the market value of such securities and/or property rights (including the interests, units) on the date of the transfer of title, to be determined in accordance with article 280 of this Code, with due account of the specifics stipulated by article 105.3 of this Code.

The provisions of this clause shall apply in instances where the controlled foreign company adopts a resolution of the shareholders (founders) on liquidation and the liquidation procedure is completed before 1 January 2017.

At the same time, the value of the securities and/or property rights (including interests, units) acquired from the controlled foreign company by the taxpayer recognized as the controlling person, or related party, shall be booked in the accounts of such a taxpayer (its related party) proceeding from the value confirmed by supporting documentation according to the accounting data of the controlled foreign company on the date of the transfer of title to these securities and/or property rights (including interests, units), but no more than the market value of such securities and/or property rights (including interests, units) on the date of the transfer of the title, to be determined in accordance with article 280 of this Code, with due account of the specifics stipulated by article 105.3 of this Code.

11. The amount of the tax calculated in respect of the profits of the controlled foreign company for a corresponding period shall be reduced by the amount of the tax calculated in respect of these profits in accordance with the legislation of foreign countries and/or the legislation of the Russian Federation, and also the corporate profits tax calculated in respect of the profits of the permanent establishment of this controlled foreign company in the Russian Federation.

The amount of the tax calculated in accordance with the legislation of the foreign country should be confirmed in supporting documentation, and if the Russian Federation does not have an effective international treaty of the Russian Federation on tax issues with the country (territory), shall be certified by the competent authority of the foreign country responsible for control and supervision in the area of taxes.”;

23) In article 310

a) To add to sub-clause 4 of clause 2 after the words “foreign organization” the words “, having the actual right to receive corresponding income.”;

b) In sub-clause 1 of clause 2.1, to replace the words “the list approved by the Central Bank of the Russian Federation on agreement with the Ministry of Finance of the Russian Federation” with the words “the list of foreign financial intermediaries”;

24) In article 312:

a) To revise clause 1 as follows:

“1. When applying the provisions of international treaties of the Russian Federation, the foreign organization which has the actual right to receive the income should submit to the tax agent paying such income confirmation that this foreign organization has its domicile in a country with which the Russian Federation has an international treaty (agreement) governing tax issues, which should be certified by the competent authority of the respective foreign country. If this confirmation is compiled in a foreign language, the tax agent shall also be provided with a Russian translation. In addition, the tax agent paying income, for the purpose of applying the provisions of the international treaties of the Russian Federation, shall have the right to request from the foreign organization confirmation that this organization has the actual right to receive respective income.

If the foreign organization having the actual right to receive income submits this confirmation to the tax authority paying the income prior to the payment date of the income in respect of which the international treaty of the Russian Federation stipulates a preferential tax regime in the Russian Federation, such income shall be exempted from withholding tax at the source of payment or the tax shall be withheld at the source of payment at reduced rates.”;

b) To add clauses 1.1-1.4 as follows:

“1.1. In cases where the foreign organization recognizes, in respect of income received in the form of dividends, that it has no actual right to receive such income (does not seek to apply the provisions of the international treaties of the Russian Federation), the provisions of the international treaties of the Russian Federation may be applied to another person if this person participates directly and/or indirectly in the Russian organization that paid the income in the form of dividends, including the submission of the documents referred to in this article to the tax agent paying such income.

Furthermore, the right to apply the provisions of the international treaties of the Russian Federation shall arise for the next person that participates directly in the person that recognized that it had no actual right to the income in the form of dividends in the part that complies with such a participation interest. If the subsequent person recognizes that it has no actual right to the income in the form of the dividends paid by the Russian organization, the right to apply the provisions of the international treaties of the Russian Federation shall arise for the next person in the corresponding order of participation.

If the person that has the actual right to receive income in the form of dividends and participates indirectly in the organization, which paid the income in the form of dividends, is a tax resident of the Russian Federation, the tax rates established by sub-clauses 1 and 2 of article 284 of this Code may be applied to the tax base to be determined on the income obtained in the form of dividends, including the submission of the information (documents) referred to in this article to the tax agent paying such income.

At the same time, for the purposes of this article and sub-clause 1, clause 3 of article 284 of this Code, the indirect participation of each subsequent person that has the actual right to receive the income in the Russian organization paying income in the form of dividends shall be equated to direct participation in the Russian organization paying income in the form of dividends.

The rate established by sub-clause 1, clause 3 of article 284 of this Code shall be applied, subject to compliance with the following additional terms and conditions:

The participation interest of the Russian person that has the actual right to dividends, in the charter (joint) capital of the Russian person paying the dividends, and also the foreign organizations through which it participates in the capital of such a Russian person, is no less than 50 percent in the period from the payment date of the dividends until the end of the tax period in which the dividend payment is performed;

The amount of dividends to which the Russian person has an actual right amounts to no less than 50 percent of the total amount of the dividends to be distributed.

1.2. The tax agent paying income in the form of dividends, in order to be eligible for the provisions of the international treaties of the Russian Federation and/or the tax rates established by this Code, in addition to the documents referred to in clause 1 of this article, shall have the right to request the following information (documents) from the foreign organization that received income in the form of dividends and the person having the actual right to the dividends:

1) confirmation that this foreign organization recognizes that it has no actual right to receive such income (does not seek to apply the provisions of the international treaties of the Russian Federation);

2) information on the person that the foreign organization recognizes as the actual recipient of the income (indicating the interest and confirmation in supporting documentation of the procedure for direct participation in this foreign organization and indirect participation in the Russian organization which distributed the dividends, and also the country (territory) of the tax residency of the person).

1.3. The specifics for calculating and paying tax on income in the form of the dividends being withheld by the tax agent established by this article shall apply to the calculation and payment of the tax by the Russian organizations paying income in the form of dividends in cases where the actual recipient of the income is deemed to be an individual – tax resident of the Russian Federation. At the same time, the tax rate established by clause 4 of article 224 of this Code shall apply.

1.4. The provisions of clauses 1 - 1.3 of this article shall not apply if the tax agents apply the provisions of the international treaties of the Russian Federation on tax issues in the instances stipulated by article 310.1 of this Code.”;

c) in clause 2:

To add to the first paragraph after the words “governing tax issues,” the words “or by this article”;

To add to the eleventh paragraph after the word “foreign” the word “(actual)”;

d) To add clauses 3 and 4 as follows:

“3. For the purposes of this Code a person is recognized as having the actual right to receive income if such a person is the direct beneficiary of such income, in other words the person that actually derives a benefit from the income to be paid and determines its subsequent economic fate.

When determining the actual right to receive income, the functions being performed, existing authorities and assumed risks of the person seeking to apply the provisions of the international treaty of the Russian Federation in respect of the income to be paid, shall be taken into account.

4. If the tax agent paying the income did not apply the provisions of an international treaty of the Russian Federation and withheld tax on the income of the foreign organization in full, or the tax on the income of the foreign organization was calculated and withheld in the form of the performance of tax control measures, the person that has the actual right to receive such income shall have the right to apply for the reimbursement of tax, submitting the documents referred to in this article to the tax authority at the domicile of the tax agent.”;

25) In article 346.1:

a) In clause 3, to replace the words “by clauses 3 and 4” with the words “by clauses 1.6, 3 and 4”;

b) To add to clause 4 the words “, and also the obligations of the controlling persons of the controlled foreign companies”;

26) In the sixth paragraph of clause 1, article 346.5, to replace the words “by clauses 3 and 4” by the words “by clauses 1.6, 3 and 4”;

27) In article 346.11:

a) In the first paragraph of clause 2, to replace the words “by clauses 3 and 4” with the words “by clauses 1.6, 3 and 4”;

b) To add to clause 5 after the words “tax agents,” the words “and also the obligations of the controlling persons of the controlled foreign companies”;

28) In sub-clause 2, clause 1.1 of article 346.15, to replace the words “by clauses 3 and 4” with the words “by clauses 1.6, 3 and 4”;

29) To add the following paragraph to clause 3 of article 386:

“The foreign organization (unincorporated foreign structure), which has property recognized as a taxable item in accordance with article 374 of this Code, shall submit at the same time as the submission of the tax return, information on the participants of this foreign organization (the founders of the unincorporated foreign structure) as at 31 December of the corresponding tax period, including the disclosure of the procedure of the indirect participation (where applicable) of the individual or public company in cases where their direct and/or indirect participation interest in the foreign organization (unincorporated structure) exceeds 5 percent.”.

Article 3

1. Until 1 January 2016 a person shall be recognized as the controlling person in accordance with clause 3 of article 25.13 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law) if the participation interest of this person in the organization (in the case of individuals – jointly with spouses and minors) is more than 50 percent.

2. When applying clause 7 of article 25.15 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law) in 2015 and 2016 the profits of the controlled foreign company shall be booked when determining the tax base for the period for a corresponding tax in accordance with clause 1 of article 25.15 of Part One of the Tax Code of the Russian (in the version of this Federal Law), provided that the amount calculated in accordance with the Tax Code of the Russian Federation (in the version of this Federal Law) comes to:

1) for 2015 - RUB 50 million;

2) for 2016 – RUB 30 million.

3. Liability shall be imposed for a tax offense stipulated by article 129.5 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law), pursuant to the following procedure:

1) In the event of the issue of decisions on holding a person liable for a tax offense for the tax periods of 2015-2017, the liability stipulated by article 129.5 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law), shall not apply;

2) In the event of the issue of decisions on holding a person liable for a tax offense for tax periods, starting from 2018 the provisions of article 129.5 of Part One of the Tax Code of the Russian Federation shall apply (in the version of this Federal Law).

4. Criminal liability shall not arise for actions related to the non-payment or incomplete payment of tax amounts as a result of the failure to include the profits of the controlled foreign company in the tax base in 2015-2017 if the damage caused to the budget system of the Russian Federation as a result of the crime is reimbursed in full.

5. Regardless of the terms and conditions stipulated by clauses 2 and 3 of article 246.2 of Part Two of the Tax Code of the Russian Federation (in the version of this Federal Law), a foreign organization shall not be recognized as a tax resident of the Russian Federation if a resolution of the shareholders (founders) on the liquidation of such a foreign organization was adopted in the tax period or previous tax periods and the liquidation procedure was completed before 1 January 2017.

Article 4

1. This Federal Law shall enter into force from 1 January 2015 and no earlier than the 1st day of the next tax period for a corresponding tax.

2. The provisions of chapter 3.4 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law) shall be applied by taxpayers recognized as the controlling persons of the controlled foreign company when determining the tax base in accordance with chapters of Part Two of the Tax Code of the Russian Federation (in the version of this Federal Law) in respect of the profits of the foreign companies to be determined from periods starting in 2015.

3. The provisions of the first paragraph of clause 3 of article 25.14 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law) shall apply from 1 April 2015.

4. The notice on participation in foreign organizations stipulated by article 25.14 of Part One of the Tax Code of the Russian Federation (in the version of this Federal Law), in respect of which the grounds for submission thereof arose prior to the date of the actual entry into force of this Federal Law, shall be submitted no later than 1 April 2015.

5. Clause 22 of article 277 of Part Two of the Tax Code of the Russian Federation (in the version of this Federal Law) shall apply until 1 January 2017.

6. Clause 10 of article 309.1 of Part Two of the Tax Code of the Russian Federation (in the version of this Federal Law) shall apply until 1 January 2017.

President of the
Russian Federation
V. PUTIN

Moscow, Kremlin
24 November 2014
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