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Tax and Currency Regulation Updates from Russia

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Tax and Currency Regulation Updates



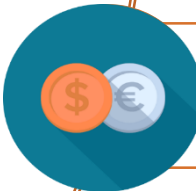
Tax amnesty v.2.0 and extension of tax-free liquidation



Changes of the currency control regulations



Proactive development of the law enforcement practice re. application of the concept "Beneficial Owner" for the purposes of DTTs



Identification and disclosure of UBOs under the AML Law



CFC rules first filings

Tax amnesty v.2.0 and extension of tax-free liquidation

Key issues of tax amnesty v.2.0:

March 01, 2018 – February 28, 2019



Disclosure of information on foreign accounts (incl. closed), foreign companies (structures), foreign assets



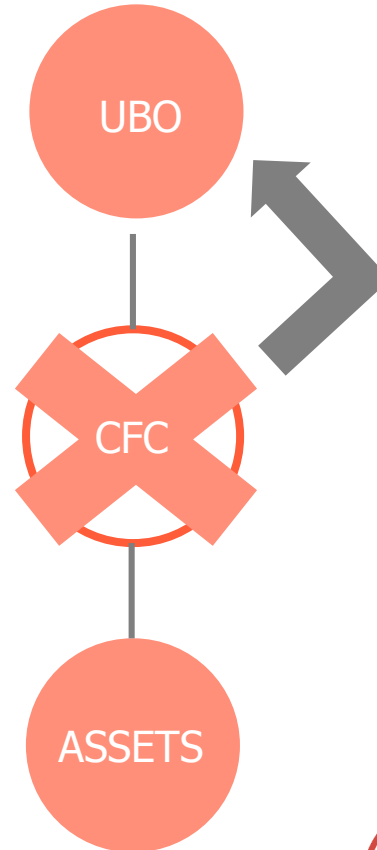
No need to disclose the source of funds



Opportunity to avoid fines for the failure to report up to deadlines



Currency transactions made before the date of filing of a special declaration are recognized as legal



Conditions of tax free liquidation:

- CFC was liquidated up to **March 1, 2019**
- Official liquidation procedure
- The value of transferred assets is based on CFC's financial statement (but not higher than the market value)

Assets:

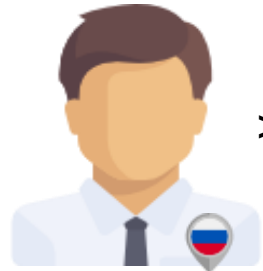
- Property (real estate, securities, etc.)
- Property rights (participations in Russian LLCs)
- Right of demand under the loan agreements
- **Cash**



Retroactive force of the rules (apply to periods beginning on **January 1, 2016**)

Changes of the currency control regulations

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> 183 days outside
Russia



No currency
restrictions

from January 1, 2018

- New definition of a currency resident
- Residents who spend more than 183 days outside Russia during a calendar year are exempted from reporting on accounts/deposits restrictions on currency transactions*
- New allowed transactions for residents



Control
the legality of
transactions



Reducing the risks of
violation of currency

From May 14, 2018

- Right of the authorized banks to refuse currency transaction for clients in particular cases
- Submission of terms of receiving foreign currency to residents' accounts from non-residents and terms of execution of obligations under foreign trade agreements by residents to authorised banks when conducting foreign economic activities



Anticipated changes:

- Expansion of the list of funds allowed for crediting to foreign accounts of Russian residents;
- setting thresholds, after exceeding which, there is a duty to submit reports on cash movements on foreign accounts;
- reduction in the amount of fines for illegal currency transactions from the current **75-100%** to **20-40%**

CFC first filings



Official statistics of the Russian tax authority:
https://www.nalog.ru/rn77/news/activities_facts/7144772/



First cases:

- JSC "EXPOCENTRE"
No. A40-178867/17
- JSC "UTair Aviation"
No. A40-24922/16

2017 - first wave

- 4 000 notifications
- Over 10 000 CFCs
- RUB 3,2 billion – corporate profit tax received by the budget
- RUB 2,8 billion – personal income tax received by the budget

2018 – second wave

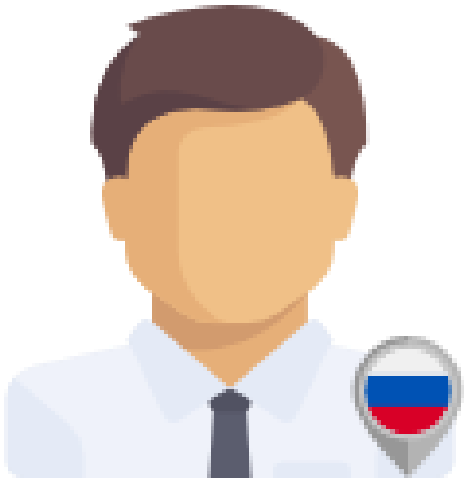
- Notifications were submitted by March 20
- Number of CFC's will increase due to decreased participation and income thresholds

Change of tax residency

Tax residents



- 12 months is any continuous 12-month period, including those started in one tax period (calendar year) and continuing in another
- 183 days in total, i.e. it is not necessary that these days be consistent
- The day of arrival and the day of departure from Russia are considered days of stay in the Russian Federation
- “Split tax year” concept is inapplicable in Russia
- Center of vital interest?



Remaining tax resident



Taxation

- World wide income incl. dividends – personal income tax at a **13%** rate
- Real estate and vehicles in Russia – obligation to pay real estate and transportation taxes
- Selling of a real estate and vehicles – opportunity to deduct expenses

Other issues

- Opportunity to apply “Tax Amnesty” and “Tax-free liquidation”
- Automatic exchange of tax information with Russia under the CRS (74 respondents)
- Russian CFC regulation is applicable
- CFC may be considered a Russian tax resident

Becoming tax non-resident

Taxation

- Russian-sourced income – personal income tax at a **30%** rate, but dividends at a **15%** rate, if otherwise isn't stated by DTT (approx. 80 DTTs)
- Real estate and vehicles in Russia – obligation to pay real estate and transportation taxes
- Selling of a real estate and vehicles – **no** opportunity to deduct expenses



Check all your outstanding tax obligations / assets / sources of income in Russia before changing tax residency (restructuring may be required)

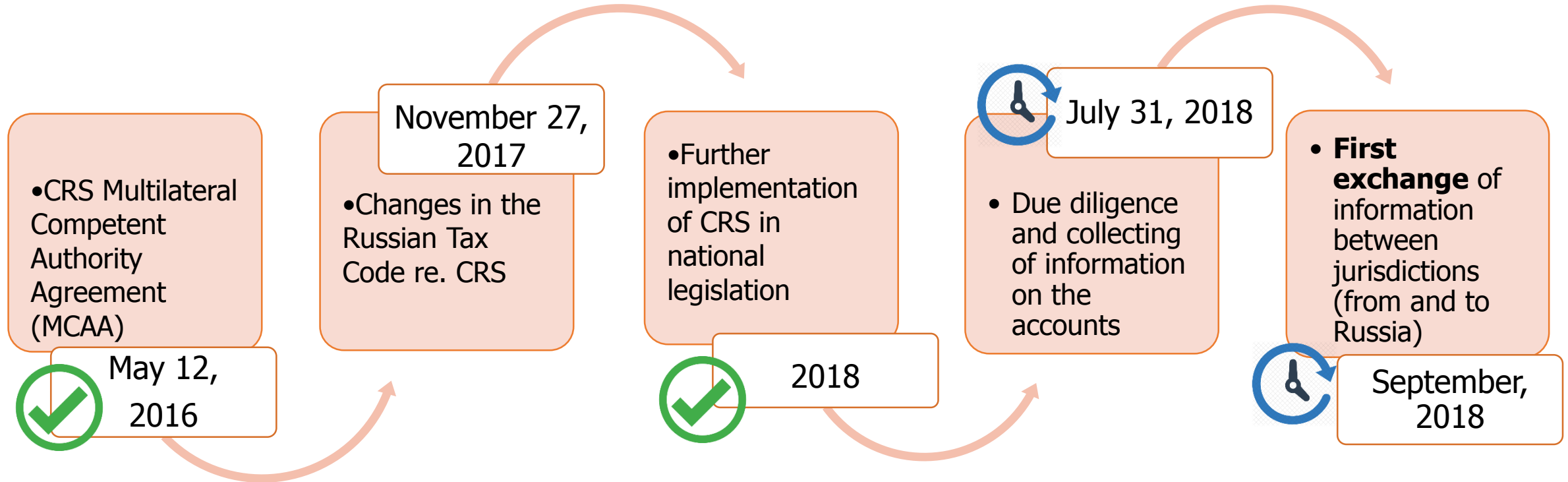
Other issues

- No need to notify on losing of a tax resident status
- No exit tax
- Termination of Russian tax resident's obligations, incl. obligations under the CFC rules
- Remains to be a currency resident (special status applies)
- "Tax-free liquidation" is not applicable
- Opportunity to apply "Tax Amnesty", but technical difficulties may appear

Compliance and CRS

CRS - key dates

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74 countries will start to exchange information with Russia, and in its turn, Russia will exchange information with **57 countries**: <http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/>

CFC rules

Notification on participation in Foreign company

- **Once** within 3 months from the beginning of participation

Notification on CFC

- **Annually** until March 20

Reporting

- **Annually** until April 30
- In 2018 – for 2016, in 2019 – for 2017
- If the profit exceeds 30, 10 million rubles

Payment of tax on retained profit of the CFC

- **Annually** until July 15
- Tax in Russia (13%) - the possibility of set-off on DTT



Currency regulation

Notification on opening / closure / change of account in foreign bank

- **Once** within **1 months** from the opening, closure of the account, change of the account's details

Reports on cash movements

- **Annually** until June 1



Limited list of allowed transactions



The possibility of declaring opened and closed foreign bank accounts under Tax amnesty v.2.0 if the accounts were opened before January 01, 2018



Anticipated changes:

Cancellation of the obligation to submit report on cash movements if the balance of the account is less than **600 000 RUB** (approx. **9 700 USD**)

Strengthening control over crossing of the state border



Federal Service of Court Bailiffs

- Citizen may be restricted in leaving Russia because of the execution of any court decision or recovery (payment of alimony, credit, payment of taxes, fines)

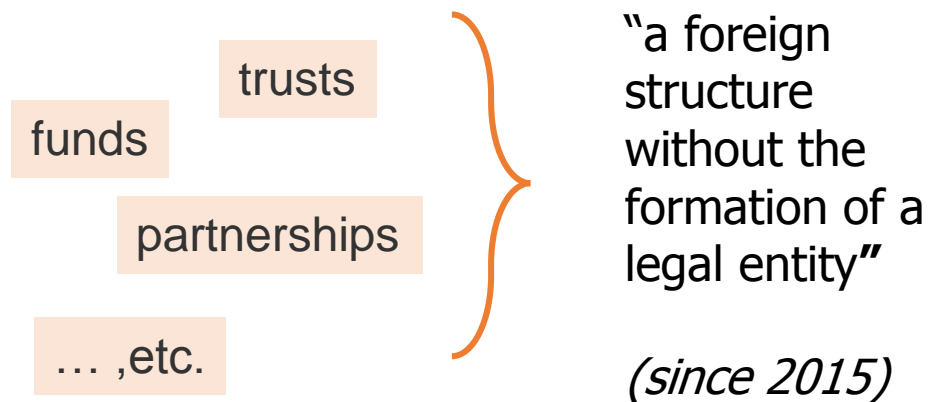



Federal Customs Service

- FCS began to learn about expensive purchases of Russian citizens abroad that are subject to a **duty of 30%**
- Obtaining information about expensive purchases abroad through two channels:
 - "tax free" system
 - directly from foreign colleagues

Taxation of Trusts

Taxation of Trusts: general issues

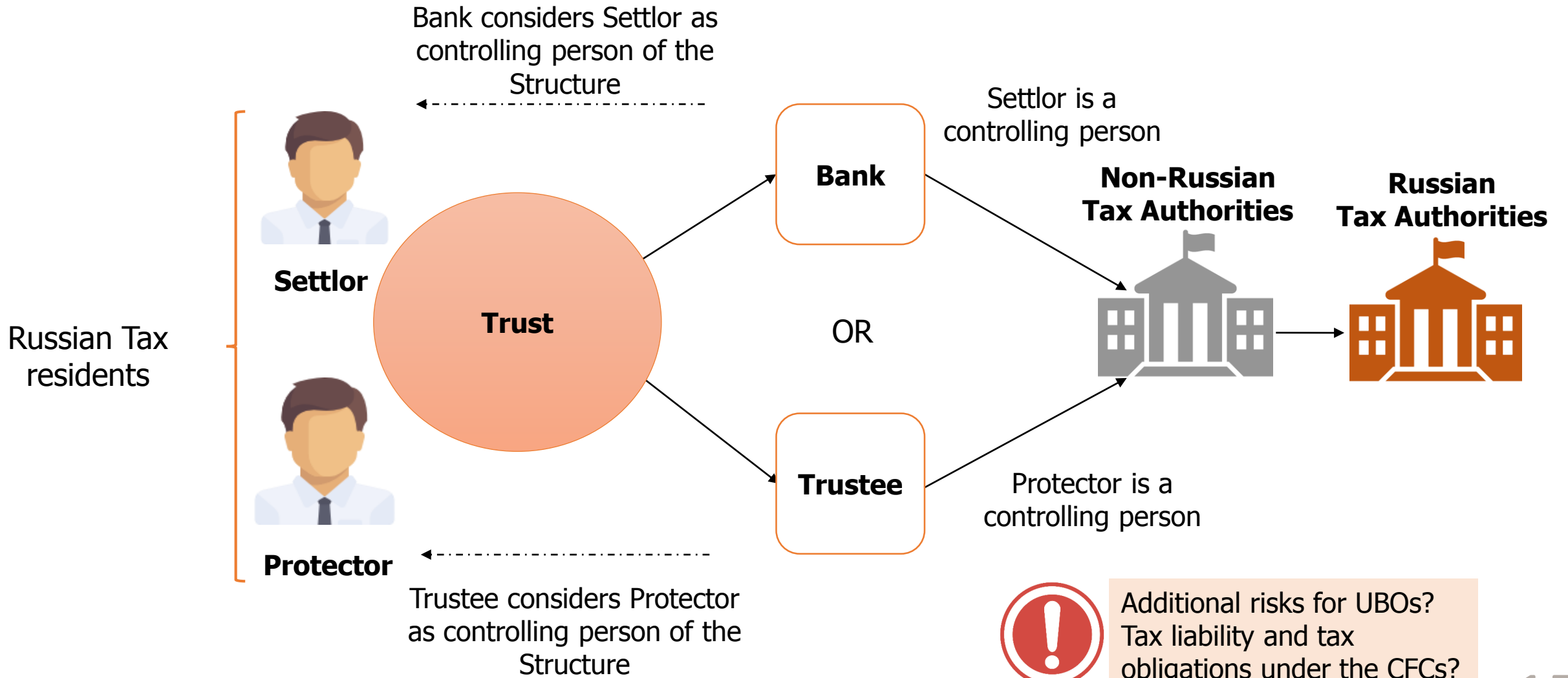


- Absence of “trust” in the Russian legal system and its consequences
 - Return of initial funds is not taxed
 - Recognition of a foreign trust as a **CFC** when a Russian tax resident exercises control over it in his interests (the interests of his spouse and minor children)
-  All CFC compliance issues
- Exemption of settlors with no powers and rights from CFC tax and reporting exposure (**irrevocable discretionary trust**)



However, notification of domestic tax authorities about the creation of it is still required

Taxation of Trusts: Reporting



Additional risks for UBOs?
Tax liability and tax obligations under the CFCs?



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Thank you for attention!

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This presentation is not a consultation. We recommend you to apply for legal advice to the Senior Partner Maxim Alekseyev malekseyev@alrud.com in each particular case.

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