LEGAL NEWS
KPMG in Bulgaria

Legislative changes related to companies from jurisdictions with preferential tax regime

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An Act to Amend and Supplement the Act on the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons Related to Them and Their Beneficial Owners (the "Act") was promulgated in the State Gazette, issue No 48 of 24 June 2016. it shall enter into force on 1 July 2016. The persons to whom the prohibitions set out by the Act apply must align their activity with the Act by 1 January 2017.

Below we present a brief summary of the main amendments introduced by the Act.

The term "related persons" is eliminated

The term "related parties" is eliminated from the title and scope of the Act, and is replaced with the term "persons controlled by them". The Act gives a legal definition for "control", which includes the cases of control within the meaning of the Commercial Act, as well as the case where companies registered in preferential tax regime jurisdictions participate directly or indirectly in the management or in the capital of another person or other persons, where unusual

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conditions have been agreed between them.

Introducing of thresholds below which the prohibitions of the Act do not apply

The current absolute prohibition for participation of companies registered in preferential tax regime jurisdictions and the persons related to them in certain types of companies in Bulgaria – credit institutions, insurers and reinsurers, pension insurance companies, etc. is no longer valid. Pursuant to the amendments, such participation shall be allowed as long as it is not a qualified shareholding within the meaning of the respective special legislation. With regard to companies, the shareholding in which is not regulated by other legislative acts, the prohibition shall only apply in case the shareholding percentage is 10 or more than 10 percent from the capital of the respective company.

The thresholds thus set shall be applied as a total in the cases where two or more companies registered in preferential tax regime jurisdictions, which are under joint control or one of them controls the other, and/or persons controlled by them, participate in a procedure/company which falls within the scope of the Act.

New rules for registration in the Commercial Register of information and data about companies registered in preferential tax regime jurisdictions

Pursuant to the amendments, along with the circumstances which are grounds for application of the exceptions to the Act, the circumstances and data, including any changes thereto, with regard to the companies registered in preferential tax regime jurisdictions, which directly or indirectly carry out activities falling into the scope of the Act, are to be registered in the Commercial Register as well. The data with regard to their beneficial owners is also subject to registration in the Commercial Register. The registration is to be made under the batch of the company controlled by a company registered in a preferential tax regime jurisdiction, which carries out or shall carry out the respective activity.

In the case where the company registered in a preferential tax regime jurisdiction carries out the activity directly or through a person which is not registered in the Commercial Register, the presence of the circumstances which are grounds for application of the exceptions to the Act are alone basis for registration in the Commercial Register of the company registered in a preferential tax regime jurisdiction.

The data about the persons controlled by the company registered in a preferential tax regime jurisdiction who directly or indirectly participate in the capital of a company which carries out one or more

of the activities within the scope of the Act (including any changes thereto) is also to be registered in the Commercial Register.

Changes in the preferential tax regime jurisdictions

As per the amendments to the Act, Gibraltar and the countries which are parties to the Agreement on the European Economic Area do not fall within the scope of the Act.

Due to the specifics of the matter related to the public relations governed by the Act, the Ministry of Justice is assigned to issue guidelines for the application of the Act in order to clarify its provisions.

In case you have any questions or require further assistance, we will gladly be of help.

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