



The Bulgarian anti-offshore law

Prepared by Lyubomir Tabakov, Senior
Associate, Tabakov, Tabakova & Partners
Law Firm

19 September 2014

Introduction

- The international background – key players working to curb tax evasion and tax avoidance by MNEs;
- Bulgarian background – a great number of offshore companies operating in Bulgaria combined with lack of information on beneficial ownership;
- Legislative history.

The law

Two principal aims:

1. Disallow the utilization of public funds and the management of financial resources by offshore companies to the detriment of the public interest; and
2. Fight tax avoidance.

1 - Dealing with offshore companies

- How does the law operate – by setting forth prohibitions on offshore companies:
 - What is an offshore company?
 - What are the prohibitions?
 - Applicable only to offshore companies'?
 - Consequences?
 - Are there any exceptions to the prohibitions?

What is an offshore company?

- a legal entity, a transparent entity or any other form of entity;
- set up in a preferential tax treatment jurisdiction;
- being a jurisdiction as per a list included in the law or according to a two-prongs test.

What are the prohibitions?

- Covering 28 business activities as per a list (*numerus clausus*);
- Generally, activities subject to licensing or registration, approval, etc.

Consequences

- What happens if an offshore company takes part in a prohibited activity?
- Harsh consequences – revocation, termination, exclusion, nullity, rescission, no right of relief

Exceptions

➤ Four exceptions:

- Publicly traded companies exception;
- Group companies exceptions;
- Printed periodicals exception.

2 – Fighting tax avoidance

- How does the law operate – by making amendments to existing tax acts:
 - Tax and Social Insurance Procedural Code – broadening the definition of affiliate;
 - Substantive tax acts – amending the provision defining income sourced in Bulgaria.

The broadened definition of affiliate

➤ The most important amendment:

- A resident and a non-resident that have transacted,
- Subject to a two prongs test;
- Resulting in the application of the hidden profit distribution rules to such transactions.

Conclusion

- The initial idea;
- The bill;
- The law;
- Observations.

The End

Thank You