Clarification of the Meaning of "Beneficial Owner" in the OECD Model Tax Convention

05 May 2011

Dear Sirs,

I believe that effective limitation of tax treaty benefits for non-beneficial recipients of incomes and conduit entities requires transparent, clear and objective methods for assessment of the economic powers of the entities receiving the respective incomes to use and enjoy those incomes, similar to ones established for tax-driven transfer pricing combating.

I propose introducing instruments for assessment of the real powers of an entity over the incomes received based on the level of competence and responsibility of the individuals administrating the assets which have produced the incomes received by this entity. In my opinion, the levels of competence and responsibility may easily be measured in terms of individuals' remuneration (including stock-options and dividends) in comparison to certain benchmarks.

The following indicators I see as adequate and easy to measure:

(1) The ratio of each individual decision maker's remuneration to the value of incomes and assets administered compared to the respective benchmark ratios for public investment companies and banks.
(2) The values of remuneration of other officials of the same group of companies (e.g. producing common consolidated financial statements). I would reasonably anticipate that a manager or a board member of a bona fide controlling holding company should assume more responsibility and would be paid more than a controlled company's official holding a similar office (CEO, CFO, board member, etc.).

I believe that the above approach may also prove beneficial for the purposes of identification of the place of effective management of an entity, which actually has deep interrelation with the issue being discussed.

Thank you for your attention.

Kind regards,

Sergey Popov,

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