British Overseas Territories can no longer hide beneficial owners of companies

About public registers of beneficial owners of companies in the British Overseas Territories.

31 May 2018

On May 1, the House of Commons of the British Parliament decided **to oblige tax havens, among which are the British Virgin Islands, the Cayman Islands and other overseas territories of Great Britain to keep a public register of beneficiaries.** This means that the access to information about the beneficiaries of companies established in the insular territories of Great Britain will be open. This decision was reflected in the amendment to the draft on Sanctions and Anti-Money Laundering Bill. The bill, together with the amendment, is to be considered in the House of Lords. As the authors note, the main message of the initiative is the confirmation that the British flag does not hide funds of dubious origin in any part of the world.

For the first time, measures on disclosure of information were proposed by Prime Minister David Cameron in 2013, but the new rules were not adopted, and the British Overseas Territories are still required to disclose information on the actual owners of companies only to law enforcement authorities upon obtaining an official request. This draft law on disclosure of owners of companies registered in the British sovereign territories was prepared with the consent of the British Prime Minister Theresa May.

The mechanism for introducing public registries of beneficiaries

Please note that in the UK a public register of beneficial owners of companies already exists and contains the information on the beneficiaries of assets with a share of control above a certain threshold (25%). Access to the register can be obtained by any interested person by visiting the Companies House website, entering the company name and opening a section “People” (People with Significant Control) section.

If the amendment is adopted, the competent authorities of the UK Overseas Territories will be required to develop registers of beneficial owners of companies and introduce mechanisms to ensure the public access to the information on beneficiaries. At the same time, by the end of 2020 (the deadline for the introduction of public registers of beneficiaries), authorized persons of overseas territories will be obliged to publish periodic reports on the implementation of open registers of beneficial owners of companies. The amendment also allows the UK to introduce requirements for keeping of public registers of beneficial owners of companies with respect to overseas territories that did not voluntarily implement them. **The deadline for the introduction of registers is December 31, 2020.**

Please note that the British Overseas Territories include: Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena, Ascension and Tristan da Vinci, Cunha, South Georgia and the South Sandwich Islands, Akrotiri and Dhekelia, Turks and Caicos Islands.

According to the latest data, the news of the disclosure of beneficiaries does not affect such insular territories of Great Britain as the Isle of Man, Guernsey and Jersey, as well as the Republic of Seychelles; however, it is most likely a matter of time.

Reaction of the British Overseas Territories

A number of overseas territories expressed dissatisfaction with the amendment.

- In particular, the Premier of the British Virgin Islands, Orlando Smith, said: **“It is not only a breach of trust but calls into question our very relationship with the UK and the constitutional rights of the people of the BVI”**.
- The Premier of the Cayman Islands, Alden McLaughlin, commented: **“The actions of the House of Commons in seeking to legislate for the Cayman Islands amount to constitutional overreach and are reminiscent of the worst injustices of a bygone era of colonial despotism.”** McLaughlin stated that the Government of the Cayman Islands is considering all options for responding to the adoption of the amendment, including the application of legal measures.

Disclosure of beneficiaries as the next step of information exchange between countries

It should be recognized, that the draft law reflects a global trend towards transparency and information exchange, in particular, in order to counteract tax evasion. However, the fact of owning foreign companies should not be considered as a violation of the law, and almost every developed country in the world (including Russia) has today implemented requirements for disclosure by the beneficiary of information about controlled foreign companies. **We remind you that until February 28, 2019 the second stage of voluntary declaration of assets and deposits by individuals is being implemented in Russia, during which declarants are provided with guarantees and benefits, including “tax-free” liquidation of foreign companies.**

If you are interested and intend to take advantage of the privileges granted within the amnesty of capital, then you can contact our specialists who are ready to assist in the implementation of the following options:

1. Declaring of assets, deposits and accounts in banks outside the territory of the Russian Federation by submitting a special declaration and relevant notifications (including notifications of opening / closing of the account, notifications of participation in a foreign organization and notifications of controlled foreign companies);
2. Liquidation of a foreign company with subsequent exemption from taxes of any income in cash and in kind received during liquidation. **Please note that the decision on liquidation is to be made before July 1, 2018.**

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