

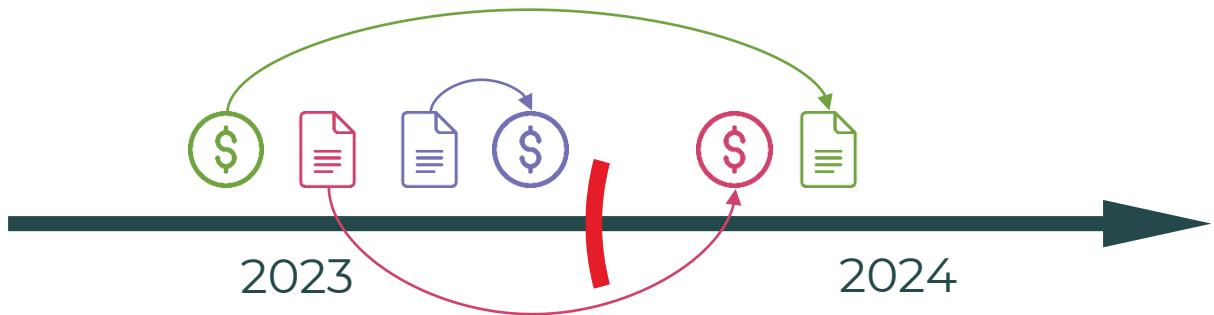
BIRCH LEGAL

Legal overview
Withholding tax when paying for
intragroup services

Starting from 1 January 2024, Federal Law No. 593-FZ of 27 November 2023 will introduce a 15% tax rate on withholding tax for foreign companies' income when paying for intragroup services provided by an interdependent foreign entity to a Russian company.

According to the provisions of the adopted law, this tax will only not apply if the double tax treaty between Russia and the foreign counterparty's jurisdiction is in full force (which is currently impossible in relation to most unfriendly jurisdictions whose relevant treaties have been suspended by Russia).

Under these circumstances, the Russian companies of foreign groups have the following options going forward into the new year.



Model 1

payment for services is made in December 2023 with the preparation of act of services rendered as well as collecting the relevant reporting materials in January-February 2024. Since the payment for services was made in 2023, there are no formal grounds for charging withholding tax. However, there is a risk that such services may be reclassified as being formally provided in 2024 due to the fact that the act and reporting materials will be dated 2024

Model 2

acts and reporting materials are prepared in December 2023 with the payment being made in January-February 2024. Since the payment will be made in 2024, the tax authorities will have all legal grounds to charge withholding tax on such services

Model 3

payment for services is made and the relevant act is drawn up in 2023 with the reporting materials already prepared or with such materials being compiled together in the near future. We believe that the risk of being charged withholding tax in this model is low since the services are actually provided and paid for in 2023

DTT

If the foreign service provider's country has concluded a standard double tax treaty based on the OECD with the Russian Federation, it will prevail over the provisions of Art. 309 of the Tax Code of the Russian Federation, and no withholding tax will be charged.

If a country's double tax treaty is non-standard (for example, with the UAE), this tax will apply in relation to intragroup services provided in the Russian Federation by an interdependent supplier from such a country.

Key contacts for further information



Andrey Grachev
Partner
Head of Tax practice

M: +7 903 157 0912
andrey.grachev@birchlegal.ru



Anton Borisichev
Counsel
Tax practice

M: +7 903 173 5025
anton.borisichev@birchlegal.ru



Ivan Koreshkov
Senior associate, Attorney at law
Tax practice

M: +7 966 303 4918
ivan.koreshkov@birchlegal.ru

Follow us on Telegram



birchlegal.ru

© BIRCH LEGAL 2023. All rights reserved. BIRCH LEGAL LLC's Taxpayer Identification Number (INN) is 7703618107. The information provided in this legal alert may not be considered as professional advice or legal services and is not advice related to a specific situation. This information is intended for the general review of the users in relation to issues that may be of interest to them. BIRCH LEGAL is not liable for incomplete information.