

PUBLICATION

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NEW LAW AGAINST TAX EVASION: GERMAN LEGISLATOR REACTS TO "PANAMA PAPERS"

In light of the so-called "Panama Papers" published in 2016, tax evasion by using letter-box companies became subject to public discussions about the ethics of taxation and the legitimacy of letter-box companies. With the "Tax Act against Tax Evasion" the German legislator now draws the conclusions of the "Panama Papers" leak and its implications. The draft new law is now subject to approval proceedings in the German parliament. It contains a catalogue of measures to fight tax evasion by using letter-box companies.

The main aspect of the draft law is to enhance transparency of "controlling" business relations between domestic taxpayers and partnerships, corporations and other entities that have their seat or management outside of the European Union and EFTA. These entities are now legally defined as "third-country companies". Additional authority will be granted to the tax authorities and new duties of cooperation for taxpayers and third parties like financial institutions are being planned.

IN DETAIL:

- Taxpayers must report to the financial authorities (i) the direct or indirect acquisition of participations in a third-country company or (ii) any direct or indirect controlling influence on a third-country company. This disclosure obligation applies to all participations that exceed 10%. In this regard, all direct and indirect participations are added up.
- If a taxpayer has, alone or together with related persons, controlling influence on a third country company as mentioned before, all documents related to this investment have to be kept ready for inspection for a period of six years.
- The tax-related bank secrecy will be abolished.
- Financial institutions must now disclose to the authorities all business relations between their clients and third-country companies. Also, financial institutions will be held accountable for all taxes not collected due to their failure to comply.
- Account screening procedures shall be extended to identify the person who is authorized to dispose of an account belonging to a third-country company or who is a beneficial owner of that account.
- Besides, the draft law provides for a tightening of criminal tax law provisions.

Bundesrat, the second chamber of German parliament in which the federal states are represented, has considered the new law already and has made supplement suggestions which have been considered positively by the German government. It remains to be seen to what extent the catalogue of measures will be amended in the legislation process.

FOR FURTHER INFORMATION, PLEASE CONTACT: