Using Offshore Jurisdictions for Real Estate Acquisitions in Russia

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Holding Russian Real Estate: Possible Structures

- Russian company
- Foreign Entity
- Permanent Establishment

Holding Russian Real Estate: Russian Company

PROS

- Routine structure
- Sale of Russian property rich company could still be tax free

CONTRAS

- Additional layer of taxation (min 5%) on repatriation of profits
- Debt financing issues (thin capitalization)
- Additional paper work; local staff may be needed

Holding Russian Real Estate: Foreign Entity

PROS

- No additional layer of taxation upon profit distributions
- Real estate operating functions outsourced (no need for local staff)
- Sale of foreign property rich companies not subject to WHT in Russia
- No debt financing issues

CONTRAS

- Gross profits taxed
- Assets taxed based on cadastral value (often higher than market value and book value)

Holding Russian Real Estate: Permanent Establishment

PROS

- No additional layer of taxation upon profit distributions
- Net profits taxed
- Sale of foreign property rich companies not subject to WHT in Russia
- No debt financing issues
- Assets tax liability equals that of Russian entities

CONTRAS

- In-Russia activities required

Real Estate Tax Planning: Potential Challenges

- Extension of capital gains WHT to sale of foreign companies with Russian real estate

- Development of anti-abuse legislation and practices:

- Substance over form (the *MIAN* case approach)

- Beneficial ownership concept

- CFC

- Exchange of information enhanced (OECD Convention on Mutual Administrative Assistance in Tax Matters of 1 June 2011)

- Tax residence: introduction of the place of management criterion

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