



# UK halts cooperation with Russia on tax information exchanges

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On 17 March 2022, the UK Treasury announced the suspension of the exchange of tax information with Russia.

The suspension of the exchange of tax information means that Russia will not receive information under any of the current exchange of information mechanisms with the UK, including the Exchange of Information on Request (EoIR) and Country-by-Country Reporting (CbCR).

Following the UK, the Channel Islands (Jersey and Guernsey) and the Isle of Man are also suspending exchange of tax information with Russia.

## Comments

It is worth noting that the UK suspended the exchange of financial information under the Common Reporting Standard (CRS) with Russia in 2019. Therefore, the current decision does not entail any significant changes for Russian taxpayers in terms of issues related to the exchange of information under the CRS.

The termination of the exchange of information on request (EoIR) could have a negative impact on the confirmation of eligibility for tax relief under the current double taxation treaty. More generally, it limits access to information on UK counterparties of Russian taxpayers, which is information that can be requested as part of audits in Russia.

In the absence of the possibility to request information from foreign tax authorities, Russian tax authorities will have for the purpose of audits only those documents and information available to the taxpayer, which the taxpayer was able to obtain from foreign counterparties or from public sources. As practice shows, tax authorities may refer to the fact that such information is insufficient, and, as a result, tax benefits will be denied. At the same time, in some cases a lack of access to foreign information may, on the contrary, prevent tax authorities from making additional tax assessments, which has been envisaged as one of the purposes of suspending the data exchange.

The cessation of the exchange of country-by-country reports (CbCR) will result in Russian tax authorities not being able to obtain a report from the UK side, requiring the authorities to request it directly from Russian taxpayers belonging to UK-led multinational groups of companies (MGCs, a Russian equivalent of MNE). At the same time, the right not to submit a country report at the request of tax authorities with reference to Article 105.16-3(6) of the Russian Tax Code will be lost. In practice, this could lead to an increase in the administrative burden on Russian taxpayers and the possible imposition of penalties in the event of failure to provide the requested information, given the existing practical difficulties with the exchange of information in an MGC with Russian participation.

Russia may announce mirror measures in the near future.

For example, in response to the UK's actions, Russian tax authorities may include the UK in the List of States (Territories) that do not exchange information for tax purposes with the Russian Federation, approved by Order No. MMV-7-17/511@ of the Federal Tax Service dated 11 October 2019 (the "**List**").

The inclusion of the UK in this List will have implications for the taxation of controlled foreign companies (CFCs).

Thus, on the basis of Article 25.13(4)(2) of the Russian Tax Code, British companies whose shares are traded on stock exchanges will be recognised as CFCs.

In addition, within the meaning of Article 25.13-1(7) of the Russian Tax Code, the inclusion of a country in the List means that the exemption of profits of the CFC will not be available according to the following criteria:

- at the effective rate;
- for banks and insurance companies; and
- for issuers of tradable bonds.

In order to determine the profits of a CFC using financial statements, the financial statements must be audited.

As a result, the suspension of the exchange of tax information will affect the attractiveness of the UK as a jurisdiction to host holding companies and CFCs. If the current restrictions remain in place over the longer term, Russian groups with UK elements may need to reconsider their structure, including taking into account the possible relocation of UK companies to other jurisdictions.

In practice, however, this trend could also be extended to other European jurisdictions. According to media reports, Germany\* and the US\* have also announced the suspension of the exchange of tax information.

We will continue to monitor developments and keep you informed of further changes.

\* *In Russian*

For further information, please email the authors or your usual contact at our firm.

## Authors



**Maria Kabanova**  
Senior Associate  
Tax  
E [maria.kabanova@cmslegal.ru](mailto:maria.kabanova@cmslegal.ru)



**Yulia Smourova**  
Senior Associate  
Tax  
E [yulia.smourova@cmslegal.ru](mailto:yulia.smourova@cmslegal.ru)

We have launched the **Tax and Talk** Telegram channel <https://t.me/taxandtalk> to keep you up to date with the tax measures recently taken by the Russian government to support businesses. Join our channel.

