**NEW EU ANTI-TAX AVOIDANCE DIRECTIVE**

On 12 July 2016 was adopted the Directive laying down new rules aimed against the typical tax avoidance strategies by the Council of the European Union. The Directive is based on the standards developed by the OECD as part of the Base Erosion and Profit Shifting (BEPS) project.

The Directive covers the situation with companies, large multinational groups, which use the advantages of differences between tax systems of separate states to decrease their own tax burden and describe mechanisms of combatting such practices. The basic points of the Directive are as follows:

1. Interest limitation rules: Multinational groups may reduce their tax burdens by group companies from low tax jurisdictions providing loans at high interest rates to their companies from jurisdictions with high corporate tax rates. The Directive stipulates that tax payers may deduct interest payments of up to 30% of the EBITDA (earnings before interest, taxes and amortization).
2. Exit taxation rules: Companies may be artificially exempted from corporate tax by shifting their tax residence and/or assets to low-tax jurisdictions. The new rules stipulate that the asset market value shall be taxed at the time of its moving (or change of residency of the owner of the asset) from one Member State to any other state.
3. General anti-abuse rule: Since national laws cannot cover all corporate tax planning schemes used by companies, the general anti-abuse rule is adopted to eliminate the negative tax consequences of transactions with the sole purpose of obtaining tax advantages. EU Member States are permitted to ignore any transactions or series of transactions without proper economic justification for tax purposes. However, economic justification is still a controversial concept.
4. Controlled foreign company (CFC) rules: To reduce their tax obligations, companies may set up controlled foreign companies (hereinafter – the CFC) in low-tax jurisdictions or in those with tax exemptions regarding certain types of income, and to transfer large amounts of profit to these CFCs. The Directive obliges the Member States to tax:

* Undistributed passive (e.g. s interest, royalties) and some other categories of income of subsidiaries located in the said jurisdictions, if the CFC does not exercise any real economic activity or if it is located in a state outside the European Economic Area, or ⎫
* Undistributed income of subsidiaries located in the said jurisdictions resulting from transactions without any adequate economic justification, if the main commercial decisions are passed by the parent company.

1. Rules on hybrid mismatches: Corporate tax payers may benefit from differences between national rules for interpreting certain types of transactions to reduce their overall tax liabilities. Such situations may result in double non-taxation of income (its deduction in both countries) or non-taxation of income in one country and its deduction in another country. It is established that the right to deduct certain types of payments arises only if the recipient's country treats such payments as taxable income.

The Member States will have time until 31 December 2018 to transpose the above rules into their national law, except for the exit taxation rules, for which they will have time until 31 December 2019, while the interest limitation rules should be implemented by 1 January 2024.