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Investigative Committee Seeks to Formalize Criminality of Tax Avoidance

By The Moscow Times

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The Investigative Committee has developed a bill criminalizing tax optimization transactions, Vedomosti reported Wednesday.

The proposed bill is set to amend the Tax Code by introducing definitions for "imaginary" and "fictitious" financial transactions.

These terms refer to transactions which business either did not complete, or have completed, but fudged the description and the amount of the transaction with the goal of reducing profits and resulting tax obligations, according to an explanatory note which accompanies the draft legislation.

Now "fictitious" foreign debt is about $150 billion — funds company owners provided from offshore to their own companies that appear as loans. Interest payments on such loans are tax deductible.

The Investigative Committee is targeting companies that move their profits to fictitious organizations, which are impossible to tax, or to offshore zones. Because the funds are then taxed offshore, they are not subject to tax in Russia, because of various agreements with those countries preventing double taxation.

''They gave the tax man a new toy and said use it whichever way you want,'' said Vadim Zaripov, a lawyer with Pepeliaev Group. ''How can the average police inspector determine which transactions are imaginary or not?'' Zaripov added.

President Vladimir Putin's spokesman Dmitry Peskov said the Kremlin did not initiate the bill and is not yet reviewing it.

The tax authorities already have enough tools to deal with cases of tax avoidance, said Deputy Economic Development Minister Sergey Belyakov. ''We have been trying recently to move in the direction of liberalization,'' he added. ''Without that it is not possible to protect existing small business and start new ones.''

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