

Case: Additional VAT charge on imported goods

3 November 2011

Situation

A company imported electric networks equipment (code of TN VED 8535) into Kazakhstan. Relying on Article 25 the old Tax Code (this Article is valid until 2017), it paid VAT using the offset method. Next year the company sold the imported equipment to another company. A customs inspection was carried out after two years. The inspection concluded that the company violated conditions of applying a VAT payment by offset method. As a result, the authority charged additional VAT and a penalty.

What can and should be done in this situation?

Solution

It is necessary:

- to carefully check the regime of importing goods and conditions of applying the VAT payment by offset method;
- if necessary, to consult with experts on applying the VAT payment by offset method;
- to appeal in case of facing unlawful or unreasonable actions by customs authorities.

In this situation the company appealed the customs authority notification on additional VAT. However, the court refused to satisfy its claim as the company violated the terms and conditions on imported goods used for personal needs. As a result, the company spent considerable resources on appeal. Meanwhile, the company had an opportunity to avoid such costs, if referred to professional consultants who could analyse the cases of judicial review of similar disputes and would give recommendations on the possibility of imported goods alienation, on which the VAT could be paid by offset method. The relevant legislation prohibits further purchase, sale, lease and other transactions involving transfer of goods for temporary use and possession of imported goods for which the VAT payment by offset method had been allowed; If a company desires to sell such imported goods, it is necessary to pay the VAT and penalty accruing from the date of registration of customs declaration for imported goods.