

Case: Refusal of VAT refund to exporters

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Situation

A Kazakhstani oil extraction company exported crude oil and accumulated VAT amount which must be refunded according to the Tax Code of the RK. The company filed an application to the tax authority for VAT refund on turnovers that are taxable at a zero rate. The refund was refused. Tax authorities reported "existing violation in the analytical report of the "Pyramid" system regarding second and third level providers " as the reason for the refusal.

How to deal with the issue?

Solution

Despite the refusal of the tax authorities, it is necessary to verify whether the tax authorities' actions are reasonable and lawful. If the tax authorities' actions are unreasonable or unlawful it is necessary to appeal their actions to court, in order to return the VAT.

In some difficult situations we suggest consulting a tax and dispute resolution lawyer.

In this case, the Kazakhstani company hired external consultants, as it was compelled to appeal the tax authorities' unlawful refusal of the VAT refund. During the proceedings, the court confirmed that the Tax Code provides an exhaustive list of grounds for verification of the VAT amount claimed for refund. Any other grounds for refusing the VAT refund not provided for by the Tax Code of Kazakhstan, are unlawful.

The court satisfied the company's claim. The court stated that existing conditions on second and third level providers in the "Pyramid" information system does not refer to the dispute's subject-matter, and the tax authority is obliged to check the direct supplier of the applicant-exporter for the validity of denoted VAT attribution to offset. Notably, higher courts also supported the findings of the court of first instance.

Thus, any actions or findings of the tax authorities should be checked for their reasonableness and lawfulness. If their actions are unreasonable or unlawful, such actions can be appealed. If a company does not have sufficient resources for litigation or its own specialists, it may refer to external experts.