

Case: The five-year term of limitation extended for one more year in view of additional reporting

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Situation

The Company received a tax authorities notice to eliminate violations, which required excluding the deductions amount from the amount of expenses during 2005. The company complied with the requirement, however, in an additional edema specified the type of declaration as "additional".

Later the company received a notification about the tax inspection covering the period of 2005- 2011. Although the tax inspection must embrace the five-year term of limitation on tax liability, the tax authority extended the limitation period by one year. As a result, tax inspection covered a six-year period, instead of a period of five years.

Are actions of tax authorities lawful and reasonable?

Solution

According to paragraph 5 of article 46 of the Code of the Republic of Kazakhstan "On Taxes And Other Obligatory Payments Into The Budget (XXXXXXCodeXXXXXdated December 10, 2008 No. 99-IV, (XXXXXXcodeXXXXXthe mentioned limitation period shall be extended in the part of charge a (or) reconsideration of the charged amount of taxes and other obligatory payments to the budget for another calendar year only in the event when a taxpayer (a tax agent) submits an additional tax reporting for the period on which the limitation period expires earlier than in one calendar year.

As the Tax Code distinguished between the types of tax reporting by "additional" and "additional by notification", the delivery of declaration marked as "extra notification" per se is not considered as a basis for prolongation of the limitation period.

During the appeal of tax inspection results, first instance court did not follow the company's argument that it mistakenly handed over additional reporting marked as "additional" instead of "additional by notification". The company had the opportunity to avoid inspection of the additional sixth year, if the additional reporting had been titled correctly.

Conclusion

While receiving notification from tax authorities on eliminating violations; and turning in additional reports, it is necessary to mark the report as "additional by notification". This will allow avoiding the limitation extension for one additional year.

If a company hands over an additional report for the last year within a five-year period, the period of limitations will be extended for one additional year.