

Review of State Revenue Committee (SRC) letters / October 2016

PwC Tax and Legal Alert: Review of the latest letters from tax authorities

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Rent tax on export: barrelisation coefficient

Position of SRC

The SRC responded to the Association of Taxpayers' question regarding which of various oil quality certificates obtained during the export process should be applied for determining a barrelisation coefficient for calculation of market price of crude oil for rent tax purposes.

The SRC's position in the letter refers to the oil quality certificate used for determining the gross volume of exported oil indicated in cell 35 of the Declaration on goods.

The SRC also mentioned that application of a weighted average barrelisation coefficient for calculation of rent tax is not envisaged by legislation for the period prior to 1 January 2016.

SRC letter dated 21 June 2016 № КТД-09-ЮЛ-Е-1334-КТД-15481

Comments

Previously, the SRC took different approaches during audits of taxpayers. In this letter the SRC refers to the quality certificate used for preparation of the Declaration on goods and act of delivery-acceptance for crude oil crossing the customs border. However, the SRC's response still leaves room for interpretation.

Customs value of goods when changing customs regimes

Position of SRC

The SRC has considered the case where a taxpayer imported goods under the «Customs warehouse» regime for purposes of temporary storage of goods in Kazakhstan and subsequent export under the customs procedure of «Re-export».

The SRC stated that upon changing the customs regime the customs value of goods should be defined as the price indicated in the Declaration submitted upon placing such goods under the customs procedure of «Re-export».

SRC letter dated 18 August 2016 № КТД-10-1/20606-И

Comments

Previous letters of the SRC on the customs valuation of goods upon changing the customs regimes were inconsistent.

In one letter, they stated that the value of goods should be determined based on the transaction price at registration of the Declaration for placement of goods under the «Re-export» customs procedure. In another letter, they agreed that the value of goods should be determined based on the price indicated in the Declaration for placement of such goods under the «Customs warehouse» procedure.

In this letter the SRC has concluded that the value indicated in the Declaration presented for the customs procedure of «Re-export» should be used. The SRC has recalled its previous letter supporting a different interpretation.

Deductibility of expenses if suppliers' registration was invalid

Position of Prosecution Office

The General Prosecution Office (the "Prosecutor") investigated the claim of the National Chamber of Entrepreneurs related to disallowance of deductions for expenses supplied by taxpayers, whose registration was recognized by a court as invalid.

The Prosecutor expressed its opinion that the tax legislation disallows deduction of costs incurred under transactions with fraudulent taxpayers. The

Prosecutor then referred to the absence of provisions in the Tax Code disallowing costs incurred under a transaction with taxpayers whose registration was recognized as invalid.

On this basis, the Prosecutor concluded that the tax authorities' actions related to exclusion of such expenses from deductions are groundless, provided all relevant documents confirming the fact of a real transaction are available.

Letter of General Prosecution Office of the RK dated 5 May 2016 № 010711-16-30182

Comments

If a taxpayer receives such notification, we recommend to submit an explanatory note with supporting documents, or appeal the actions of the tax authorities to a higher body of SRC.

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