

How to avoid tax risks from your business partner?

Sergey Leoshko

Head of tax Practice, SCHNEIDER GROUP

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What risks are there?

If your business partner or supplier does not pay taxes or is involved in tax evasion, YOUR company will suffer the following consequences:

- Related input VAT that you paid will be disallowed for deduction for your VAT purposes
- Related expenses will be disallowed for your corporate income tax purposes
- Taxes underpaid may be claimed from management and business owners
- Criminal prosecution for management and business owners, if the amount at stake is high enough

Why is it my problem?

Article 54.1. of the Russian Tax Code:

The taxpayer is not allowed to reduce the tax base as a result of distorted information reporting. The right to reduce the tax base exists, while simultaneously the following conditions are met:

- 1) the main purpose of the transaction (operation) is not non-payment (incomplete payment) and (or) offset (refund) of the tax amount;
- 2) the obligation under the transaction (operation) is performed by the person who is a party to the agreement concluded with the taxpayer, and (or) the person to whom the obligation to execute the transaction (operation) has been transferred under the agreement or law.

Reasons for disallowance:

- The signing of primary accounting documents by an unidentified or unauthorized person
- Violation by the taxpayer's counterparty of the legislation on taxes and levies
- The possibility of the taxpayer getting the same result of economic activity when performing other transactions not prohibited by the legislation

What if I don't care?

Ahmadeeva GG: provided Temp LLC with accounting services over the course of one year. She did not sign financial statements and tax returns.

She was found guilty for non-payment of **RUB 4.5 mln** of taxes and liable to repay this amount. Criminal intent was that she had chosen the wrong tax regime (ЕНВД).

S.I. Lysyak delayed the tax payment of MUE Teploenergo, which he lead, and sent money to prepare for the heating season.

He was criminally prosecuted and dismissed under an amnesty. Later tax authorities won the civil case for the recovery of **RUB 8.2 mln** from him personally.

A.N. Sergeyev, was the director of a distillery from the Novgorod region, that also had an accounting and tax reporting department.

His company misstated tax declarations and underpaid taxes. He was sentenced to **2 years in prison** by the court and the collection of taxes and sanctions totaling **RUB 142 mln**.

Sequence of events

- You do not check your business partner and deal with a non-bona fide taxpayer, and include related expenses into your company tax base
- Related expenses will be disallowed for your company's corporate income tax and VAT purposes
- You initially declare these expenses, thus illegally decreasing your tax base and underpaying taxes
- Criminal prosecution for management and business owners, if the amount at stake is higher than **RUB 3 mln**
- Taxes underpaid may be claimed from management and business owners

Okay, what do I do then?

- You need to introduce related policies and procedures and actually check your business partners before you deal with them
- You need to collect evidence that your policies and procedures are working and you did your best not to work with non-bona fide taxpayers
- You need to present all collected evidence to the tax authorities upon request and defend your position, not only during field tax audits, but during regular paper audits. Pay attention even to minor requests from authorities!

Anything else?

The best thing you can do right
now

.....

is to listen carefully to the
following presentations



Sergey Leoshko
Head of Tax Practice

LeoshkoSV@schneider-group.com

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Compliance management system

Veronika Kochieva

Legal Team Leader, SCHNEIDER GROUP

Moscow, 14th March 2019

Compliance system

Ethics policy/Code of conduct

Anti-bribery

Ani-trust

Conflicts of interest

Gifts & Hospitality, Charity

Know Your Client

Data protection

Other policies

Implementing compliance

1. Appoint compliance officer
2. Adopt ethics policy/code of conduct and relevant policies
3. Conduct ongoing team training
4. Ensure effective control and investigations
5. Audit regularly, both internally and externally
6. Exercise due diligence

Auditing compliance

Q. How often?

A. At least once every two years

Q. Which areas should be covered?

A. Vendors, contracts, licenses, labour relations, standards, charity, personal data

Q. Who will audit?

A. Compliance officer of HQ / consultants

A. What will be the result and why do I need this?

Q. Auditor's report, based on which you will plan your further steps towards compliance integrity



Questions





Veronika Kochieva
Legal Team Leader
KochievaVL@schneider-group.com

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