

Minutes of the AmCham Tax & Legal Committee Meeting

8 December, 2010, 16:00

Agenda:

The Agenda of the meeting was as follows:

1. Short introduction
2. Welcoming new Committee members (Coca-Cola Bottlers Chisinau, Orange Moldova, Glass Container Company, Orhei-Vit, British American Tobacco, Vernon & David)
3. The study on the status of the Treaty for the avoidance of double taxation and preventing tax evasion between Moldova and USA ("**DTT MD – USA**"), further to official correspondence with the Ministry of Finance.

PwC has helped Committee to complete this study on recognition by other CSI countries of DTT signed between USA and USSR.

Based on the study the following aspects should be clarified:

- What was the practice of other CIS countries in recognizing USA - USSR DTT
- Legal and economic issues in case of Moldova's accession to the old DTT by succession
- Potential consequences if a new DTT is initiated without recognition of the old one
- Other issues

4. Summarizing 2010 activities (please see summary attached)
5. Planning activities for next year

Please think about tax issues that remain unclear or require additional analysis of the Committee. Following discussions we can summarize them and gradually proceed to address them in our constructive dialogue with the Ministry of Finance and Tax Inspectorate.

6. Free discussions

Progress of the meeting:

I Introduction and welcoming of new members

The meeting started by welcoming new members and open discussions on the way Committee works internally, as well as with state authorities. The meeting was attended by almost 25 members.

II MD – USA DTT

AmCham was requested by the Ministry of Finance to assist it with practice of other CIS countries in recognition of USSR – USA DTT. Since Moldovan authorities do not recognize former USSR – USA DTT, while US tax authorities currently apply its provisions, this issue remains to be of high importance. Especially because the lack of DTT is an obstacle in attraction of US direct investments and development of bilateral economic relations.

Taking into consideration its experience and its international exposure, PwC has assisted the Committee in performing preliminary analysis of the regional practice in this respect. During the meeting, PwC presented the study, while Committee members analyzed its particularities, as well as potential implications in case Moldova will recognize the applicability of old DTT by succession.

After all, even if the DTT is quite old and gives rise to certain interpretations, it was unanimously agreed to recommend Moldovan Ministry of Finance to initiate necessary procedures to apply the provisions of the USSR – USA DTT through succession. This will facilitate bilateral economic relations and protect US investors in Moldova.

Despite its non-standard terms, the old treaty is better than no treaty. In the meantime Moldovan Ministry of Finance may start negotiation of a new treaty (the process that may be long-lasting in case of US).

III Summarizing 2010 activities and planning activities for the next year

While reviewing 2010 Committee activities, some companies representing financial sector were specifically interested in the outcome of the meeting with deputy Minister of Finance concerning the applicability of the art. 25, par. (2) of the Tax Code, related to deduction of interest payments in case of banks, microfinance and leasing companies.

It was agreed to write an official letter to the Ministry of Finance on interpretation of this article for 2010 year, specifically in case of financial sector.

While planning future activities, PwC proposed to elaborate a list of strategic / conceptual matters for the Committee. Particularly, it was agreed by all members to elaborate a **Fiscal Roadmap (Position Paper)**, which will include Committee interpretation of strategic matters for Moldovan tax system. This Tax Roadmap may be subsequently discussed with various Ministries and even with Prime Minister.

Also, Committee members proposed to meet with representatives of **FMI mission** to Moldova and discuss with them important tax matters of Moldovan economy.

Other proposals to improve tax and customs legislation, inter alia, include:

- Proposal to include in customs legislation similar provisions as currently applicable in case of tax and administrative infringements (reduction by 50% of fines if paid in 3 days).
- Proposal to soften tax fines in case of tax infringements when state budget is not affected, but only documentation procedures were not met
- Proposal to improve transparency in case of repeated tax controls (some companies currently face repeated tax controls for no argued reason). It would be advisable to specify in the Tax Code when repeated tax controls are allowed and when not.
- Improvement of the definition of specific relations (Chapter 5 of the Tax Code)
- Proposal to abolish tax fines (art 257 of the Tax Code) in case of socially important goods
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