

Vom OM Armenien:

Wegen einer falschen Auslegung des Gesetzes durch die staatliche Finanzbehörde sind zahlreiche Unternehmen an den Rand des Bankrotts geraten

Anfang der weitergeleiteten E-Mail:

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Betreff: RA HRDI: Because of the Misinterpretation of the Law by the State Revenue Committee Numerous Business Entities Appear on the Edge of Bankruptcy

BECAUSE OF THE MISINTERPRETATION OF THE LAW BY THE STATE REVENUE COMMITTEE NUMEROUS BUSINESS ENTITIES APPEAR ON THE EDGE OF BANKRUPTCY

As a result of misinterpretation of the law by the State Revenue Committee (SRC), as well as illegal and formal claims, numerous business entities face serious financial losses, and some even appear on the edge of bankruptcy.

The Tax Legislation provides the business entities, along with being a turnover taxpayer, with the opportunity to submit a statement and be engaged in entrepreneurial activities as VAT payers. Moreover, the legislation envisages two types of statements, one relates to being considered as VAT payers, and another one relates to being registered as VAT payers. Their study shows that in terms of content they don't essentially differ. Based on the fact that according to the RA Law "On Turnover Tax" those **persons** (physical entities) who simultaneously own over 20 per cent of shares of two or more commercial organizations cannot be considered turnover taxpayers, all those organizations who had such physical persons among their shareholders, excluded the fact of being turnover taxpayers, thus considering themselves as VAT payers and at the beginning of 2013 submitted a statement on being registered as VAT payers.

However, according to the State Revenue Committee those organizations had to submit a statement on being considered as VAT payers, instead of being registered as VAT payers. As the State Revenue Committee assures, those organizations are turnover taxpayers and were considered VAT payers by themselves by mistake, which was a result of incorrect interpretation of the word **persons** in the Law.

As a result of failure to follow this formal requirement, the State Revenue Committee imposes the business entities to pay both the VAT and the turnover tax with fines and penalties. Whereas, according to the Article 5 of the RA Law "On Principles of Administration and Administrative Proceedings", the administrative body is forbidden to overload people with responsibilities or refuse providing them with any right only with the aim to maintain formal requirements, if the requirements are fulfilled in terms of content.

However, even if we consider that the difference between the two statements is significant; in that case also the Law is in favor of business entities, as they have interpreted it correctly thus actually refusing the chance to work with a more favorable tax regime. The problem is that when interpreting the word **persons** the State Revenue Committee is exclusively led by the literal interpretation of the legal act, however, this approach is not correct, because only in case of applying this method of interpretation many provisions of the law will become absurd, the content of some provisions will be repeated, as well as the aim of the adoption of the law to support the development of small and medium entrepreneurship will be distorted.

After all, even if the provision of law mentioned above leads to various interpretations, in this case also its application shouldn't cause such negative economic consequences for business entities, and in this case also for the business environment and economic security of the country, as if the provisions of the RA tax legislation contain contradictions, ambiguities or misinterpretations, these provisions are interpreted for taxation purposes and are implemented by tax and (or) customs authorities in favor of the taxpayers (RA Law "On Taxes").

The Human Rights Defender is hopeful that the problem will be fairly resolved by the RA Prime-Minister's recommendation, who has already been alarmed about the current situation and massive protest by the business entities.

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