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KM PARTNERS – Ukraine

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KM ПАРТНЕРИ PARTNERS
tax and legal advisers

Working on Ukrainian market since 1999 KM Partners law firm offer their clients high-quality multi-practice legal services. The company is especially strong in tax matters.

For years KM Partners are recommended on tax matters among the most competent Ukrainian law firms by international legal editions such as The Legal 500, Chambers Global, Who Is Who Legal. According to the Ukrainian national poll the firm and its senior partner Alexander Minin have been held the top positions in the area of tax law since 2005. In 2009 Ukrainian Legal Awards recognized KM Partners as the best Ukrainian law firm of the year on tax law.

The firm deals virtually with all areas of tax law including tax compliance and planning, tax structuring, tax risk assessment, avoidance of double taxation, tax litigation and advising on business tailoring from tax perspective. Taxes and instruments covered are corporate profit taxation, indirect taxation, international tax treaties implementation, personal taxation, tax treatment of investments etc.

The Ukrainian tax climate may be viewed as quite moderate if it is assessed based merely on the text of the tax laws and regulations. Yet, the main issue is really administration of the tax system and lack of certainty on the matters when the taxpayers are not sure even in respect of what is clear and explicit in the laws as often the authorities try to act as might be 'better' in their view rather than as provided in the law. For this reason, excessive administration burden and abeyance as to the implementation of the tax laws really makes Ukraine probably one of the most difficult jurisdictions in respect of the efforts required even merely to comply in the tax area.

The Ukrainian tax authorities make a lot of efforts in respect of strengthening tax legislation. The most recent public efforts include tightening on re-insurance flows; implicit start of use of the concept of beneficial owner when implementation of the tax treaties, more attention to the business substance of the transaction (rather their structuring mainly for tax reasons) as a pre-condition of recognition of their outcomes for the tax purposes.

As for tax difficulties, the most frustration for normal taxpayers comes recently from the attempts of the state quite visibly simply to cheat taxpayers, like trying to disregard provisions of the tax law on recognition of f/x differences, establishing additional barriers for recognition of tax credit, which was postponed quite often upon direct requests of the tax officers, not recognising as tax returns the ones containing data (losses, low profits), which are not liked by the tax authorities, etc. In short, current attitude may be viewed not as a fair (even would it be severe or tough regime) 'game', but rather play when the tax authorities evidently try currently to 'cheat' taxpayers in a number respects.

We distinguish ourselves as developing plans and ideas that really works and allow our clients to achieve their business goals even in complex and unfair environment as it is now. Given the current state, this may include appealing to the other branches of the state power (even within executive branch) in order to stop 'stretching' of the other branch, active litigations and, most important, efforts to predict and plan to act proactively on the issues rather than react. And again, to do what really works.

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Since 1963 our firm has grown to be one of the leading law firms in Cyprus whether this is assessed by size, number of practicing lawyers, links and affiliations, clientele or quality of service offered. With over 30 lawyers in our Nicosia office we can truly be a full service law firm.

Our list of clients includes governments, governmental and regulatory bodies, local and international banking and financial institutions, insurance, shipping and listed companies, multinationals and high net-worth individuals, seeking specialised tax advice.

Main Features of Cyprus Tax System
Cyprus' tax system is in full compliance with EU requirements and also within the OECD requirements against harmful tax practices.

The main features of the Cyprus Corporation tax are as follows:-

Basis of Taxation - The taxation of companies is now based on residence. All companies that are tax resident in Cyprus are taxed on their worldwide income accrued or arising from sources both within and outside Cyprus. Non-resident companies are taxed in Cyprus sonly on income derived from a permanent establishment or immovable property in Cyprus.

A company is resident of Cyprus it if is managed and controlled in Cyprus. Incorporation in Cyprus is not sufficient to render a Company liable to tax in Cyprus.

Corporate Tax Rates - A uniform 10% corporate tax rate is applicable to the worldwide income of all Cyprus tax-resident companies. This is the lowest corporate tax rate in the European Union. Despite the low tax rate Cyprus is not considered to be a tax haven as it is in full compliance with all EU directives and OECD guidelines.

Tax Exemptions - Profits from the sale of Securities and Capital Gains Tax - The whole profit from buying and selling securities is exempted from corporation tax. Moreover, there is no capital gains tax arising with the exception of capital gains tax applicable at the rate of 20% on gains accruing from disposal of immovable property situated in Cyprus and shares in non-listed companies, which own immovable property in Cyprus.

Comments - Due to the financial crisis, most cash rich companies and high net worth individuals are increasingly facilitating business and investments through companies that are based in tax havens in order to avoid taxes completely. In order to reduce tax evasion the governments or other organisations such as the OECD, WTO or even the EU exercise pressure on tax havens for the exchange of information about the affairs of tax payers that there are indications of non disclosure.

Future developments will show whether tax haven's future is at stake.