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UKRAINIAN LAW FIRMS 2010

A Handbook for Foreign Clients

PRACTICE AREAS

Administrative Proceedings / Agrobusiness / Alternative Dispute Settlement / Anti-dumping / Antitrust / Banking & Finance / Bankruptcy / Capital Markets / Climate Change / Commercial Law / Communications / Competition Investigations / Contract Law / Corporate / Debt Restructuring / Due Diligence / Equity Market / Energy / Family Law / Financial Leasing / Foreign Trade / Infrastructure / Insurance / International Arbitration / International Finance / International Tax / Investments / Labor / Land / Litigation / Medicine / Mergers & Acquisition / Migration Law / Natural Resources / Patents / Real Estate / Secured Transactions / Securities / Securitization / Tax / Trademarks / Unfair Competition

OVERVIEW BY

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Politicization of Taxation

As **Tatiana Zamorska**, director of the Tax and Legal Department at **KPMG** in Ukraine, has noted, 2009 was the year when the political component in the taxation policy pursued by the Ukrainian authorities reached its critical point. Yet, Ukrainian taxpayers would remember Government resolutions that introduced unfavorable provisions on VAT and corporate profits tax which contradicted fundamental principles of tax legislation and which were subsequently recognized as unconstitutional and void. Needless to say, major tax issues like the carrying forward of tax losses, preservation of FOREX losses and VAT refund remained unresolved and uncertain. The end of 2009 was also marked by a new law aimed at overcoming the financial crisis, which legalized the retroactive force of certain provisions of tax law as applicable to banks, and, at the same time, created a number of additional obstacles for foreign investors, especially foreign lenders, which were found by the Ukrainian business community to be discriminatory towards foreign investors.

KM Partners is a local practice that is one of the Ukrainian tax market leaders of the last few years. In 2009 its knowledgeable team successfully represented the interests of clients in disputes with tax and custom authorities whose total value exceeds UAH 2 billion. The firm's specialists successfully worked on preparing several changes to customs legislation and participated in projects on regional and global structuring for foreign companies working in Ukraine ensuring the coverage of tax matters. Senior partner **Alexander Minin** enjoys a reputation of being an acknowledged expert in tax matters.

Konnov & Sozanovsky attorneys at law offer expertise across a spectrum of tax matters, and are involved in both transactional and litigation work. In 2009 represented the interests of its clients in the District Administrative Court of Kiev in a dispute with the Tax Inspectorate regarding the abolition of tax demands; assisted Zara Ukraine Ltd as well as Oriflame Cosmetics Ukraine Ltd on various day-to-day tax issues, etc. **Yevgeniya Derbal** and **Dmitriy Isayev** are highly regarded professionals in this area of practice.

Servicing Fortune 500 companies and CIS-based blue chip firms, **Magisters** cover tax advice for various projects across its practices: M&A, real estate, financial products, tax disputes, international tax, transfer pricing, etc. Moreover, the head of the practice, **Oleh Marchenko,** is highly regarded in the market and is the President of the International Fiscal Association in Ukraine.

Ernst & Young recently advised a bank with foreign capital (Top 20) on the tax implications of the sale of loans to foreign and domestic debt collection companies and also advised a Ukrainian debt collection company on tax issues related to the sale of loan portfolios from a Ukrainian bank to a factoring company. **Igor Chufarov**, senior manager, provides quality work. The name of partner **Volodymyr Kotenko** is a well-known figure in Ukrainian circles.

The tax team in the Kiev office of **DLA Piper** provides on-going tax advice to a number of companies, including the Ukrainian companies of Carlsberg group, Jabil Circuit, Avon, Saint Gobain Zorya, Reckitt Benckiser, OBI AG, Inditex S.A., etc. The team is heavily involved in large-scale projects, providing transactional support, advising on structuring of business efficiency from the tax perspective. The tax restructuring of business, as well as VAT and customs-related advice, was also provided by the team in 2009. **Svitlana Musienko**, legal director, and **Yulia Logunova**, senior associate, are greatly appreciated due to their frequent participation in projects.

Vasil Kisil & Partners has a strong tax team, which in 2009 advised numerous complex transactions, including tax advice to SEB AB and Swedbank on restructuring the bad loans of Ukrainian banks and taking over distressed assets; providing tax comments to City Capital Group regarding the tax implications of corporate restructuring of one of the largest real estate projects; assisted APM Ukraine regarding VAT refund restrictions with respect to closing operations in Ukraine; advised Panorama Group with respect to a number of its core real estate projects on cross-border restructuring. **Denis Lysenko**, partner, and **Ivan Yurchenko**, senior associate, continuously provide comprehensive advice on tax issues related to restructuring and cross-border transactions. **Andriy Stelmashchuk**, counselor, regularly represents clients in the most complicated tax litigation cases. **Natalia Dotsenko-Belous**, senior associate, is highly recognized as an expert on issues related to taxation of construction projects, including financing of construction.

Baker & McKenzie benefits from broad expertise in corporate structuring, transactional work, etc. The office was involved in advising a number of international clients including, inter alia, an international investment bank, hi-tech company, an international commodity trader, with respect to tax structuring of their Ukrainian business. Other tax highlights include advising Estee Lauder Ukraine and Estee Lauder AG Lachen in negotiations with the tax office of the customs value of imported products; assisting a US-owned Swiss company engaged in manufacturing and technology with respect to restoration of tax ledgers and filing of tax returns on corporate income tax (CIT) by a permanent establishment of a client in Ukraine for the last 3 years (statute of limitation), including negotiations with Ukrainian tax authorities of the reported results, etc. Partner **Hennadiy Voytsitskyi** and associates **Yuriy Zaluskyy**, **Tetiana Gryn** and **Andriy Sydorenko** are the main practitioners in Kiev.

The recent activity of **CMS Cameron McKenna** was rich in tax advice concerning investments, financial transactions, M&A related taxation. The firm has been involved in giving tax advice to a DYI retail chain with respect to foreign investments in the construction of a new retail outlet; consulting of a private equity company regarding taxation of extraction of natural resources conducted under joint activity agreement; advising a major financial institution on tax implications with respect to financing of a borrower whose assets are kept under tax pledge; assisting a major FMCG company on peculiarities of excise duty taxation of its products, etc. **Adam Mycyk**, managing partner, **Andriy Buzhor**, associate, are the key force of the firm's practice.

The Kiev office of **Gide Loyrette Nouel** demonstrates its focus on tax structuring of investment projects in the country, general company law, existing tax regimes, VAT issues. Of recent projects it is worth mentioning advice provided to an international consortium of building contractors on the construction and operation of a new passenger terminal at Borispol internat[illegible] was financed by the Japan Bank for Inter[illegible] team of lawyers also advised a world leader in building materials on the construction and operation of a cement plant in Ukraine; provided on-going tax advice related to a major international producer of cryogenic liquids and gases investment and import into Ukraine; advised a leading European seed producer on tax issues relating to the establishment of its agricultural business in Ukraine; assisted Eurocopter, a major foreign helicopter manufacturer, on a tender by the Ukrainian Ministry for the purchase of rescue helicopters and advised Renault Trucks Ukraine on the potential acquisition of one of its main trucks dealers in Ukraine, etc. **Karl Hepp de Sevelinges** and **Bertrand Barrier** are experts in such projects.

Sayenko Kharenko has developed a strong reputation [illegible] Ukrainian tax counsel for cross-border transactions, especially in capital markets, finance, M&A and restructuring. In 2009 the tax team of Sayenko Kharenko advised the EBRD on the tax issues related to providing a multimillion loan to a major Ukrainian bank; assisted Credit Suisse on tax planning for the restructuring of a loan to the State Road Service of Ukraine; supported HSBC and UBS on tax planning for the restructuring of USD 1 billion Eurobonds issued by Alfa-Bank. The firm also provided tax advice on the landmark merger of the Ukrainian Securities Depository (AUSD) and the Interregional Securities Union (MFS). **Michael Kharenko, Dmytriy Korbut,** partner, together with **Nazar Chernyavsky,** partner, were noted for conducting numerous tax projects in Ukraine.

The tax practice of **Salans** law firm was M&A driven. In 2009 it consists of advising CHS Inc. regarding its acquisition of an ownership interest in a grain terminal in the port of Odessa and Diebold with regard to its acquisition of a legal entity in Ukraine. **Igor Davydenko, Myron Rabij** and **Sergiy Melnyk** are all experienced in covering tax issues at Salans.

In 2009 the team at **Asters,** as headed by **Oleksiy Didkovskiy,** consulted Telenor on various tax issues related to restructuring of a shareholding in Kyivstar; supported PPG-Helios on tax law issues in connection with establishing the company's presence in Ukraine and participation in construction and operation of the Cherkassy Automotive Plant; advised MasterCard on tax aspects of its activities in Ukraine; assisted a leading global innovative technical company on tax aspects of sale and purchase of assets located in Ukraine between foreign entities; a world leader in energy and petrochemicals industry on tax issues in connection with company's operation in Ukraine. **Vadym Samoilenko** is regarded as being sound in tax practice matters.

As a member of the Big Four auditing firms, the tax and legal department of **Deloitte** in Ukraine is traditionally strong in tax advice. During the past year the office focused on providing tax advice to clients; performing tax reviews and tax due diligence procedures; representing the interests of clients before tax authorities and courts; ensuring tax compliance as well as providing personal tax services.

The tax practice at **Arzinger** is headed by partner **Anna Pogrebna** and 8 practitioners. In 2009 the team at **Arzinger** was strengthened by partner **Pavlo Khodakovsky.** Recent projects consisted of representing the interests of large European Beverages — producing group in a M&A deal (the issue of deducting withholding tax arose, complicated by ambiguity of Ukrainian legislation);

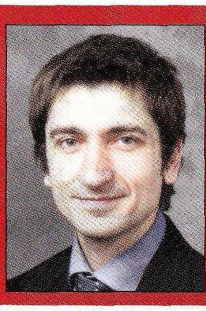
LEADING FIRMS

1.	**KM Partners**
2.	**Konnov & Sozanovsky**
3.	**Magisters**
4.	**Ernst & Young**
5.	**DLA Piper Ukraine**

The selection of the firms in the table reflects the research of the editorial staff at Yuridicheskaya Practika Publishing and is based on interviews with market participants. It remains a subjective view and implies no disparagement of any firm not mentioned here but which is nevertheless active in this field.

LEADING INDIVIDUALS

1.	**Alexander Minin** KM Partners
2.	**Volodymyr Kotenko** Ernst & Young
3.	**Oleh Marchenko** Magisters
4.	**Yevgeniya Derbal** Konnov & Sozanovsky
5.	**Tatiana Zamorska** KPMG



Volodymyr KOTENKO
Ernst & Young

Volodymyr Kotenko, the first Ukrainian tax & legal partner in the history of Ernst & Young in Ukraine, leads the firm's tax and legal groups and has 14 years of professional experience specializing in corporate taxation.

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