

PwC Azerbaijan Times

Issue № 4

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- **Court practice on tax disputes**
- **PwC Azerbaijan's 2nd Annual CEO Survey: Transform with the World**



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Court practice on tax disputes

1. Branch of foreign company in the Republic of Azerbaijan against tax authority

Claim amount: approx. AZN 8.5 million

Court instance: The Supreme Court

Date of decision: 21st of February, 2018

Subject: VAT deduction

Issue: Foreign Company has been involved in significant highway construction by concluding contract and in order to operate its activities in Azerbaijan, established a branch (hereinafter referred to as “Branch”). The Branch has been rendered services by a domestic company – subcontractor within the project. Albeit the Branch has paid VAT on the basis of e-tax invoices provided by the subcontractor, during tax audit, the Branch could not present tax authority with the document proving payment of the main amount in non-cash.

Parties' position: The Branch asserts that main amount has been paid in non-cash by the Foreign Company. Tax authority, in turn, has revoked the transaction on the main amount – VAT

deduction and imposed tax on the Branch and at that moment, considered that Foreign Company and its Branch are separate legal entities.

Court decision: The first and second court instances have not satisfied the position of tax authority by issuing a decision in favour of the Branch. However, the Supreme Court has annulled the decision held by the Court of Appeal and returned for rehearing.

The Supreme Court stated that the Foreign Company and its Branch are separate legal entities from the perspective of tax law. In that case, main amount has been paid by one taxpayer, but its VAT has been paid by another taxpayer. However, according to tax law, VAT deduction does not include payment of the main amount and its VAT by separate taxpayers.

PwC Azerbaijan's 2nd Annual CEO Survey: Transform with the World

On 15 March 2018, PwC Azerbaijan launched its 2nd Annual CEO Survey in Azerbaijan. The key findings of the survey were presented to the businesses and media at an event attended by CEOs and top management, public officials and diplomats.

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The Azerbaijan CEO report is part of PwC's Annual Global CEO Survey introduced at the World Economic Forum, in Davos for the past 21 years. The CEOs of 40 private and public companies from all the key industries in Azerbaijan participated in the survey and shared their insights on the economic trends, business issues and opportunities.

The level of CEOs optimism, both globally and locally, is the highest since 2010, almost double since the previous survey. The CEOs see growth prospects short and mid-term for their businesses while the economic and commodity prices are stabilizing, with many countries embracing the institutional reforms and diversification. The recent crisis brought disruption and it turned out to be the primary catalyst of a change, making a positive effect on both the private and public sector enterprises, forcing them to reconsider their strategies and business models.

You can read our report by following the link below:

https://www.pwc.com/az/en/publications/assets/PwC_Azerbaijan%27s_2nd_Annual_CEO_Survey.pdf