
Changes in legislation and court practice concerning sham business

March 2017

In brief

Amendments to criminal and tax legislation are expected to decriminalize sham business and shift responsibility for sham entities' unlawful actions from its counterparts to the sham entity's executives. A recent court case also shows positive changes in practical application of sanctions on sham businesses.

In detail

The draft law on improvement of criminal and procedural legislation allows the decriminalization of sham business. Criminal liability will be replaced by personal financial responsibility for the sham entities' executives.

In addition, draft amendments to the Tax Code would cancel adverse tax implications for taxpayers engaged in transactions with sham entities. Amendments aim to allow taxpayers a CIT deduction and VAT offset for expenses from transactions with entities recognized as sham by the court.

In February 2017, a criminal case on sham business was decided in favour of entrepreneurs/business. According to the statement of Almaly regional court (No. 7511-16-00-1/447 dated 2 February 2017), transactions of the sham entity with over one hundred enterprises were deemed valid. The decision was based on documents confirming performance of all contractual obligations by the sham entity.

The Takeaway

Proposed legislative amendments aim to minimize damage to business as a result of unlawful actions of sham entities.

The court case is very significant in terms of the positive outcome for business. Availability of documents confirming performance of services / sales of goods helps justify lawfulness of transactions with a sham business.

Tax and Legal Alert

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Let's talk

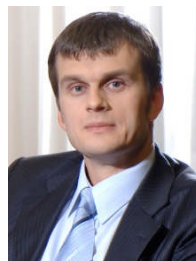
For a deeper discussion of how this might affect your business, please contact PwC team members servicing your company, or any person below.



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