Dealing with Tax Audits
Difficult market conditions are forcing businesses to adapt to the new economic realities. The state needs to boost its tax revenues. Tax law keeps changing in response to the economic challenges of the time. As a result, the tax authorities have to modify their approaches to the tax administration to adapt to new circumstances.

Over the last few years the tax authorities have accumulated a wealth of experience in taking measures to enforce tax compliance. They have organized effective information exchange both internally and with foreign tax authorities. Consistent approaches have been introduced to analysing the tax implications of various operations in which taxpayers engage. The level of professionalism among tax officials has increased significantly and the quality of tax audits has improved.

EY has recently trained the officials of the Tax Department on both direct and in VAT matters (a project funded by the European Commission) so that they are fully equipped to identify tax exposures, inconsistencies and enhance their expertise in issuing assessments.

Also, the Auditor General of the Republic of Cyprus in his recent reports has encouraged the now unified Tax Department to increase its efficiency in completing frequently tax audits and urged for the introduction of indicated deadlines.

One consequence of this is the notable rise in the number of complex disputes between tax authorities and taxpayers. The outcomes of these disputes are hard to predict. This trend is bound to continue against a background of developing case law (from both the European Court of Justice and domestic courts), and constant changes in tax law.

It is for these reasons that building an effective relationship with the tax authorities has become such a vital element of management of any company that values its reputation and aims to avoid financial losses. It helps the company to assess the likelihood of conflicts occurring and gives it confidence to defend its rights should a tax dispute arise.

Without the relevant experience it is very difficult for a company to achieve the desired outcome. Since the adversarial principle is a fundamental feature of tax controversy, the winner will be whichever side has the best strategy for defending its position. The tax authorities, for which engaging in disputes with taxpayers is a part of their everyday work, have a clear advantage over companies which are only rarely involved in such situations and may even be encountering them for the first time.

This is why it makes sense to entrust the resolution of tax controversies to specialists who know the approaches the tax authorities take to particular operations, understand the processes by which evidence is collected and tax enforcement measures are carried out and are able to advise on how best to go about contesting the findings.

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**Effective tax risk and controversy management**

*Corporate governance and risk management*

- Prevent: Stop controversy before it occurs with top-down governance, systems, and processes that enhance monitoring and compliance.

*Strategy and governance*

- Prevent: Exam management, appeals, mediation, arbitration and litigation.

*Technology and Systems*

- Prevent: Stop controversy by gaining a full picture of risks and harnessing the tools to monitor them.

*Organization and People*

- Prevent: Stop controversy by gaining a full picture of risks and harnessing the tools to monitor them.

- Allow for quick resolution so the company can move forward.

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We offer a broad range of services aimed at both the prevention and the successful resolution of tax controversies.

Identification and Assessment of Potential Tax Risks

Challenges from tax authorities, and the disputes that arise from them, may be avoided through proper preparation for tax audits.

We offer the following services related to such preparation:
- Examination of a company's documents, databases and tax ledgers;
- Identification of the most vulnerable operations from a tax perspective;
- Evaluation of identified tax risks for materiality and the probability of challenges being made by the tax authorities;
- Preparation of recommendations to eliminate/reduce identified tax risks, and assistance in implementing those recommendations.

In other words, we would carry out our own tax audit based on the same rules that are applied by the tax authorities. It would be carried out more quickly than an audit by the tax authority.

As a result, the company would receive an objective assessment of the tax risks and possible ways of reducing them.

Tax Audit Support

Even when a company's activities are already being audited, it is still possible to avoid dangerous errors that could result in additional charges being imposed. This entails maintaining a professional relationship with the tax authorities during an audit and providing the inspectors with exhaustive information to support the taxpayer's tax-legal position.

In providing tax audit support we would:
- Analyse demands/requests received by the company from the tax authorities to provide documents;
- Provide specific advice as to the range of documents and the content and form explanations to be provided to the tax authority;
- Check that the documentation prepared for the tax authority is correct and complete;
- Represent the company's interest in dealings with the inspectors, including in the course of the questioning/interviewing of the company's employees, expert examinations, the confiscation of documents and other enforcement measures;
- Evaluate and, if appropriate, contest the actions/omissions of tax officials.
- This would enable the company:
  - To provide the inspectors with precisely those documents that are required by law;
  - To avoid fines and other negative consequences for violations of procedural rules;
  - To save its employees' time (particularly its accountants and lawyers);
  - To help its employees feel confident when inspections are taking place.
Challenging the Results of a Tax Audit at the Pre-Litigation Stage

Upon completion of an on-site tax audit, the taxpayer receives a report setting out tax violations identified by the inspectors. After the report has been received, it is very important for the taxpayer to be informed of its rights in order to be able to exercise them effectively in protecting its interests.

Our assistance in the process of contesting the results of a tax audit at the pre-litigation stage would involve:

- Carefully analysing the tax audit report and relevant company documents;
- Checking the tax authority's calculations for accuracy;
- Formulating legal positions in response to challenges made against the company;
- Preparing written objections to the tax audit report;
- Representing the company's interests in the course of the examination of the tax audit materials by the head of the tax authority.

If necessary, we would also represent the company's interest and help protect its legal rights in the course of additional tax enforcement measures carried out by the tax authority.

If after examining the audit materials, the tax authority issues a decision against the company, we would liaise with the Tax Department and, if appropriate, mitigate any implications.

When a taxpayer has prepared a well-reasoned position which is properly formulated in its objections to a report, there is a much greater chance that the tax authority will decide in its favour. Obtaining a favourable tax audit decision minimizes the time a taxpayer spends on engaging in controversy. That is why enlisting the services of specialists with proven experience in this field is so important at the stage of appealing against the results of a tax audit.

Appealing Against the Results of a Tax Audit through Litigation

Even if the Tax Department’s decision goes against the taxpayer and the authorities reject any objections, the company can still defend its rights and legitimate interests by contesting the tax authority’s decisions in court (Tax Tribunal, Criminal and Administrative Courts in Cyprus) or through other Alternative Dispute Resolution Methods.

Our assistance in connection with a challenge against the tax authority’s decisions would involve:

- Analysing the decision issued by the tax authority on the basis of the tax audit;
- Identifying weaknesses in the evidential base assembled by the tax authority and formulating arguments to support the taxpayer's position;
- Formulating the company's legal position and its litigation strategy, and preparing and presenting all necessary documents in court;
- Representing the company's interests in arbitration, mediation and other hearings at all levels.

EY has unique experience and expertise that enable it to represent taxpayers’ interests in court and achieve positive outcomes.
The EY team has vast experience in defending its clients’ interests at all stages of disputes with the tax authorities, including all court levels. Our team includes lawyers, barristers, accountants, auditors, and corporate finance professionals who are ready to consider any situation from all possible angles.

We have successfully defended taxpayers’ interests in tax disputes on various issues relating to:

- The activities of a representative office of a foreign company in Cyprus;
- Confirmation of beneficial owner status;
- Economic justification and documentation of various costs for profits tax purposes;
- Determination of the tax period in which income and expense items are recognized, limit on the deductibility of certain types of expenses;
- Due care in choosing contract partners;
- VAT deductions and VAT reimbursement;
- The applicability of reduced tax rates or tax relied;
- The use for taxation purposes of prices set in related party transactions;
- The performance of tax agent functions;
- The EY team has unique experience in working with major international and national companies including the following sectors:
  - Manufacturing;
  - Real estate;
  - Pharmaceuticals;
  - Financial Services and Insurance;
  - Transport;
  - Energy, chemicals and utilities, high-tech, communications and entertainment;
  - Retail trade;
  - Oil and gas.

Why EY?

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The oil and gas sector is constantly changing. Increasingly uncertain energy policies, geopolitical complexities, cost management and climate change all present significant challenges. EY’s Global Oil & Gas Center supports a global network of more than 10,000 oil and gas professionals with extensive experience providing assurance, tax, transaction and advisory services across the upstream, midstream, downstream and oil field sub-sectors. The center works to anticipate market trends, execute the mobility of our global resources and articulate points of view on relevant key sector issues. With our deep sector focus, we can help your organization drive down costs and compete more effectively.

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