

How to pay taxes if property has been seized in another country

FAO: CEOs, accountants and employees of companies' legal departments

Pepeliaev Group advises that: In its Ruling No. 310-ES24-23706 dated 18 April 2025 in case No. A09-12215/2023, the Judicial Panel for Economic Disputes of the Russian Supreme Court determined the tax implications of property being seized by unfriendly states.

In the situation in question, the taxpayer transported cargo across the territory of Ukraine, but when the special military operation started the vehicles were seized by the Ukrainian authorities. Within the scope of a state programme, the Company received a subsidy in the form of having the value compensated of transport and cargo, which the Company did not book as income for the purposes of the simplified taxation system (6%). The tax authority disagreed with this approach and courts of three instances sided with it. The Supreme Court quashed all the judgements and pointed out that the subsidy the Company had received did not constitute its income.

As the Company applied the simplified taxation system, it did not take account of the expenses for tax purposes. In such a situation, the amount of subsidy being included in the taxable income would mean that a part of the subsidy would simply be returned to the state budget in the form of tax and would not fulfil its public purpose. On the other hand, if the subsidy does not constitute income and the taxpayer receives it while also deducting expenses from the tax base, then such taxpayer will receive a benefit at the expense of the state.

The court pointed out that tax regulation is aimed at taxing the "actual" economic benefit. Therefore, a subsidy is not income "when it is difficult or impossible to establish the persons guilty of unlawfully seizing (embezzling) property and/or to raise a claim against them for damage to be compensated, while the recipient of the subsidy funds does not book the expenses by virtue of such taxpayer's chosen tax treatment".

Why is this case important?

Why is this case worth your attention if your company is not on the simplified taxation system and does not receive subsidies from the state budget?

The fact is that the seizure (confiscation) of property of Russian taxpayers by authorities of hostile states is not an uncommon situation these days. The moment comes when the taxpayer faces the question of what to do in relation to taxes: are there grounds to write off the amounts of damage in tax

accounting registers, how should this be supported by documents, and is the VAT subject to reinstatement if it has previously been deducted with respect to the confiscated property?

To take the right decision, first of all, the following questions must be answered:

1. Is it possible to deduct losses from the seizure of property for tax purposes?

Pepeliaev Group's comment

On the whole, the Tax Code allows for similar expenses to be recognised as non-sales expenses. In this regard, we believe it is important that the Supreme Court has confirmed the taxpayers' right to book losses from the seizure of property in Ukraine as non-sales expenses for tax purposes.

2. How should these expenses be classified from the tax accounting perspective?

Pepeliaev Group's comment

Depending on the specific situation, one can employ the rules regarding losses from embezzlement or losses from emergencies.

3. What kind of documents are required to deduct costs as expenses?

Pepeliaev Group's comment

As a rule, all expenses must be confirmed by documents. The problem is that the rules for booking expenses provide for confirmation in the form of documents from state authorities, and it may be difficult to determine the proper state authority and even more so to obtain the required document from it. For example, for expenses to be deducted as losses from embezzlement, it is necessary that a criminal case first be instigated (moreover, this should be done based on specific articles of the Criminal Code) and then terminated "on the ground of there being no guilty persons". The rule regarding "emergency situations" is not always applicable to damage incurred during the special military operation, either.

4. Must the VAT be reinstated?

Pepeliaev Group's comment

As the seizure of property for reasons beyond the taxpayer's control does not, under the general rule, lead to the reinstatement of VAT, it appears that there is no need for VAT to be reinstated. However, just as in the situation with expenses for profit tax purposes, the seizure of goods will have to be confirmed by documents.

What to think about and what to do

If your property has been seized in an unfriendly state, it is necessary to determine whether there are legal grounds to write it off to reduce the profit tax base and not to reinstate the "input" VAT, what supporting documents you will require and in what state authority they can be obtained.

Help from your adviser

The lawyers of Pepeliaev Group have vast experience of advising clients on matters connected with tax legislation being applied.

We are ready to help you deal with all the tax implications of the seizure of goods by an unfriendly state and to assist you with formalising documents.

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