

INTERVIEW

Mark Smith



Eye on the Market

TBY talks to *Mark Smith*, Managing Partner of **Deloitte Caspian Region**, on challenges in Kazakhstan and the Customs Union for new businesses and some of the advantages LLPs can offer.

TBY What are some of the unique challenges businesses face in Kazakhstan?

MARK SMITH In terms of tax codes, the scenario is relatively ambiguous and open to interpretation, allowing for judgments to be made quite often against the best interest of the taxpayer. Thus, problems with the tax authorities can arise. Yet, in the seven years that I have been here, there has been a certain improvement. An organization has been set up to deal with related complaints. I am the Chairman of the European Business Association, for example, and we had a tax issue. We involved the investment ombudsman to resolve the issue and the system worked. In any country, the tax authorities have an agenda of raising tax revenue. When the crisis occurred, the tax authorities in the UK and the US became more aggressive in chasing tax avoidance. For example, the US is trying to collect taxes from people all around the world, not just in the US. There are moves by tax authorities around the world to become more aggressive against tax avoidance. Kazakhstan is no exception in this sense; however, people are more nervous about the tax authorities here because of the environment of ambiguity.

How is the private sector and government working together to address these ambiguities in the tax code?

There are regular sessions. I work in banking and there have been many tax issues surrounding the provisioning of loans, with working groups set up between the Ministry of Finance tax authorities and the Financier's Association that represents

all banks. There is a dialogue, but it still largely depends on which sector you are talking about.

What advantages do limited liability partnerships offer companies over other types of business entity in Kazakhstan?

The regulation regarding limited liability is more restricted in scope than that of a joint-stock company. There are four types of business entity that can be set up: individual entrepreneurs or sole trader type businesses, branch or representative offices, limited partnership (LP), and joint-stock companies. Joint-stock companies have set requirements, such as being audited, filing financial statements, and certain thresholds for capital injections. For an LP, the capital injections are much lower and reporting does not exist; therefore, the ease of doing business with an LP is far greater. What normally happens is that companies that enter Kazakhstan do so as a branch or representative office to try and drum up business; however, once they have Kazakh-generated activity, it has implications that attract tax authority attention. Then, what branch offices or representatives tend to do is switch to an LP since this is required as a business. The LP offers an easy means of enjoying a legitimate business structure in Kazakhstan without all the additional requirements of a joint-stock venture.

What are some of the challenges that the Customs Union represents?

The Customs Union, in my view, has been more beneficial for Russia than for Kazakhstan. That is probably a controversial view since this is a CIS market, but it has allowed Russian goods to come into Kazakhstan with benefits, or without imposed duty. With the volume of production that can be achieved in Russia, it is far easier for Russian goods to enter Kazakhstan than it is for Kazakhstani goods to go to Russia because the production facilities do not exist. The infrastructure is far less developed here in terms of the manufacturing sector. This has created challenges on the Kazakhstani side. In terms of business, it has probably reduced it to the extent that transfers from Russia to Kazakhstan are no longer customs-exempt; however, people bringing goods into the Customs Union face more challenges and requirements; you must comply with Russian as well as Kazakhstani legislation. ●



BIOGRAPHY

Mark Smith joined Deloitte Caspian in April 2007, relocating from Edinburgh, Scotland, where he participated in the IFRS conversion and demutualization of Standard Life PLC, which is now listed on the FTSE 100. Prior to this, he worked with another big four firm for over five years in both the UK and the Cayman Islands. Prior to becoming Deloitte Caspian Managing Partner in June 2012, he was the Head of the region's financial services audit industry, actively engaged in the audit of some of Kazakhstan's largest financial institutions. He has been in the profession for over 12 years, serving clients in the banking, insurance, and manufacturing sectors and has provided audit services under IFRS, US GAAP, and UK GAAP. Smith is a qualified Chartered Accountant from the Institute of Chartered Accountants in Scotland.

1 Mark Smith, Managing Partner of Deloitte