



Association
of European
Businesses

Press-release
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The Association of European Businesses is concerned about the Oriflame Cosmetics case and its consequences for the investment climate

The Limited Liability Company Oriflame Cosmetics, established in 2004 under Russian law, has incurred substantial taxes, penalties and interest as a result of the re-qualification of its taxpayer status from a legal entity to a "business unit" of a foreign parent company: royalties for the use of intangible assets of which the parent company is the right's holder have been excluded from the company's expenses as paid to itself".

The position taken by the Russian tax authorities and supported by the courts on three levels means that similar claims could be lodged with the Russian subsidiaries of foreign companies, as the structural organisation of Oriflame Cosmetics is typical for the majority of international corporations.

Responding to the concerns of the business community, representatives of the Federal Tax Service reported in the press that "if a company's operations are transparent, and its declared turnover genuine, then there will be no problem. The exception to this is cases in which fictitious expenses to foreign companies are declared". However, the court orders were not based on claims against the transparency of operations – there were no claims against the turnover in the court decision. The fictitiousness of expenses is based on the fact that the parent company manages the subsidiary, and this means that it is now a representative office, and any declared payments to the parent company are fake. But that is what is worrying European investors in Russia: investment is always accompanied by the management of the subsidiary, and therefore any subsidiary could be declared a representative office and charged for declaring fake expenses.

We believe that the tax authorities should operate within the legal framework. The tax authorities have legal instruments in the form of auditing the factual nature of objects's transfer for which intra-group payments are made, as well as the correct application of costs for intra-group transactions.

These instruments can and should be utilised by the tax authorities when performing tax inspections.

The Oriflame case has seriously concerned the European business community in Russia. We believe that the issue of intra-group payments should be treated in a lawful manner. We propose that the case be reviewed by the Federal Tax Service and the Ministry of Finance of the Russian Federation with the establishment of a working group with the participation of the taxpayers. The importance of this professional review in terms of the business climate cannot be overestimated.

For more information, please contact Svetlana Kuskova, PR manager/press-secretary by email on: svetlana.kuskova@aebrus.ru

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