

The National Business Agenda 2010

**Priorities to create an attractive
and competitive business
environment in the
Republic of Moldova**





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How the National Business Agenda was developed

The basics of the National Business Agenda were laid out in 2007, when representatives of the business circles of the Republic of Moldova for the first time made a joint initiative to promote the development of entrepreneurship programs on the basis of well-known methodology of the National Business Agenda, developed by the Centre for International Private (CIPE)

The best known and most powerful business associations in Moldova took active part in the prioritization of economic policies in 2010 and later, during the year, these associations have delegated their experts and plenipotentiary representatives to participate in meetings of working groups made to develop the technical solutions and business proposals for each of the four priorities. During the months of September to December 2009, business associations have held nine working sessions: three working sessions for each of the priorities chosen in an open and consensual manner.

Working groups have worked continuously, combining work meetings which discussed the proposals made to the central government authorities, with planning meetings where business associations established their joint agreement to inform their members on the priorities chosen, further mobilization during work meetings with Government representatives and actions of public information and education, which is an important factor in achieving responsible and effective governance in Moldova. We mention the concerted and inspired effort of the members of working groups, which made it possible to develop, approve and complete several position papers expressing views and business interests on each priority. These position papers served as a conceptual basis which integrates common vision of business in relation to economic and social policies promoted by the Central Government, identifying shortcomings in the current regulatory framework, as well as significant environmental resources and potential for private business development, relaxation of regulatory framework and modernization of instruments of interaction between banks and business, between business and public authorities. In this way, the 2010 National Business Agenda strengthens an already existing consensus in our society to solve any problems through dialogue, consultation and strategic vision.

We also mention that during 2009, the National Business Agenda has conducted extensive efforts for business mobilization and participation regionally. There were taken measures to inform and disseminate the fundamental position of business associations on a number of issues and questions vital for business: access to finance, the current tax system, relaxation framework of business rules, etc. There were organized many visits and regional trainings in different regions of the country: center, north and south.

The National Business Agenda has conducted specialized training on topics related to efficient management of business associations, inviting valourous experts from neighbouring states. For example, Corina Dragomirescu and Radu Nicosevici have conducted a training cycle and have made numerous efforts to increase the capacity of business associations in their interaction with members, planning and achieving institutional objectives, effective use of some forms of promotion and advocacy for the interests of private business environment. Business experience in Romania confirmed the net benefit of business solidarity - an essential condition for reform and social progress.

National Business Agenda - 2010 - was launched in a participatory, accountable and transparent environment. Year 2010 has to produce concrete and substantial results in order to achieve the objectives and priorities expected by business and society.

Summary

The difficult period through which Moldova is now passing is marked by the widening global economic crisis. The difficulties of transition to a state of law and a functioning market economy are exacerbated by political conflicts and instability of governance, as a result of the failure to elect the president in 2009, and the inevitability of early parliamentary elections, less than in one year after the validation of the results of the last parliamentary elections. The prolonged campaign has determined active players in the business environment in Moldova to become more concerned about ways to participate in consulting policy makers and offering their own solutions trying to solve the multitude of problems they face in daily activity of private business environment.

High motivation to participate and the prompt answer of the Government of the Republic of Moldova were necessary ingredients to establish a form of consultation and dialogue by the end of 2009. The effective dialogue between business and central authorities was held on the platform opened by the National Business Agenda. We mention that This document is the second edition of the National Business Agenda in Moldova, facilitated and assisted by experts of the Institute for Development and Social Initiatives “Viitorul” in partnership with the Center for International Private Enterprise (CIPE).

National Business Agenda is a joint initiative of private associative environment and community experts from Moldova, launched in 2008 in order to accelerate the definition of priorities, solutions and growth objectives, simplification of regulations and effective forms of public-private dialogue. The initiative has created high expectations among representatives of private business environment and is an important source of change in terms of future reforms and institutional adjustments at central and local level in our country.

National Business Agenda mission is to support the existence of a common platform of priorities, solutions and objectives for economic policies in Moldova, assisting business associations to intervene in decision making in a transparent and credible manner. National Business Agenda is a process in which public and private environmental stakeholders discuss technical solutions to solve common problems of our country in its transition towards a model of effective governance, based on market economy institutions and values.

Guided by international models of promotion of free private initiative, business associations from Moldova have expressed willingness and skill in engaging and mobilizing private environment in relation to the Moldovan Government and its various agencies, ministries and specialized bodies. The initiative launched in 2008 gave rise to a complex process, which intends to support and develop clear and simple rules for the functioning market economy, in terms of responsible, predictable and legitimate governance in Moldova. In a reasonably short period marked by political tensions, business associations were able to establish a crystallized vision on current issues and future priorities.

National Business Agenda succeeded through hard and fruitful work to contribute to strengthening the degree of trust and cooperation between the strongest and most representative business associations, cristalyzing their intention to use existing institutional instruments for economic growth and modernization in Moldova. The unified voice of business environment in 2010 outlined three priority directions including:

- Fiscal Policies
- Facilitating the import, export and customs procedures
- Access to Funding

Each of the selected priorities in the National Business Agenda contains problems to be solved, as well as concrete solutions proposed by the business community and national experts. National Business Agenda - 2010 anticipated the potential impact of these converging priorities on business competitiveness, providing real and enforceable solutions, considering the current state of economy and society in Moldova.

The level of representativeness of the National Business – Agenda

National Business Agenda aims to define the exact social and economic development priorities from the perspective of the larger and most respected business associations in Moldova.

In 2010, new supporters joined the National Business Agenda. Thus, the National Business Agenda got to meet more than 30 active associations. They represent the most diverse branches of economy, with members representing large, small and medium enterprises. Among them we mention:

- The National Confederation of Employers of the Republic of Moldova (CNPRM)
- Federation of employers from the construction sector, roadmen and producers of construction materials „Condumat”
- National Federation of Agricultural Producers of Moldova (FNPARM)
- Union of Winemakers of Moldova (UVM)
- Union of Transport and Road Workers of Moldova
- Moldovan Banks Association
- Republican Businessmen Club „Timpul” (CROAT)
- Moldova Wine Guild
- Small Business Association of Moldova
- The forwarders association from Republic of Moldova
- Insurers’ Association of Moldova
- Chamber of Commerce – Cahul
- Chamber of Commerce – Hîncești
- Chamber of Commerce – Ungheni
- Chamber of Commerce – Soroca
- Chamber of Commerce - Bălți

We once again thank all who have personally helped develop the National Business Agenda in working groups, but also in direct communication, which we have maintained during the preparation of this platform for short and medium term priorities. We are honored that the leaders of the most representative and important business associations, Presidents of Chambers of Commerce and Industry in most regions of the country and many business groups, who are now examining the opportunity to join the process, where with us from the very beginning.

We are fully convinced that this dialogue, launched by private business in Moldova, will prove to be sufficiently robust and resistant during the process and will demonstrate that it can be joint in the matters of achieving their needs for stability, competitiveness and efficiency.

We express our gratitude for the support the Institute for Development and Social Initiatives “Viitorul” has offered to initiate the process of business development and mobilization in our country. Also, we want to thank our colleagues from CIPE (Center for International Private Enterprise, USA) for the help they offered us during 2009, in support of national initiatives in Moldova.

Priorities for 2010

Priority areas	Solutions required
Tax policy and tax administration	<ul style="list-style-type: none"> • Establishing efficient relations between different state agencies and institutions in relation to private business, eliminating double certification, reducing procedures for licensing and regulating economic activities so that the trader can be served effectively and not exploited by state bureaucracy; • Applying the presumption of innocence in relations between the supervisory bodies (customs, tax inspectorate) and private business; • Advertising and sales promotion, creation of appropriate conditions should be stimulated by the current legislation; • Enabling companies to register for VAT registration immediately, without capping conditions; • Categorical exclusion of state bureaucracy discretion to impose excessive sanctions against private business, waiving penalties when the existence of harm to the state is not confirmed; • Continuous improvement of reporting to public authorities and state procedures required for business, assuring a better transparency, efficiency and speed tot the process; • Exclusion of obligation to pay social security taxes and pensions, which occurs monthly, regardless of wage payment.
Facilitation of export - import and simplification of customs procedures	<ul style="list-style-type: none"> • Excluding the bond for payment of VAT on imports of production machinery and equipment; • VAT refund for exporters on terms agreed by a simplified procedure; • Maintain transit time for carriers to customs, applying changes only in exceptional and justified in writing; • Establishing a clear procedure concerning international road freight traffic in the „Transnistria” region, offering traders safe conditions; • No local taxes for international carriers during the transition the Ukrainian-Moldovan border; • Adjusting and improving the regulatory services provided by customs brokers, which would allow smooth functioning of this institution, with maximum efficiency for operators in Moldova; • Reduce customs bureaucratization, which would reduce corruption and increase the budget collections; • Cancellation of „indicative prices” applied by customs inspectors in contradiction to current Customs Code; • Cancellation of double taxation for traders’ certification, which is contrary to international practice and agreements; • Simplifying the procedure of clearing the debt to the budget with other tax overpayment, particularly regarding the management of import / export, covering VAT payable by VAT to be refunded.
Access to finance	<ul style="list-style-type: none"> • Creating the conditions for obtaining loans for investment purposes at a low interest rate and a long term of repayment; • Increasing efficiency , reducing time trial and time of execution. • Supporting beginner private companies (start-ups) by guaranteeing bank credit policies; <p>Extending government policies and programs supporting ensuring individuals with credits for investment purposes</p>

Administration and fiscal policies



Problem: **Inefficient system of tax prosecution.**

The current information system, which aims taxes by businesses remains highly inefficient and unbalanced, laying an additional administrative burden on all economical agents who activate according to the current legislation. Thus, the Tax Inspectorate has no information on the VAT paid to customs, which imposes an obligation on economic agents to provide additional reports in order to be able to recover VAT paid on imports to the state. Due to the lack of informational inter-connection between the Ministry of Finance and the Social Fund, Moldovan business is required to pay various taxes in different places, to report separately and to present certificates from some governmental entities in order to obtain certificates from other authorities.



Solutions

Simplifying tax administration, including integrated networking between all tax authorities, so that the private economic agent should be able to pay and report the payment of taxes in a period as short as possible, and in a clear and transparent form. This should include more rigorous monitoring of taxes and contributions paid to the Social and Medical Fund according to the “one stop shop” principle.

Also, integrated information system should relieve the economic agent from the obligation to report to a state body the current situation regarding proper payment required payments to another state body, located in Moldova



Problem:

Functioning of the tax system based on “presumption of guilt.”

Business is often viewed as a criminal while public authorities are, by definition, seen as a benefactor of last resort. Thus, contrary to the presumption of innocence, some public institutions are empowered with the right to control economic agents and to decide their degree of fault and immediately apply the necessary punishment

Tax law and tax control authorities apply de facto presumption of guilt by providing and applying penalties for even a virtual or potential damage, that has not yet affected the budget. Also, although public authorities and economic agents should be treated as equal partners in order to increase the general welfare of the country, the current system of fiscal controls is focused on punitive measures and during their inspections tax service workers openly declare that they have received informal indications to apply sanctions under any pretext.



Solutions

Publication in «Official Monitor» of the lists of economic agents who will be undergoing scheduled inspections by the tax authorities, at least for a year before, if not possible quarterly.

Exclusion of general and extinguishing formulations, which allow unlimited extension of powers of inspection bodies, particularly the tax and customs, from regulations i.e. „at the discretion of”, „etc.”, „and others”, „and so forth”.

Review of functions and activities of all government agencies responsible for inspection - including tax authorities empowered – by providing them the role of partners of business community and severe penalties for excess duties.



Problem:

Advertising and sales promotion, creation of appropriate conditions are not stimulated by current legislation.

Currently there are undue restrictions according to which, for example, distribution of business cards or promotional stationery (special clothing) for sales promotion are treated as taxable supplies and are subject to VAT taxation.



Legislative Agenda

Article 95 of the Tax Code

Paragraph (2) point c) shall read as follows:

in accordance with Art. 99 paragraph (4) materials, goods, free services to third parties for sales promotion, advertising and maintenance of offices (rooms) aimed to create normal working environment for workers and customers are not considered supplies and services, but expenditure and are not treated as objects of taxation.

Paragraph e) shall be added and shall read as follows:

in accordance with Art. 99 (1) and (2) materials, goods, services provided free of charge to employees from taxable subjects, in order to protect labor safety and create normal working conditions are not considered supplies, but expenses and are not treated as objects of taxation.

Article 99 of the Tax Code will be as follows:

Deliveries at a price lower than market, without payment, for remuneration of labor.

(1) Where a supply is made for less than the market value because of a special relationship between the supplier and his customer, or because the customer is an employee of the supplier, the supply shall be taxable, and the taxable value of the supply shall be its market value.

(2) Free transmission to the employees of the taxable subject (except art. 94) of goods, products and services for the entire or partial purchase of which VAT was credited, is a taxable supply, and the taxable value of the supply shall be its market value.

(3) Free transmission to related people of goods, products and services for the entire or partial purchase of which VAT was credited, is a taxable supply, and the taxable value of the supply shall be its market value.

(4) Free transmission to third parties (except art. 94) of goods, products and services for the entire or partial purchase of which VAT was credited, is a taxable supply, and the taxable value of the supply shall be its market value.

(5) Goods, products and services rendered or fulfilled in lieu of wages of employees of the subject of taxation for the entire or partial purchase of which VAT was credited, is a taxable supply, and the taxable value of the supply shall be its market value.

(6) The market value of the taxable delivery shall not be less than its selling price.



Problem::

There is cap set by law, according to which companies are unable to register for VAT immediately after registration.

Tax laws in effect discriminate unduly instead of providing growth incentives for small companies. Largely, if the company is not registered for VAT, then it is not among the preferred suppliers for companies registered as payers.



Legislative Agenda

Article 112 in the Fiscal Code (2) shall read as follows:

A subject conducting business activity has the right to register as VAT payer in any moment. The registration shall take effect on the first day of the month following the month when the application was registered at the State Tax Inspectorate.



Problem:

1. Sanctions imposed on economic agents are excessive.

If bringing any damage to state is not confirmed, the economic agent should not be penalized. Nevertheless, tax inspectors tend to impose sanctions even for a potential or virtual damage, and even when not any confirmed damage that would affect the budget in any way.

Examples: Concerning cash registers and control devices, there are often many situations in which cash registers can show slight deviations of some minutes at the «time» indicator and imposed fines in such cases are very high. However, customs brokers are being elaborated protocols even when the alleged violation led to transfer a higher amount in the budget.

2. The obligation to pay social security taxes and pensions occurs regardless of when wages are paid.

However, especially in a crisis situation, these funds are missing because of lack of liquidity, and companies are calculated penalties. Sanctions apply from the moment of social and pension tax calculation, and not from the moment of their payment, which creates liquidity problems in business.



Solutions

Repeal normative provisions allowing economic sanctions even without that damages caused to state budget and funds are not confirmed. It is also necessary to change certain provisions of art.188 of the Tax Code, giving economic agents the opportunity to correct errors in financial reports at any time until the tax inspection. Change legislation to impose sanctions for failure to pay taxes and social pension from the moment of salary payment, and not its calculation. Adopting and implementing a new «guillotine»-like law in the system of controls by public bodies and economic agent reporting system.



Legislative Agenda

Article 123 of the Tax Code shall read as follows:

Paragraph 5.

Establishment (of intent) of incomplete or inadequate primary documents of record for tax purposes (or total lack thereof) and / or of tax reports is punishable by fine of 200 lei for each case. This does not apply in the conditions stipulated in Article 240, paragraph c) Tax Code are.

Article 188 of the Tax Code shall read as follows:

Corrected tax report

- (1) A corrected tax report is a version that replaces the previous tax report.
- (2) The taxpayer that discovers that the previously submitted tax report contains an error or an omission shall be entitled to submit a corrected tax report.
- (3) The corrected tax report shall be deemed as the tax report for the respective period.
- (4) The economic agent has the right to submit corrected reports at any time without administrative fines (in derogation from Art. 257 (a)) and / or has the right to make corrections in current reports, if that right is provided in instruction for completing the report.

Article 260 of the Tax Code (2¹) will read as follows:

(2¹) When presenting corrected reports, fines do not apply.

Article 264 of the Tax Code

Paragraph 1:

Lit. a) in the case of taxes, (duties) and fees, increases for delay – not later than 2 years from the last date established for the submission of the relevant report and payment of that tax (duty), fee, increase for delay in the case where submission of the tax report is not required;

Lit. b) in the case of financial sanctions relating to specific tax, (duty), fee– not later than 2 years from the last date established for the submission of the relevant report and payment of that tax (duty), fee in the case where submission of the tax report is not required;

Lit. c) in the case of financial sanctions that do not relate to specific taxes (duties), fees – not later than 2 years from the date the tax violation was committed.

Article 265 of the Tax Code will read as follows:

Paragraph 1:

If the tax liability was assessed within the period indicated in Article 264, it can be extinguished by enforced collection under this Title or by court, however only if the enforced collection started or criminal proceedings were initiated within one year from assessment of the tax liability.

Facilitation of export - import and simplification of customs procedures



Problem:

There is an obligation to pay VAT on import of machinery and equipment production.

In conditions of economic crisis when the companies are barely kept afloat and their sole purpose is to maintain current positions. Un plan de dezvoltare și creștere lipsește cu desăvârșire. Astfel stimularea dezvoltării sectorului de producere este critic pentru creșterea economică a țării, pentru a crea valoarea adăugată pe interior.



Legislative agenda

Article 103 of the Tax Code

To be completed with paragraph (1) including headings of equipment and machinery production.



Problem:

The law on VAT refund is not respected.

The Court of Auditors found that there are many not too large, relatively new businesses, who didn't pay a leu of VAT, but have been refunded millions, while some economic agents with a long history of VAT payment have not been refunded anything. Also, regardless of the budget surplus of the previous years, legal deadlines for VAT refund are systematically violated. Besides, the obligation of economic agents to confirm their right for VAT refund is in contradiction with the logic of this charge, since the mere fact of paying VAT already granted the right to restitution.



Solutions

Establishment and operationalization of dispute resolution mechanisms before reaching court, in accordance with European practice, for example, by creating public courts in addition to the tax inspectorate, where the judges would be professional auditors.

Between the collector of taxes (tax administration) and taxpayer there has to be an arbitrator. This „arbitrator” means the interests of taxpayers in discussions with tax administration. This would seriously discipline fiscal management. In Moldova, an attempt to introduce this “arbitrator” took place in 2009, and it failed because it was led by the tax inspectorate. These “arbitrators” will be a skilled intermediary between taxpayers and the Tax Inspectorate. There would be no attempts not to return tax on time. They are present in “discussions” on all charges.



Problem:

The tranzit term or carriers is often diminished by the customs for no reason, and this is why local carriers experience great difficulty in their specific service.



Legislative Agenda:

Article 42 of the Customs Code:

Paragraph 2 shall read as follows:

The timeframe of transit shall be established by the customs body and can not be larger than 8 days from the moment of crossing the customs border.

Timpul tranzitului este de până la 8 zile de la data trecerii frontierei vamale. It can be reduced by customs only in exceptional circumstances, by a reasoned decision, issued the person receiving transit.



Problem:

Establishing a clear procedure regarding the international freight traffic in the region “Transnistrian” through international customs posts located at the boundary between Ukraine and Moldova.



Solutions

To exclude the problems of transporting cargo and containers in the eastern districts of Moldova (region «Transnistrian») by all carriers and special carriers, especially from Ukraine, it is necessary for Moldova's customs, possibly jointly with customs of Ukraine, to establish some clear requirements regarding the international freight traffic in the region «Transnistrian» through international customs posts located on the border between Ukraine and Moldova. These regulations should provide clear requirements when transporting goods applying financial guarantees, bill notes, etc. This information should be placed on the website of the Customs Service and the Ministry of Transport and Road Infrastructure of the Republic of Moldova should inform the ministry in Ukraine. In this way the situation imposed by carriers from Odessa region, backed by the competent authorities of Ukraine, shall be solved.



Problem:

When crossing the state border in some of Moldova crossing points, Ukrainian carriers are required to pay local taxes, which contravenes international agreements.

In accordance with the Agreement between the Government of Moldova and the Government of Ukraine on international automobile communication, approved by Government Decision nr.669 of November 4, 1993 it is needed to annule organic and local tax collection received from Ukrainian carriers.

Non-compliance to international obligations may result in sanctions from neighboring countries.

Contrary to the international obligations of Moldova (the International Convention on the harmonization of frontier controls of goods at Geneva 21.10.1982, Official Monitor of 11/11/2008 nr.201-203/732), and contrary to bilateral agreements, some local taxes remain on border crossing (the customs Tudor), which substantially complicates customs procedures. It is highly possible that Ukraine will soon introduce a similar fee, but which will exceed the size of our tax 10 to 15 times. Same reaction may follow from the Romanian government. Also, contrary to international obligations, the Republic of Moldova, has not yet created a special corridor for the transportation of goods whose total mass, axle mass load or gauges exceed permitted in Moldova, but meet international standards (for example, international standard-size containers), which could cause retaliation from Ukraine.



Solutions

Adopting urgent measures that would ensure fulfillment of international obligations assumed by the RM regarding automobile transport and passenger transport, and informing diplomatic representatives of Ukraine about actions taken, in order to prevent the introduction of sanctions from this state.



Problem:

Customs brokers sanctioning system does not allow efficient functioning of this institution.

Regulation of customs brokers' activity provides extremely drastic measures for any kind of mistake, regardless of intent, origin and effects from the legal or tax point of view. This undermines the functioning of brokers' institution since it doesn't allow them to be effective intermediaries between traders and customs.



Solutions

Improving legislation governing customs brokers' work introduction of penalties proportionate size of damage as a result of incorrect completion of documents necessary for customs control passing.



Legislative Agenda

Article 1 of the Customs Code will be supplemented by paragraph 52 and 53, as follows:

Item 52 - «reliable data - data that are (or seem to be) in accordance with the truth. They may come from public authorities, public bodies and institutions and/or private ones, legal persons, declarant, or from a person appointed by him.»

Item 53 - «genuine acts - acts prepared by following legal forms and for which there is no clear and obvious suspicion of counterfeiting.»

Article 18 of the Customs Code, is completed as follows:

«All doubts arising from the enforcement of customs officials, customs authorities, customs or judicial body, shall be construed in favor of legal and natural person crossing the customs border.»

Article 232 of the Customs Code:

Point a) reads as follows: „Article 231 points 1), 2), 4), 5) and 19 shall be subject to a fine in the amount from 40 to 100 percent of the value of goods which constitute the object of the offense or their confiscation;

Add point a1) reads as follows: «Art. 231 Section 6), are penalized with a fine of 300% of the damage caused to the state. «



Problem:

Excessive customs bureaucracy encourages corruption and drastically reduces the state budget collection.

The current Moldovan customs system remains extremely bureaucratized and inefficient. The non-transparent administration of most customs procedures gives the custom house officer a very broad spectrum of possibilities to require the economic agent to pay various additional services. This deprives the meaning of the customs brokers' institution and is contrary to the spirit of „ASYCUDA”

Despite this, a huge volume of smuggled goods, including inland ones, have reached sales in Moldova. This suggests that, on the one hand, drastical customs control is not an effective measure against smuggling, and on the other hand, operators who activate legally, have to face unnecessary bureaucratic obstacles.



Solutions

Installing video-cameras to monitor customs and customs terminals. Introduction of clear criteria for determining appropriate corridor for the fulfillment of customs procedures (green, yellow or red) for about 80% of all imports to pass the green corridor and only 3-5% in the red, as it was originally provided by the «ASYCUDA. Introduction of clear criteria for determining appropriate corridors for the fulfillment of customs procedures (green, yellow or red) so that about 80% of all imports pass in the green corridor and only 3-5% in the red, as it was originally provided by the «ASYCUDA”.

It is necessary that the country's top representatives make a public declaration annulling all unpublished barriers to exports of goods and, through an official document, draw the attention of customs to the inadmissibility of applying such measures. Business welcomes the intention of implementing TARIM information system and encourage public authorities to implement it as soon as possible.

Developing a detailed and transparent procedures of passing customs control, indicating the maximum time limits for each procedure, which allows to minimize the rate of arbitrariness and human factor. Also, the procedure should minimize the contact between the economic agent and the customs official. Developing a framework to regulate customs terminal status. Developing and implementing a system of accreditation, training and evaluating employees in customs.



Problem:

Applying the concept of “indicative prices” contrary to the Customs Code.

The use of the concept of «indicative prices» by the Moldovan Customs Service, comes in flagrant contradiction with international practice and clearance of goods legislation (the Customs Code of the Republic of Moldova).

However, this harmful practice often allows customs inspector to «blackmail» the economic agent, actually applying the presumption of guilt in assessing the customs value of goods. Currently, Customs Code provides six methods of valuation of imported products, but only if the transaction value (basic method) is not borne by the importer documentary.



Solutions

Ensure the current provisions of the Customs Code, concerning assessment of customs value of goods: applying only the method of «transaction value» in case if there are conclusive documents.

Filling the regulatory framework in order to establish the conditions and the application of methods for estimating the customs value of goods to counter, on the one hand, in order to reduce oportunities of illicit reduction of custom values, and secondly to eliminate the arbitrary application of these methods by customs officials, which creates prerequisites for the trader blackmail and corruption.



Legislative Agenda

Article 8 of Law on customs tariff, will be as follows:

Item 2 - „The customs authority is entitled to take decisions on the correctness or incorectness of customs value of goods declared by the declarant. To require the declarant to determine the customs value of goods by another method than the basic method (based on transaction value of the comodity, or the price actually paid or payable) the customs authority must have reasonable grounds, to be presented to declarant in writing.”

Item 5 – „If the person in charge of the customs authority shall take decision on the impossibility of accepting the customs value of goods declared by the declarant, the customs authority will inform about the reasons of not accepting the declared value in writing, providing the declarant or any other persons responsible for customs duties and other taxes about the possibility to declare appeal without penalty.”

Punctul 6 – „After the final decision concerning the impossibility of accepting the customs value of goods declared by the declarant, the customs authority at the written request of the declarant is required within 15 days, to expose in writing the reasons of not accepting the customs value of goods, declared as basis for calculating duty.”



Problem:

Economic agents are forced to certify production despite existing international agreements, losing time and resources unduly.

The obligation imposed to economic agents concerning self certification at an exaggerated price has no sense given that production is already certified in accordance with EU standards or standards from other countries with which we have concluded international agreements on mutual recognition of certificates.



Solutions

Reviewing the procedure for certification of production if production is already certified under the standards of other countries with which Moldova has international agreements on mutual recognition of certificates.



Problem:

The procedure for compensation of debts to the budget with other taxes overpayment is very difficult.

Companies, both the exporting and the importing have to face the situation, when having money on the account of some taxes, they can not cover taxes payable by those, that were overpaid or have to be refunded. This is especially noticeable during import/export operations, when it is impossible to cover VAT payable by VAT to be refunded.



Legislative Agenda

Article 266 of the Tax Code shall read as follows:

Paragraph 1:

An application for the refund of overpaid amounts and/or sums subject to refund under tax legislation can be filed by the taxpayer within three years from the date when the payment has been made and/or appeared. The application filed after the expiration of three years shall be considered void. In this case no refund is made, except for the cases indicated in paragraph (2).

Filing an application discontinues the above time period.

Law on State Social Insurance Budget 2010

Article 8, to be filled with item 4:

„The recovery of overpayment of mandatory state social security contributions to the state social security budget will be made at the request of the payer, on behalf of the National Social Insurance House within 45 days”.

Access to finance



Problem:

1. High interest rates on loans.

The cost of bank loans creates extremely high pressures on economic activity. At the same time, banks can not lower interest rates on loans as long as the cash cost incurred is large and economic risks are growing.

2. Impossibility to receive long-term credit.

In most cases, the term of credit is up to five years. When providing credit for business investment, they require long-term resources. The market has the specific that the portfolio of deposits and cash is mostly created for a period of up to one year.

The risk increases when the principles of lending are violated : the sources of short-term deposits may be granted as long-term loans only to a small extent. Therefore, banks have limited resources for national currency loans on a longer term, they are represented by a small portion of equity.



Solutions

Provision of credit lines by NBM through commercial banking system in order to credit the economy for investment purposes at a low interest rate (refinancing rate of the NBM), for a period of over 10 years.



Problem:

Overly burdensome procedures and terms of collateral recovery, including due to the inefficient justice system.

The slow judiciary in processing cases of insolvency, generates a growing volume of funds frozen in unprofitable projects, thereby decreasing the volume of financial resources used in the economic cycle.

Moreover, if the loan is outstanding for more than 60 days, the bank bears losses from the stop of increasing interest for bad credits.

Meanwhile, bonds to depositors and interest payments to them remain in force and difficult recovery of collateral through ineffective judicial system, increases the risk of lending activity, which is covered by banks with a margin added to the interest rate on lending.

Negative image of the judiciary is largely determined by the reduced ability to implement its own decisions. The legislation provides the opportunity to challenge the bailiff which turns the process of implementing the final decisions into an endless one.



Solutions

Increasing judicial efficiency, reducing time trial and implementation time.

Strengthening administrative capacity of the judiciary to implement its decisions, increasing confidence in the act of justice, and judicial authorities in particular.

Strengthening Bailiffs' responsibility to the result that follows a court decision.



Problem:

The guarantee required by the financial institution is not sufficient to finance the undertaking sought.

In order to obtain credit, banks are obliged to assume the risk of default by obtaining collateral from the client. In many cases, economic agents in Moldova, although they have a cash flow showing ability to repay interest on loans and loan guarantees, they don't have the guarancy needed to access credit. In particular, the problem concerns start-up business enterprises.



Solutions

Formation of a guarantee fund of the state and a fair and simple regulatory framework for viable projects submitted by economic agents for medium and long term funding for investment purposes or to supplement working capital, when enterprises don't have sufficient guarantees and project for funding is considered reliable by commercial banks.

Granting security should be based on measurable objectives and minimum package of documents, the main elements being the request of the security contract and banking opinion approving credit respecting clause providing necessary safeguards.

To avoid potential abuse, the securities may be issued on behalf of commercial banks that meet a maximum rate of the loan portfolio of bad loans with state guarantees (for example: the rate of the loan portfolio of bad loans with state guarantees must not exceed the average of bad loans throughout the banking sector) and thus to limit the risk of state to ensure poorly considered projects or projects accepted as abusive.

Fund charges a guarantee fee guarantees granted, whose amount is calculated by applying a percentage to the annual balance of security for loans to medium and long term, in conjunction with the life of the loan.



Problem:

Individuals face serious difficulties in accessing bank credit and payment.



Solutions

Adjusting the regulatory framework to exempt from income tax to a specific part of the employee's income for payment of amounts allocated to outstanding credit to the bank (for well-defined purposes that improve the social status of the population), education payments (within the country) or their children , procurement of housing.

This would stimulate consumption in these areas and the consumer's ability to cover the money demand, indirectly ensuring financing sectors. Easing of restrictions on foreign exchange loans, including individuals.

Introducing partial grant instrument (from the budget) for the interest rate on mortgage loans for purchasing first property by individuals, by limiting the amount of loan with interest subsidy.



Legislative agenda



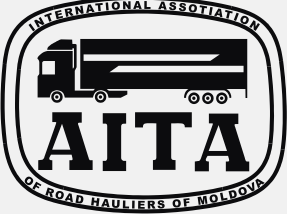

Article 36 of the Tax Code

Paragraph 4

add point c) which reads as follows:

The deduction of expenses incurred by individuals (payments) for the sum of mortgage and mortgage interest rate paid during the fiscal year is allowed, but not more than 50% of total revenues during the same period.

Partenrs


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Notes



ELABORATION OF THE FIRST NATIONAL
BUSINESS AGENDA IN REPUBLIC OF
MOLDOVA WAS FACILITATED BY
IDIS "VIITORUL", WITH SUPPORT OF
CIPE (CENTER FOR INTERNATIONAL
PRIVATE ENTERPRISE)