

Bloomberg Office in Profit-Tax Spat

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Moscow tax authorities charged the Bloomberg news agency 120 million rubles (\$4 million) in profit tax in 2006 to 2007, but the company refused to pay, saying it does not have a regular representative office in the country.

For the first time, a U.S. company working in Russia has been accused of tax evasion by taking advantage of an intergovernmental agreement on avoiding double taxation, Vedomosti has learned.

Information on Bloomberg LP's contestation of the decision from the Federal Tax Service's Moscow Branch No. 47 was posted on the web site of the Moscow Arbitration Court on Thursday.

The tax inspectorate charged the company 120 million rubles in profit tax, penalties and fines for 2006 to 2007, said a city tax official and a second tax service source. A spokesperson for the inspectorate declined to comment.

Bloomberg paid no profit tax, believing that its operations in Russia do not constitute a permanent representative office, the source told Vedomosti. That benefit for U.S. companies is included in a 1992 agreement between Russia and the United States on avoiding double taxation on income and capital. The agreement allows American residents not to pay taxes in Russia if they are engaged in preparatory or auxiliary activities, or if there is a representation that is only engaged in gathering information or making purchases for the head office.

But the inspectorate believes that there has been a regular office in Russia all along, a tax service employee said, adding that the firm's Moscow employees were not limited to gathering information, but were creating a finished product, which was even sold to Russian clients. The company's Moscow office included about 20 reporters, editors, experts and analysts at the time.

According to the inspectorate's findings, the Bloomberg office's revenue over the two years was more than 1 billion rubles (\$33.6 million). It was calculated indirectly, a tax official said. The company paid about 200 million rubles in value-added tax, which is not excluded under the bilateral tax agreement. After Bloomberg provided those figures to the tax service, the company gave its data on expenses, which were used to calculate the taxable profit, the source said.

The Moscow branch of the Federal Tax Service, where Bloomberg appealed the decision, agrees with the inspectorate's position, the Moscow tax source said. A spokesperson for the branch could not be reached by phone.

At the end of 2009, the news agency requested clarification on the issue from the Finance Ministry. In a letter dated April 14, the ministry responded that preparing and editing material to be sent to the head office could not be considered auxiliary or preparatory, and that Bloomberg's Moscow office should calculate its profit tax in accordance with the principles adopted by the head office.

Bloomberg Group spokeswoman Pam Snook said only that the company always pays taxes as required by law.

Bloomberg's New York head office did not respond to a request from Vedomosti.

The market for subscription information in Russia was worth \$160 million to \$200 million in 2009, of which Bloomberg controlled more than 20 percent, according to Interfax calculations. According to Burton-Taylor International Consulting, in 2008, Bloomberg controlled 24 percent (\$5.5 billion) of the world market for financial and analytical information.

So far, no similar dispute has made it to court, said Dmitry Kostalgin, a partner at Taxadvisor. The agreement with the United States frees a company engaged in gathering information from profit tax, even if it has a permanent office, he said — but only if the information was gathered, for example, for the opening of a plant, he said, noting that gathering information was Bloomberg's primary line of work.

The dispute could become a precedent for companies similar to Bloomberg, said a Federal Tax Service employee. In theory, it could also become a precedent for any foreign companies'

Russian offices, Kostalgin said.

Until now, there have only been a few such cases: against foreign airlines, the British Council and China's Huawei. But the disputes with airlines concerned agreements on air traffic, while the British Council successfully challenged most of the complaints it faced. The Huawei case has not gone to court.

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