

Please understand that visa processing regulations severely restrict the amount of information that we may release to others regarding visa applications.

#### How do you see visa operations in the future?

We want to encourage travel between the United States and Russia. Both our countries have so much to offer to tourists, businessmen, and students that we should welcome greater interchange. In May, Presidents Bush and Putin made a commitment to greater people-to-

people exchange and its immediate consequence was that we reduced the price of student visas on a reciprocal basis from \$495 to \$65. In the interest of partnership and friendship, we look forward to an increasing level of travel between the U.S. and Russia.

I can also predict that we will likely see an increase in the number of security procedures in order to help us ensure that only qualified applicants are granted visas and allowed to enter our country. Some of these procedures will be invisible to appli-

cants, while others such as new application forms, will be more obvious. At the same time, Americans are keenly aware that we live in a global economy that is dependent upon travel in order to facilitate business. We will continue to process visa applications with an eye toward security and an understanding that there are many legitimate travelers who would like to visit our country.

For additional information, e-mail [consulmo@state.gov](mailto:consulmo@state.gov)



## The Legal Framework For Leasing In Russia

By Derek A. Bloom, Partner in Coudert Brothers' Russia and Central Asia Practice Group

The legal and tax environment for leasing in Russia was greatly improved with the enactment of amendments to the Russian leasing law in January 2002. These amendments have removed numerous inconsistencies between the former version of the leasing law and other Russian laws applicable to cross border and domestic leasing in Russia. The requirement for a license to be obtained for a leasing company to engage in cross border leasing was also removed.

Several vendor-controlled, captive

leasing companies and foreign banks have created wholly-owned leasing operations in Russia during 2002, and several more domestic leasing companies are being formed at the present time. Significant new benchmark leasing transactions have been accomplished by Russian leasing companies. A leading Russian leasing company has twice successfully issued bonds for approximately US \$20 million worth of rubles on the domestic Russian capital market to finance the sale of, largely, foreign equipment.

Equipment vendors in Russia are reporting that, in 2002, there is new commercial pressure from their customers, for the first time, for lease financing to be provided. The lowering of individual and corporate taxes in Russia under the Putin administration is causing Russian companies to choose to operate in a transparent, tax-paying manner. A new premium is being placed on legitimate tax savings that may be obtained through leasing transactions.

In this environment, attention is turning, once again, to the issue of how

to address Russia's need for extensive capital investment in many industries through lease financing. Russia continues to present a significant market for all types of equipment, including trucks, buses, agricultural equipment, telecommunications equipment, manufacturing equipment, oil field equipment, computers, ATMs and aircraft.

### **Planning Points for Cross Border Leasing Transactions**

A leasing license is no longer required by either party for cross border leasing to a Russian lessee. The principal legal issues that need to be analyzed in the context of cross border leasing concern currency licensing or establishment that a particular transaction is exempt from this requirement, customs clearance, and planning for payment of import VAT. Customs issues are among the most significant practical issues for leasing foreign made equipment into Russia. Indirect taxation of leases, i.e., VAT, continues to be very costly, and cross-border leasing continues to be impeded by Russian VAT.

More importantly than these legal and tax concerns, however, may be that foreign equipment manufacturers are manifesting dissatisfaction with cross border leasing services. This is particularly the case when a foreign lessor shifts many risks inherent in a cross border transaction to the foreign equipment manufacturer by means of guarantees and buy-back arrangements, causing foreign equipment manufacturers to question the value provided by cross-border lessors.

### **Planning Points for Domestic Leasing Transactions**

A captive leasing company in Russia

offers a favorable resolution of several of the regulatory issues that impede cross border leasing enumerated above. In such transactions, the lessee would make Ruble denominated payments to the captive leasing company in Russia. The amount of rubles to be paid would be indexed to equal the equivalent in dollars, or Euros, of the scheduled lease payment. Certain new currency issues are arising in the financing of Russian leasing companies as the Euro is rising in value relative to dollars and Euros. In the case of a domestic leasing company, import VAT would not remain as a potentially unrecoverable expense. The captive Russian leasing company could verify that customs declarations are made out properly and import duties have been properly paid, thus avoiding a host of problems that plague cross-border leases.

### **Tax Planning for Leasing Transactions**

The primary tax planning point about leasing transactions in Russia is that leasing payments are deductible in full by a lessee. Lease expenses are fully included in the cost of production of goods, i.e., fully deductible for profits tax purposes. Further, equipment subject to a finance lease may be depreciated up to three times faster than is otherwise allowed. See Article 259(7) of the Tax Code, as amended as of January 1, 2002.

### **The Civil Code, and the Leasing Law**

As of early June 2002, there have been no changes to those provisions of the Civil Code of the Russian Federation, Articles 606-670 that govern rentals in general, and

Articles 665-670 which govern leasing in particular. The Russian Leasing Law was, however, significantly amended as of January 29, 2002, and amendments came into effect on February 2, 2002.

### **Repossession of Leased Property**

As in other jurisdictions, leasing offers the fundamental advantage, as compared to lending funds to purchase an asset and taking a pledge of the purchased asset, that the lessor retains ownership of the asset involved and may repossess leased property. In contrast, if the delivery of equipment is financed by a loan and a pledge of the equipment, in the event of a default, the pledged equipment must generally be sold at auction after court proceedings.

### **Conclusion**

Leasing should prove to be a growing, flexible and promising means of financing the acquisition of many types of equipment needed by Russian industry. Foreign leasing companies and banks should have certain compelling advantages over their Russian competitors due to their experience with such transactions and access to relatively inexpensive sources of capital. However, Russian leasing companies would welcome joint lease/sub-lease transactions in which they would assume responsibility for all activities in Russia, and provide guarantees of lease repayments to a foreign partner.

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