

Understanding the task of the client

How Projects Really Work (version 1.5)

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How the customer explained it



How the project leader understood it



How the analyst designed it



How the programmer wrote it



What the beta testers received



How the business consultant described it



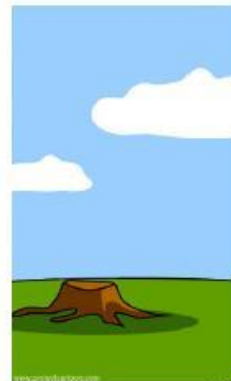
How the project was documented



What operations installed



How the customer was billed



How it was supported



What marketing advertised



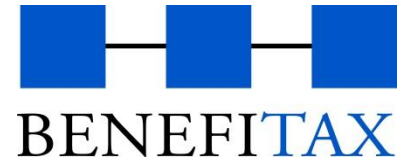
What the customer really needed

Implementation and review of Tax Compliance Management Systems: Benefits for clients and their tax advisors

Oliver Biernat

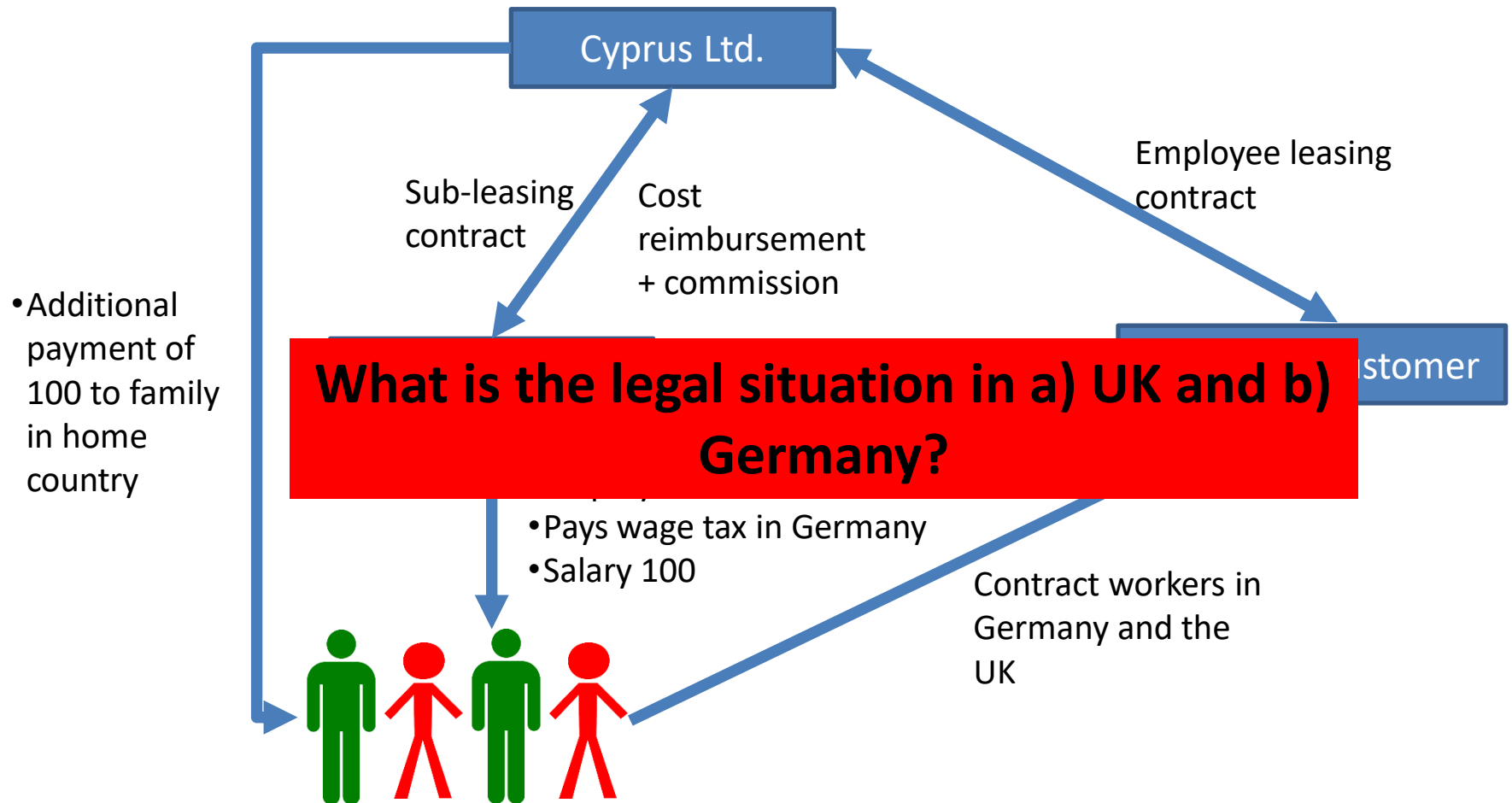
Managing Partner Benefitax GmbH,
Frankfurt/Germany

Agenda Tax Compliance Systems



1. **The wake-up case**
2. What is a Tax CMS and who needs it?
3. Basic elements of a Tax CMS
4. Audit of a Tax CMS
5. Functions and benefits of a Tax CMS

The wake-up case



The wake-up case

Results in a) UK

- Remittance principle, i.e. only money brought to UK is taxable in UK.

No problem in UK

The wake-up case

Results in b) Germany

Workers take residence in Germany = unlimited tax liability



Undeclared income in home country = tax evasion in Germany



Tax audit at Siemens raises questions

Opening of proceedings against workers

Who pays the bill? A) The German taxpayer? B) Somebody else?



Workers have already left Germany or cannot pay tax liability

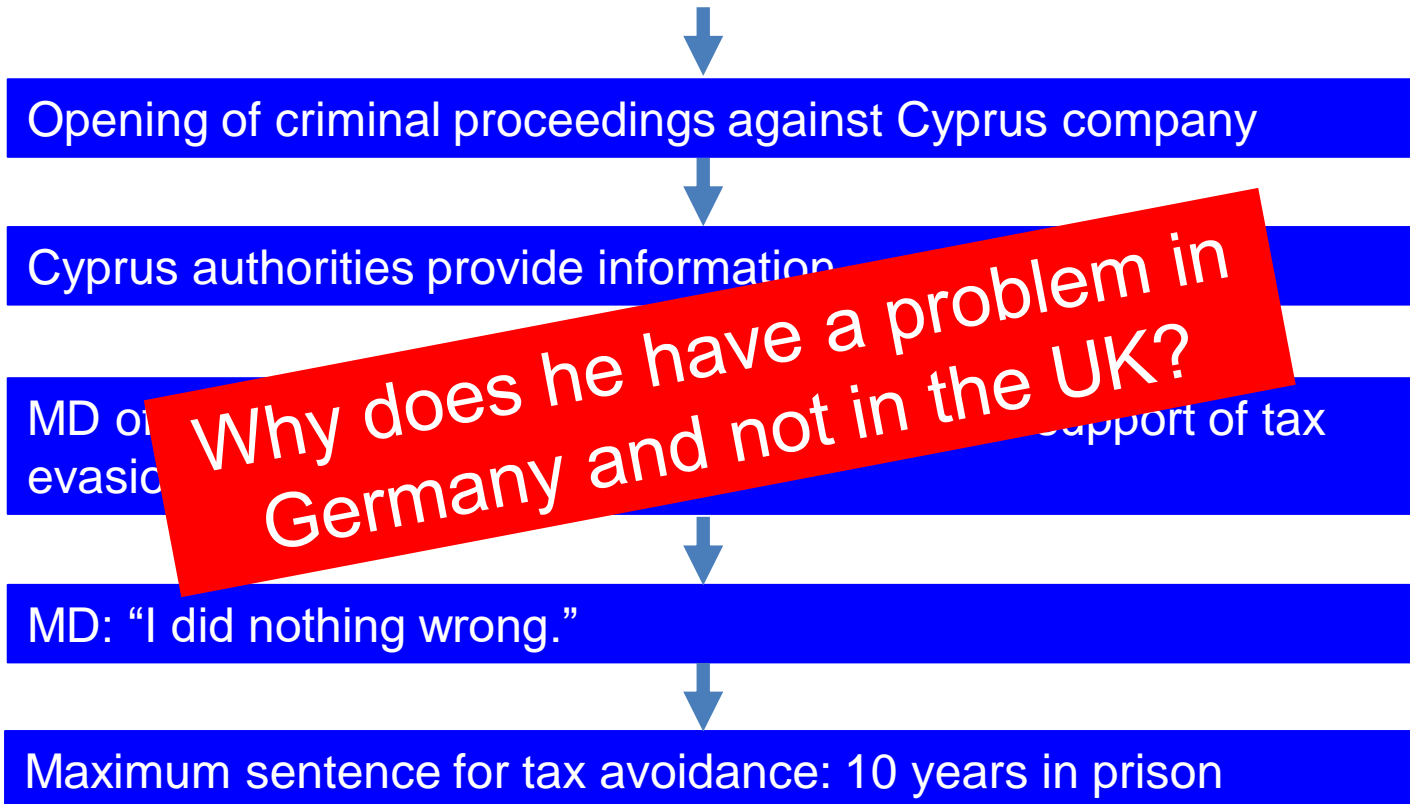


Opening of criminal proceedings against intermediary



Closing of proceedings against Intermediary because of no knowledge

The wake-up case



Why does he have a problem in Germany and not in the UK?

The wake-up case

- Tax avoidance must be done with intent. German law subsumes under “**with intent**” also indirect intent, meaning he thought it could be possible that there is a problem that he should have known about. He commits a crime by accepting the risk.
- i.e.: Just saying it is too expensive is not enough. It is checked because

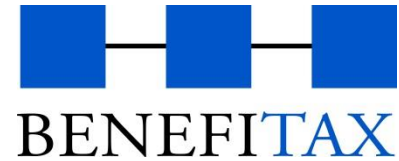
Companies should therefore have a need for help from consultants in connection with the implementation or audit of tax CMS's.



... the German F

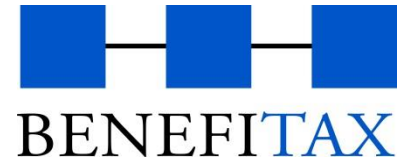
“If the taxpayer has implemented an internal control system that includes the fulfilment of tax duties, this may indicate that there is neither intent nor reckless understatement of tax.”

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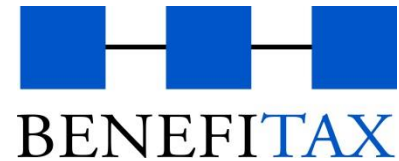
What is a Tax CMS and who needs it?



What is a Tax CMS?

- CMS stands for Compliance Management System
- Compliance means adherence with regulations and corporate guidelines
- So a tax CMS should make sure the company complies with tax rules

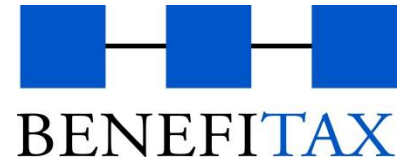
What is a Tax CMS and who needs it?



Who needs a Tax CMS?

- Large companies, esp. listed companies and those in the form of an “AG” (joint stock company): mandatory by law or the corporate government codex
 - Board of directors must set-up and maintain an early risk detection system
 - Supervisory board or its audit or compliance committee must check if the managing directors fulfil its duties
- Companies with tax fraud, corruption, sales tax carousel or money-laundering cases in the past, examples:
 - Freighter business was sentenced to a fine of 2 M € because of bribery and fraud of social security contributions
 - Family business sentenced to 40 M € fine because of involvement in the zipper-cartel

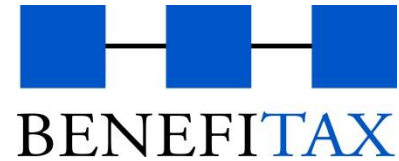
What is a Tax CMS and who needs it?



Who needs a Tax CMS?

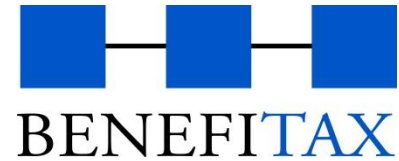
- Medium sized companies in certain business sectors, e.g.
 - Banks needs AML rules
 - Machine manufacturers need to manage product liability
 - Foreign sub-contractors must follow-minimum wage rules in Germany
- Medium sized companies with activities abroad
“not checking out foreign rules does not help in case something goes wrong”
- Companies that are frequently in the media and must maintain a high reputation in the public

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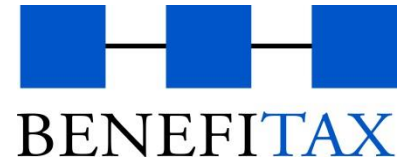
Basic elements of a Tax CMS



How to proceed with a tax CMS

1. Identify the risk areas in the company and the different laws that may affect the company
2. Implement measures that will identify and avoid rule violation for all material risks
3. If needed, have the system audited by an external expert, who issues an opinion
4. Re-check regularly

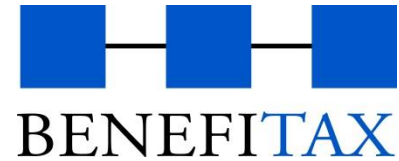
Basic elements of a Tax CMS



The following elements should apply for the parent company and all affiliates!

- Compliance culture (problem detected by management?)
- Compliance targets (corporate identity or corporate codex)
- Compliance risks (weighted risk analysis, sanctions for rule violations)
- Compliance program (preventive / detective measures)
- Compliance organisation (defined responsibilities)
- Compliance communication (all involved are informed)
- Compliance surveillance and improvement (documentation, surveillance plan, sufficient resources, review of CMS by auditors, reports to management)

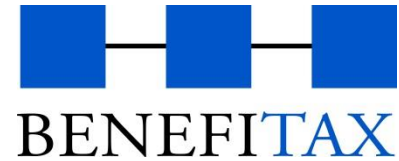
Basic elements of a Tax CMS



Compliance program: preventive measures

- Creating guidelines and instructions
- Providing checklists
- Training of involved staff
- Communication of changes in the law
- Defining responsibilities and separation of functions
- Deputisation regulations
- Signature regulations
- Authorization concepts (access to data, files etc.)
- Documentation regulations
- Defining inhouse tasks and external advisors tasks and the interface
- Ensuring that staff members always have access to guidelines and instructions

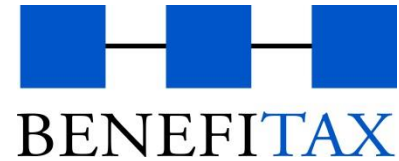
Basic elements of a Tax CMS



Compliance program: detective measures

- Process-integrated measures (e.g. Four-Eyes Principle)
- Systematic data analysis for anything unusual (validations, plausibility checks)
- Organisational and/or technical checks (IT-surveillance, automatic plausibility checks, manual checks of certain huge or extraordinary transactions)
- Event-driven checks or sample checks if the tax CMS is known to the staff who shall use it

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Audit purposes

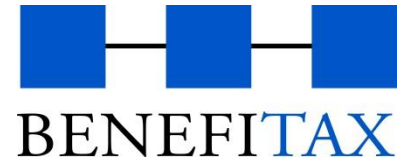
Come to a conclusion on the tax CMS principles as defined by the company

- Have the principles and measures of the tax CMS been documented adequately in all major areas?
- Are the principles and measures of the tax CMS suitable to identify and avoid material rule violations?
- Have the principles and measures of the tax CMS been implemented at a certain time?
- Have the principles and measures of the tax CMS been effective at a certain period of time?

Audit scope

- Minimum: adequacy test
- Better: performance test (always includes adequacy test)

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Functions and benefits of a Tax CMS



For the clients

- Comply with the law
- Prevention, esp. early recognition and avoidance of risks that may cause damages or fraud, such as losing money, reputation, reduce liability and probability of penalties
- If implemented, authorities may be more easily convinced to assume negligence or a one time-error, penalties may be avoided or reduced
- Branding, sales-support: Some customers expect that their suppliers comply with the law and can prove that (e.g. by an audit opinion on their CMS), just like saving energy, paper, sustainability, fair trade, etc.

Functions and benefits of a Tax CMS



For the tax advisors

Our line of services changes

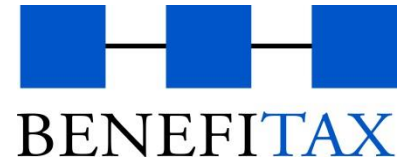
- Less compliance work (e.g. accounting) due to digitalization
- Little increase in classic audit and declaration work, BUT
- Increase in demand for consulting, audit-related services and CMS audits

Companies that want to set up or maintain a tax CMS need tax advisors who know how to do it and auditors to check it.

We can **create a new line of business.**

Are you ready?

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Questions?

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