

# NewsFlash

## Tax&Legal

### Dear readers,

We offer you a short overview of some of the most important recent amendments and additions to Kazakhstan legislation.

### Local Administration

A law<sup>1</sup> introduced amendments to certain legislative acts on local administration development.<sup>2</sup> The amendments aimed at gradual implementation of self-sustaining state budgets for towns of regional significance, villages, and rural settlements.

The law establishes a separate (fourth) level of the state budget – budgets of towns of regional significance, villages and rural settlements. The amendments also introduce community property institutions and extend the authority of the local administration in budgeting process and managing of the community properties.

The following taxes and obligatory payments will contribute to the newly introduced level of the state budget:

- Personal income tax on income not taxed at the source of payment paid by individuals registered in a town of regional significance, a village or a rural settlement;
- Property tax on individuals' property located in a town of regional significance, a village or a rural settlement;
- Land tax on land plots located in a town of regional significance, a village or a rural settlement;
- Vehicle tax on vehicles registered in a town of regional significance, a village or a rural settlement;
- Payment for outdoor (visual) advertising:
  - on objects located on the right-of-way of public motor roads of national/oblast/regional significance crossing towns of regional significance, villages or rural settlements;
  - in the open space outside premises in towns of regional significance, villages or rural settlements.

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<sup>1</sup>Amendments and additions were introduced to eight legislative acts: the Budget Code, the Tax Code, the Civil Code, the Code of Administrative Violations, Law on Local State Administration and Self-Administration in the Republic of Kazakhstan, Law on Advertising, Law on Public Property and Law on Professional Unions

<sup>2</sup>Law No. 90-VI of the Republic of Kazakhstan On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Development of Local Administration, dated 11 July 2017

Non-tax revenues of the budget will consist of administrative fines imposed by akims of towns of regional significance, villages or rural settlements, voluntary contributions and proceeds from the community properties. These payments will be excluded from the revenue sources of regional and cities of oblast significance budgets.

The Tax Code Article regulating obligatory payments for advertising were supplemented with new rates applicable for towns and roads of regional significance and other population settlements. The current payment rates for advertising applicable to the capital, cities of the national and oblast significance and general-purpose highways of oblast significance remain unchanged.

The self-sustaining budgets for towns of regional significance, villages and rural settlements will be introduced gradually:

- for settlements with population of over 2,000 – from 1 January 2018;
- for settlements with population of 2,000 and less – from 1 January 2020.

## Tax Code Amendments

The President signed a number of laws introducing amendments to the Tax Code:

1. Law on amendments to legislation on collection agencies activities<sup>3</sup> establishes that an excess input VAT subject to refund from the state should not include input VAT related to:
  - invoices issued by a procurement organisation operating in agroindustrial sphere;
  - goods, works, services related to mineral resources transferred for the in-kind fulfilment of tax liabilities (including goods, works and services related to realization of such mineral resources).

The amendment entered into effect retroactively from 1 January 2016.

2. Law on amendments to legislation on road traffic<sup>4</sup> extended the list of vehicle registration numbers subject to the increased state duties starting from 1 January 2018. The increased duty rates will range from 57 to 285 times monthly index factor (currently – from 137 to 228 times monthly index factor).

3. Law on amendments to legislation on the state education savings system<sup>5</sup> added the following cases to the list of circumstances where banks and bank organisations are required to notify the state revenue authorities via telecommunication networks:

- Opening or change of:
  - Current accounts for notary deposits,
  - Escrow-accounts,
  - Bank accounts for education savings deposits operating under the Law on State Education Savings System.
- Change of a bank account identification code caused by a reorganisation of the bank.

New requirements became effective on 2 July 2017.

4. Law on amendments to legislation on electrical power<sup>6</sup> establishes that:

- cost of electrical power grids is regarded as non-taxable income if the real estate registration authorities accepted and registered it as abandoned and a court acknowledged it as communal property under civil legislation;
- cost of electrical power grids regarded as abandoned under civil legislation and recorded on the balance sheet of the electric power transmitting entity will not be subject to property tax until the expected property tax on the grids is included in the estimated tariffs.

The amendments came into effect on 24 July 2017.

<sup>3</sup> Law No. 63-VI of the Republic of Kazakhstan On Amendments and Additions to Certain Legislative Acts on Collection Agencies Activities, dated 6 May 2017

<sup>4</sup> Law No. 74-VI of the Republic of Kazakhstan On Amendments and Additions to Certain Legislative Acts on Road Traffic, dated 3 July 2017

<sup>5</sup> Law No. 98-VI of the Republic of Kazakhstan On Amendments and Additions to Certain Legislative Acts on the State Education Savings System, dated 5 July 2017

<sup>6</sup> Law No. 89-V of the Republic of Kazakhstan On Amendments and Additions to Certain Legislative Acts on Electrical Power, dated 11 July 2017

## Taxation of the China-Kazakhstan Fund

A governmental resolution<sup>7</sup> approved a draft Agreement (the "Agreement") between the Government of Kazakhstan and the Government of China on a tax relief of certain types of income that the China-Kazakhstan Production Capacity Cooperation Fund (the "Fund") earns from direct investments in Kazakhstan.

Under the Agreement, Kazakhstan exempts the Fund from taxation of dividends earned from a direct participation of the Fund in Kazakhstan projects implemented under the Agreement<sup>8</sup> on Strengthening Cooperation in Field of Industrial Development and Investments (the "Projects"). With respect to an indirect participation of the Fund in the Projects, Kazakhstan exempts from taxation dividends related to a participatory interest of the Fund in companies realizing the Projects that are on the list of companies approved by the Government of Kazakhstan.

China agrees to provide similar tax benefits to a Kazakhstan entity similar to the Fund which would participate in investment projects in China under the Agreement on Strengthening Cooperation in the Field of Industrial Development and Investments.

Other taxes and obligatory payments of the Fund arising in Kazakhstan will be regulated by legislation of Kazakhstan. Tax legislation of Kazakhstan and the tax treaty between China and Kazakhstan Taxation of the Fund's capital gains from a direct participation in the Projects shall be governed by.

The Agreement will come into effect after Kazakhstan and China receive the final diplomatic notes to inform each other about the completion of necessary internal procedures. This Agreement will be valid at least 10 years after the entry into force, until either of the parties notifies the other contracting state of termination of the Agreement through the diplomatic channels.

## New Tax Reporting Forms

An order<sup>9</sup> of the Ministry of Finance approved renewed tax forms for personal income and social tax declaration (form 200.00) and simplified declaration for individual entrepreneurs (form 910.00) for 2017. In addition to information previously reported on the declarations, the new forms will contain data on individual income tax of foreign nationals and stateless persons and on obligatory social medical insurance payments/contributions.

New forms 200.00 and 910.00 and the rules for the completion entered into effect on 9 June 2017. Taxpayers should complete lines for obligatory social medical insurance contributions date from 1 July 2017. For the period before 30 June 2017 these lines stay blank.



## Preliminary Tax Audit Act

To implement the provisions of Tax Code Article 636-1, the Ministry of Finance approved the rules and deadlines for the provision of preliminary tax audit acts to audited taxpayers, submission of written objections against the preliminary tax audit acts and consideration of the objections<sup>10</sup> and the categories of taxpayers subject to the new tax audit procedures.

Preliminary tax audit act provisions apply to large taxpayers subject to the state monitoring and to taxpayers having investment contracts with the state investment authorities. The rules are applicable to tax audits resulting in assessment of additional taxes and other obligatory payments, except for:

- topical audits to confirm excess input VAT subject to refund from the state;
- audits initiated by a request of a non-resident taxpayer to return income tax remitted to the state budget or to a bank deposit under the provisions of the international tax treaty on avoidance of double taxation.

The rules came into effect on 1 July 2017.

<sup>7</sup> Governmental Resolution No. 340, dated 17 June 2017, On Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on Tax Relief for Certain Types of Income that the China-Kazakhstan Production Capacity Cooperation Fund Earns from Direct Investments in Kazakhstan

<sup>8</sup> Framework Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on Strengthening Cooperation in the Field of Industrial Development and Investments concluded in Beijing, on 31 August 2015, approved by Resolution No. 30 of the Government of the Republic of Kazakhstan, dated 27 January 2016

<sup>9</sup> Order No. 250 On Amendments and Additions to Certain Orders of the Minister of Finance of the Republic of Kazakhstan, dated 14 April 2017

<sup>10</sup> Order No. 334 of the Minister of Finance of the Republic of Kazakhstan, dated 24 May 2017, On Approval of Procedures and Deadlines for The Provision of Preliminary Tax Audit Acts to Audited Taxpayers, Submission of Written

## Tax Audit Checklists

The state authorities approved new checklists<sup>11</sup> for the following types of tax audits:

- comprehensive and thematic tax audits;
- cross-check tax audits;
- thematic tax audits on certain issues;
- chronometric inspections.

New checklists contain more detailed and extended lists of requirements to be reviewed by the tax authorities. New checklists came into force on 7 July 2017. The previous checklists became invalid.

## Amendments to Health Legislation

A law<sup>12</sup> introduced amendments to a number of legislative acts related to obligatory social medical insurance. According to the amendments, the amount of the obligatory medical insurance contributions will be tax deductible for:

- employees;
- individuals earning income under civil contracts;
- private notaries, private court officers, lawyers and professional mediators.

The purpose of the following amendments in the Law on Obligatory Social Medical Insurance is to ensure the maximum coverage of the population with medical aid within the system of the obligatory social medical insurance (hereinafter – the OSMI):

- The list of payers to the OSMI Fund were complemented with:
  - Kazakhstan citizens living abroad except for individuals having permanent place of residence in a foreign country;
  - other persons (this group covers payers not included in other groups);
- A third party may pay contributions for citizens living abroad or for other persons;
- The state authorities paying social unemployment benefits to unemployed individuals will remit the OSMI contributions for these individuals;
- "Insurance period" and "period of participation" definitions are excluded from the law as the OSMI contributions are obligatory for all citizens;
- Foreigners and members of their families staying in Kazakhstan on a temporary basis will enjoy the benefits and be subject to the requirements of the OSMI system as Kazakhstan citizens, if it is established in the corresponding international agreement ratified by Kazakhstan.

- Article "Right to Medical Aid in the OSMI System" were supplemented with the following provisions:

- A person missing the OSMI contributions will receive medical aid in the OSMI system for up to three months after the date of the last payment of the contributions to the OSMI Fund. The right to receive the medical aid does not release the persons from the responsibility to pay contributions to the MSMI Fund for the unpaid period.
- To obtain the right to medical aid in the MSMI system an individual missing the OSMI contributions is required to pay contributions to the MSMI Fund for the unpaid period capped by twelve months preceding the payment date at the rate of five percent of the minimum monthly salary established for the current fiscal year.
- Period before 1 January 2018 is exempt from inclusion to an unpaid period.

Objections Against the Preliminary Tax Audit Acts and Consideration of the Objections and the Categories of Taxpayers Subject to the Preliminary Tax Audit Acts Provisions

<sup>11</sup> Joint Order No. 254 of the Minister of Finance of the Republic of Kazakhstan, dated 18 April 2017, and No. 200 Minister of the National Economy of the Republic of Kazakhstan, dated 15 May 2017, On Approval of Tax Audit Checklists

<sup>12</sup> Law No. 80-VI of the Republic of Kazakhstan On Amendments to Certain Legislative Acts of the Republic of Kazakhstan on Public Health Matters, dated 20 June 2017



During three months from 1 January to 31 March 2018 everybody (including individuals missing the OSMI contributions) will be entitled to medical aid within the MSMI system.

The amendments reduced the rates of the state and employers contributions to the OSMI Fund. The new rates for the employer's contributions are:

- 1 percent - from 1 July 2017;
- 1.5 percent - from 1 January 2018;
- 2 percent - from 1 January 2020;
- 3 percent - from 1 January 2022.

The state will start remitting the OSMI contributions in 2018 at the following rates:

- 3.75 percent - from 1 January 2018;
- 4 percent - from 1 January 2019;
- From 4 to 5 percent - from 1 January 2022. The exact rate will be established annually by the Budget Law.

For self-employed individuals (private entrepreneurs, private notaries, private court officers, lawyers, professional mediators, and individuals working under service agreements) the amendments introduced a fixed rate of five percent applicable to the tax base instead of the scale of rates increasing from year to year. The amendments also established that the tax base for the self-employed individuals (except for those earning income under service agreements) is two times the minimum monthly salary for the corresponding year. Tax base for individuals working under service agreements remains the amount of accrued income. The OSMI contributions for citizens living abroad and other payers are established at five percent of the minimum monthly salary and are due starting from 1 January 2018.

An order<sup>13</sup> of the Minister of Public Health established the procedure and deadlines for the assessment and payment of the OSMI contributions.

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<sup>13</sup> Order No. 478 of the Minister of Public Health of the Republic of Kazakhstan on Approval of the Rules and Deadlines for the Assessment (Withholding) and Payment of the OSMI Contributions and Recovery of the Outstanding Contributions to the OSMI Fund, dated 30 June 2017