



Dear Readers,

The third tax amnesty¹ for legalisation of property of individuals will finish in December 2016. The process started on 1 September 2014 and though it was widely discussed in mass media, we would like to reiterate the legalisation procedure and the main provisions of Law “On Amnesty in Connection with Legalisation of Property” (hereinafter, the “Law”) for the those who postponed the issue until later or had no opportunity to study the Law.

Property subject to Legalisation

The law sets that citizens of Kazakhstan, oralmans and individuals who have residence permits in Kazakhstan (“applicants”) have the right to legalise the following property that they received before 1 September 2014:

- 1) money;
- 2) securities;
- 3) stakes in legal entities (hereinafter, the “stakes”)
- 4) immovable property registered on another person (except for the space objects and linear portion of main pipelines), the right to which or transaction with which are subject to the state registration;
- 5) buildings (structures, constructions) located in Kazakhstan that meet the construction standards and rules and comply with the intended purpose of an occupied land plot owned by an applicant; and
- 6) real estate located outside Kazakhstan.

The abovementioned property located abroad and transferred by an applicant to other organisations under trust management (trust) agreement is also the subject to the legalisation.

For the purposes of the Law, immovable property located outside of Kazakhstan is the property determined as immovable under civil legislation of Kazakhstan.

Legalisation Procedure

To legalise property an applicant reflects the property on a special declaration and submit the declaration to the tax authorities at the place of his/her tax registration. An applicant may submit the special declaration in person or by post with a delivery notification.

If an applicant submits the special declaration in person, the submission date will be the date of receipt of the declaration by the tax authorities. If an applicant submits the

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¹ The Law No.213-V “On Amnesty of the Citizens of the Republic of Kazakhstan, Oralman or Individuals that Have Residence Permits in the Republic of Kazakhstan, in Connection with Their Legalisation of Property” dated 30 June 2014

declaration by post, the submission date will be the date of the tax authorities' stamp in acknowledgment of receipt of the declaration.

If a taxpayer violates terms, procedures or the deadline for the submission of the special declaration, or the legalized property does not meet the established requirements, the tax authorities issue a written refusal to accept the declaration and specify the reasons for such refusal within five business days from the date of the submission of the declaration.

If the tax authorities do not send a written refusal to accept the declaration to an applicant, the declaration is regarded as accepted.

Deadlines

Documents for the registration of immovable property located in Kazakhstan the rights to which were not registered with the state should be submitted by 30 November 2016. The deadline for the submission of documents for legalisation of other property is five business days prior to the end of legalisation, i.e. 23 December 2016.

State Charges for Legalisation of Property

The state will charge fee for legalisation of the following property:

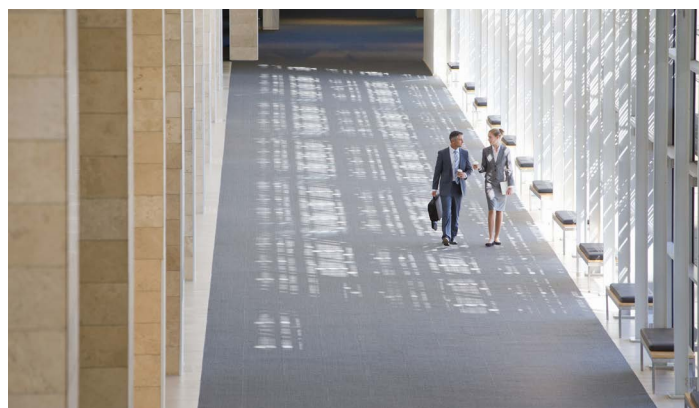
- Cash, if an applicant does not place the cash to a bank account in Kazakhstan;
- Immovable property located outside of Kazakhstan;
- Securities issuers of which is registered abroad;
- Stakes in foreign legal entities.

The charge is 10 percent of the value of the declared property. The charges are not reimbursable, except for cases when the tax authorities refuse to accept the special declaration or there is no obligation to pay the charges.

Legalisation of Immovable Property the Rights to which were not Registered

To legalise immovable property located in Kazakhstan the rights to which were not registered, an applicant submits the following documents to the property legalisation committee under the local executive body (akimat) at the location of the immovable property:

- 1) an application for legalisation of the property in the established form, in duplicate;
- 2) a copy of the applicant's identity document and the original to be presented at the time of the documents submission;
- 3) a certified technical expert's opinion confirming that the property complies with the construction norms and regulations;
- 4) technical passport of the legalized object.



The committee returns the submitted documents (with specification of the reasons of the return) if:

- 1) the set of the documents is not complete;
- 2) there are erasures or corrections in the submitted documents;
- 3) the submitted documents do not comply with established legal requirements.

If an applicant eliminates reasons for the return of the documents, he/she can re-submit the application by the established deadline for legalisation.

The committee considers an application within 30 calendar days after the submission date. If the property declared for legalisation does not comply with requirements of the Law, the committee issues a refusal to legalise the property. If the legalized property meets the Law requirements, the committee:

- 1) issues a decision on legalisation of the declared immovable property;
- 2) provides the legalization decision to the applicant;
- 3) reflects the data in the register of the legalised property.

Immovable property the rights to which were not registered will be considered as legalised from the date of issuance of the decision on legalisation. The committee submits information on the legalised immovable property and applicants to the state authorities responsible for the registration of the rights to the immovable property.

Legalisation of Property Registered on another Person

To legalise the property located in Kazakhstan and registered on another person, an applicant reflects the property on a special declaration. The applicant submits the declaration with the following documents and (or) data confirming information reflected on the declaration:

- 1) a copy of the identity document;
- 2) a notarised copy of the document establishing the applicant's ownership right to the property to be legalised;
- 3) a notarised copy of the agreement of transfer of the property (on gratuitous basis or in other form) from the prior owner to the applicant;

- 4) other documents and (or) data substantiating information reflected on the declaration provided at the discretion of the applicant.

The property is considered as legalised from the date of acceptance of the special declaration by the tax authorities.

Legalisation of Money

To legalise money an applicant opens a current account with a second-tier bank in Kazakhstan or with the National Postal Operator. The applicant installs or transfers money to be legalized in the national and (or) foreign currency into this account. After the transfer (instalment) of the money, the bank or the National Postal Operator issues to the applicant a certificate in the established form confirming the amount of money on the account. The applicant attaches a copy of the certificate to his/her special declaration and submits the documents to the tax authorities at the place of residence. The money is regarded as legalised from the date when the tax authorities accept the declaration.

An applicant can legalise money without transferring (installing) them on a current account in a bank or the National Postal Operator in Kazakhstan. In this case, the applicant is obligated to pay a state charge of 10 percent of the amount of money to be legalised to the tax authorities prior to the submission of his/her special declaration. The applicant attaches a copy of the payment document to the declaration. Money will be regarded as legalised from the date when the tax authorities accept the declaration.

Legalisation of Property Located Abroad

An applicant can legalize property located abroad, including property registered on another person by:

- Declaring the property on the special declaration;
- Paying the state charges of 10 percent of the declared value of the legalised property to the tax authorities.

The applicant also submits to the tax authorities the following documents substantiating information reflected on the declaration:

- 1) a copy of his/her identity document;
- 2) a notarised copy of the document establishing the applicant's ownership right or the prior owner's ownership right (if the property is registered on another person) to the property to be legalised;
- 3) a notarised copy of the agreement or other document substantiating the transfer of the property (on gratuitous basis or in other form) from the prior owner to the applicant;

- 4) a copy of the payment document evidencing the remittance of the state charges;
- 5) other documents and (or) data substantiating information reflected on the declaration provided at the discretion of the applicant.

The provided documents and/or information should in Kazakh or Russian. Documents in foreign language should be accompanied with a notarised translation into Kazakh or Russian. The property will be regarded as legalised from the date when the tax authorities accept the special declaration.

Limitations

The Law does not extend to individuals in whose respect on the date of the Law there are effective but not executed:

- court verdict found them guilty of offences under certain² articles of the Criminal Code;
- judge or the state authorities' ruling on imposing administrative sanctions for administrative violations under certain articles of the Code of Administrative Violations³.

An applicant is not permitted to legalize property obtained as a result of:

- 1) a crime committed against personality, a family or minors, constitutional and other rights and freedoms of an individual and a citizen, peace and security of mankind, the foundations of the constitutional system and the security of the state, property, the security of information technologies, the interest of the service in commercial and other organisations, public security and public order, public health and morality, administrative order, administration of justice and procedure for execution of punishments;
- 2) commission of environment, transport or war crimes, corruption infractions and crimes, and other crimes against the public service interests and public administration, economic crimes, including economic smuggling;
- 3) production, and sale of counterfeit money or securities; forgery, production or sale of counterfeit documents, stamps, seals, blank forms, state awards;
- 4) illegal use of insider information and manipulations in the securities market.

Property is not subject to legalisation, if:

- 1) the rights to the property are contested in a court;
- 2) granting of rights to the property is prohibited by legislation of Kazakhstan;

² Article 190 "Illegal Entrepreneurship," Article 191 "Illegal Banking Activity," Article 193 "Legalization (Laundering) of Monetary Funds and/or Other Property Obtained Illegally," Article 208 "Violation of Procedures and Rules for Marking of Excisable Goods with Excise Duty Stamps, Counterfeit and Use of Excise Duty Stamps," Article 213 "Non-Return of Funds in Domestic and Foreign Currency from Abroad," Article 215 "Illegal Actions in Bankruptcy," Article 216 "Deliberate Bankruptcy," Article 216-1 "Making Oneself Unable to Pay," Article 217 "False Bankruptcy," Article 218 "Violation of Accounting Rules of Kazakhstan," Article 221 "Evasion by a Citizen of Tax and/or Other Mandatory Contributions to the Budget," Article 222 "Evasion of Taxes and/or Other Mandatory Contributions to the Budget by an Organization."

³ Article 118 "Violation of the State's Property Rights on Land," Article 143 "Illegal Enterprise," Article 143-2 "Illegal Banking," Article 155 "Misconducts in Rehabilitation and Bankruptcy," Article 155-1 "Violations of Legislation of Kazakhstan on Rehabilitation and Bankruptcy by Interim Receiver," Article 155-3 "Violations of Legislation of Kazakhstan on Rehabilitation and Bankruptcy by Bankruptcy Manager," Article 155-4 "Violations of Legislation of Kazakhstan on Rehabilitation and Bankruptcy by Temporary Administrator," Article 155-5 "Violations of Legislation of Kazakhstan on Rehabilitation and Bankruptcy by Rehabilitation Manager," Article 156 "Deliberate Bankruptcy," Article 157 "False Bankruptcy," Article 166 "Incomplete or Late Payment of Non-Tax Charges and Proceeds to the State, Except for Receipt of Funds Related to Grants," Article 168-1 "Violation of Legislation of Kazakhstan on Microcredit Organizations," Article 178 "Violation of Legislation of Kazakhstan on Accounting and Financial Reporting by Individuals and Officials," Article 185 "Provision of Untimely, Inaccurate or Incomplete Information by Audit Organizations," Article 187 "Non-fulfilment of Claims of Repatriation of Domestic and Foreign Currency," Article 205-1 "Improper Activities under Special Tax Regime," Article 205-2 "Implementation of Activities in the Period of Suspension of Tax Filing," Article 206 "Failure to Submit Tax Reports and Documents for Monitoring the Conditional Bank Deposit," Article 206-1 "Failure to Submit Reports on Monitoring of Transactions and Documents for Transfer Price Monitoring," Article 206-2 "Violation of Financial Control Measures," Article 207 "Concealment of Tax Objects," Article 208 "Absence of Accounting Documents and Violations of Tax Accounting," Article 208-1 "Nonpayment of Accrued (Calculated) Taxes and Other Obligatory Payments to the State," Article 209 "Understatement of Taxes and Other Mandatory Payments to the Budget," Article 214 "Violation of the Order and Rules for Labeling Excisable Goods with Excise Stamps and/or Accounting and Control Stamps," Article 237 "Illegal Construction," Article 239 "Exploitation of Facilities and Construction Complexes not Entered into Operation as Required by Law," Article 357-1 "Conducting Business or Other Activities, Actions (Operations) without Registration or License, Special Permit, Qualification Certificate, another Permit, Notice."

- 3) the property represent money received as a loan;
- 4) the property is subject to transfer in favour of the state;
- 5) the property represent residential and non-residential premises in real estate development projects constructed at the expense of the state budget as part of implementation of the anti-crisis measures programme.

Guarantees

Applicants are exempt from:

- 1) criminal responsibility under a number of articles of the Criminal Code related to illegal entrepreneurship and evasion of payment of taxes, other than corruption crimes or crime committed by an organised group and/or criminal community;
- 2) administrative responsibility under certain articles of the Code of Administrative Violation related to illegal entrepreneurial activities, financial and tax violations;
- 3) disciplinary responsibility for a failure to file a declaration on assets and liabilities and/or a declaration on income and property or filing a declaration with incomplete or inaccurate data.

The fact of an applicant's legalisation of property and the data contained in the documents that the applicant provided to the tax authorities may not be used as a ground for initiating a pre-trial investigation, administrative proceedings, or disciplinary proceedings in respect to the applicant or other person, or the applicant's spouse. In addition, it may not be used as evidence of the applicant's guilt in a criminal case, administrative offence and/or disciplinable offense, if the offence is covered by the abovementioned responsibility exemption.

The data that an applicant provides to the tax authorities for legalization of property are recognised as tax, banking and other secrecy protected by legislation of Kazakhstan. To ensure the guaranteed confidentiality of the data reflected on the special declaration, the tax authorities arrange centralised storage of the special declarations and the documents attached to the special declarations. Applicants bear statutory expenses in relation to the property legalisation procedure on their own.



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