



KPMG in Kazakhstan and Central Asia

# NewsFlash

## Tax&Legal

### Dear readers,

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

### TAXATION

#### Tax Treaty with Slovenia

The President signed a law ratifying the Convention<sup>1</sup> on the Avoidance of Double Taxation and the Prevention of Evasion from Taxes on Income between Kazakhstan and Slovenia and Protocol to the Convention made in Astana on 10 March 2016.

The convention will come into effect after Kazakhstan and Slovenia receive the final diplomatic notes to inform each other about the completion of necessary internal procedures.

#### List of the Large Taxpayers

The Government approved a list<sup>2</sup> of the large taxpayers subject to the state monitoring. The list came into effect on 1 January 2017. The previous list<sup>3</sup> lost its validity.

#### Risk Management System for Confirmation of a VAT Refund Claim

The Government introduced the following amendments<sup>4</sup> to the rules for the application of the risk management system for the confirmation of VAT for which a taxpayer claims a refund (hereinafter - the "Rules"). The Rules provision on the application of the cross-review procedures only to direct suppliers is now applicable to taxpayers:

- Implementing an investment project under the national industrialization program with the value exceeding 150 million times the monthly index factor;
- Operating under a subsoil use contract and having the average tax burden coefficient for the preceding five years of not less than 20 percent.

Only taxpayers applying the simplified VAT refund procedure qualified to this provision before. The amendments came into effect on 12 December 2016.

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<sup>1</sup> Law of the Republic of Kazakhstan No.37-VI "On Ratification of the Convention between the Government of the Republic of Kazakhstan and the Government of the Republic of Slovenia on the Avoidance of Double Taxation and the Prevention of Evasion from Taxes on Income, and Protocol to it," dated 30 December 2016

<sup>2</sup> Resolution No. 918 of the Government of the Republic of Kazakhstan On Approval of the List of the Large Taxpayers subject to the State Monitoring, dated 29 December 2016

<sup>3</sup> Resolution No. 1434 of the Government of the Republic of Kazakhstan On Approval of the List of the Large Taxpayers subject to the State Monitoring, dated 31 December 2014

<sup>4</sup> Governmental Resolution No. 750, dated 30 November 2016, On Amendments to Governmental Resolution No.279, dated 27 March 2013, On Approval of the Rules for the Application of the Risk Management System for the Confirmation of the VAT Claimed for a Refund and Risk Criteria

## New Tax Register Forms

An order<sup>5</sup> of the Minister of Finance introduced the following new tax register forms:

- tax register form on money and/or other property receivable from foreign sources;
- tax register form on money and/or other property actually received from foreign sources;
- tax register form on the use of money and/or other property received from foreign sources.

The order came into effect on 10 December 2016.

## Priority Activities

In accordance with clause 1 of Article 150 of the Tax Code, the Government approved:<sup>6</sup>

- Priority activities for special economic zones: Astana – New City, National Industrial Petrochemical Technopark, Seaport Aktau, Part of Innovative Technologies, Ontustik, Burabai, Saryarka, Khorgos – Eastern Gates, Pavlodar, Taraz Chemical Park;
- The list of facilities constructed to carry out the priority activities in special economic zones;
- Rules for the inclusion of priority activities on the list of the priority activities of special economic zones and construction facilities on the list of facilities constructed to carry out the priority activities in special economic zones.

The respective governmental resolution came into effect on 4 February 2017.

## Database of Foreign Financing Origins

Pursuant to the Tax Code Article 20, an order<sup>7</sup> of the Minister of Finance approved rules for maintaining database of information on receipt and use of funds and/or other property received from foreign sources.

According to the rules, the tax authorities within three business days upon the receipt of tax reports on the funds and/or property received from foreign sources (tax forms 017.00 and 018.00) will include the information declared on the reports to the database on the tax authorities' website: [www.kgd.gov.kz](http://www.kgd.gov.kz).

The database will contain information:

1. on recipients of money and/or other property;
2. on foreign providers of money and/or other property;
3. on the value of money and/or other property received (used) by the recipients;
4. other information.



The tax authorities will keep information for three years after the receipt. The tax authorities will exclude information from the database if:

- the information is wrong and needs adjustments (inclusion of the information by mistake, introduction of additions or amendments);
- there is a court decision on the exclusion of the information from the database;
- the period of the information storage is expired.

The order came into effect on 9 December 2016.

## Law on Competition

The President signed a law<sup>8</sup> introducing amendments to a number of legislative acts on competition, the state support of housing construction program and other matters.

The Tax Code amendments exempt from VAT for a period from 1 January 2017 to 1 January 2018:

1) Realization of:

- vehicles manufactured in a free warehouse and realized by the owner of the free warehouse under the state procurement contract concluded before 1 November 2016;
- goods manufactured in a free warehouse exclusively from raw materials imported under the free warehouse customs regime before 1 January 2017 and sold by the owner of the free warehouse in Kazakhstan, if the following requirements are met simultaneously:
  - the good is on the list approved by the state authorities in-charge for the industry and industrial-innovative development;
  - there is the state confirmation of the industry and industrial-innovative development authorities that the raw materials used for the production of the

<sup>5</sup> Order No.555 of the Minister of Finance of the Republic of Kazakhstan, dated 19 October 2016, On Amendments to Order No.271 of the Acting Minister of Finance of the Republic of Kazakhstan, dated 15 April 2015, On Approval of Tax Register Forms and the Rules for their Preparation

<sup>6</sup> The Decree of the Government of the Republic of Kazakhstan dated 20 January 2017, No.10 "On Approval of the List of Priority Activities of Special Economic Zones and Facilities, the Construction of which is Intended to Carry Out the Priority Activities of Special Economic Zones and Rules of Inclusion of Priority Activities in the List of Priority Activities of the Special Economic Zones and Construction Facilities in the List of Facilities, the Construction of which is Intended to Carry Out Priority Activities of Special Economic Zones"

<sup>7</sup> Order No.556 of the Minister of Finance of the Republic of Kazakhstan, dated 19 October 2016, On Approval of Rules for Maintaining Database on Recipients of Money and/or other Property, Foreign Providers, the Value of the Received Property and other Data subject to Inclusion to the Database and Rule for Inclusion/Exclusion Information to/from the Database

<sup>8</sup> Law No. 34-VI of the Republic of Kazakhstan, dated 28 December 2016, On Introduction of Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Competition and the State Support of Housing Construction Program Matters.

goods were imported under the free warehouse customs regime before 1 January 2017. The industry and industrial-innovative development authorities approve the form of the confirmation document.

## 2) Importation of:

- raw materials as components of vehicles manufactured in a free warehouse and realized by the owner of the free warehouse under the state procurement contract concluded before 1 November 2016;
- raw materials as components of goods manufactured in a free warehouse and included on the list approved by the industry and industrial-innovative development authorities, if the raw materials were imported under the free warehouse customs regime before 1 January 2017.

The law introduced significant changes to the Entrepreneurial Code. The Entrepreneurial Code was supplemented with a new Chapter 7-1 Antimonopoly Authorities and its Powers regulating:

- the antimonopoly authorities structure;
- objectives of the antimonopoly authorities;
- the antimonopoly authorities management;
- cooperation of the antimonopoly authorities with the antimonopoly authorities of other states;
- cooperation of the antimonopoly authorities with the law-enforcement authorities;
- the antimonopoly authorities' competences;
- the rights of employees of the antimonopoly authorities;
- protection of commercial, professional and other secrets established by law.

The amendments also excluded Article 88 that previously regulated the competences of the antimonopoly authorities and Article 19 that governed the procedure for cooperation of the antimonopoly authorities with law-enforcement authorities of Kazakhstan and antimonopoly authorities of other states.

The law introduced Chapter 11-1 *Socially Important Markets* and Article 120-1 *Pricing in Socially Important Markets* governing the pricing procedure and the state regulation of prices in the socially important markets in the following areas:

- retail sales of electricity by energy supply organizations;
- organization and holding of the centralized trade of electricity by entities using recoverable sources of energy;
- retail sales of marketable gas and liquefied petroleum gas through group tank units;
- rendering airport services for domestic flights;
- rendering freight transportation services by railway and services of locomotive traction.



The amendments introduced a concept of “antimonopoly compliance” which means the system of measures to prevent violations with respect to competition protection. The amendments also detail the procedure for an assessment of the competition in commodity markets by the antimonopoly authorities and specify cases where such an assessment is required.

Chapter 25 *State Support of the Investment Activity* is supplemented by a definition of a special investment project:

- an investment project implemented and/or to be implemented by a Kazakh company registered before 1 January 2012 as a member of a special economic zone or as an owner of a free warehouse, or
- a project implemented by a Kazakh company under the agreement for an industrial assembly of motor vehicles.

Amendments stipulate that an entity implementing a special investment project under a special investment contract is exempt from the customs duties related to an importation of technology equipment, components and spare parts thereto, raw materials and materials being components of finished goods manufactured in a special economic zone or in a free warehouse.

The exemption from import customs duties will be valid:

- for a member of a special economic zone – for fifteen years but not longer than the period of the validity of the special economic zone;
- for an owner of a free warehouse – up to fifteen years from the date of the registration of the special investment contract;
- for a Kazakh legal entity having an agreement for industrial assembly of motor vehicles – up to fifteen years from the date of the registration of the special investment contract.

The amendments introduce a new type of investment preferences for leasing companies importing technology equipment for Kazakh entities realizing investment projects.

The leasing companies are exempt from customs duties related to an importation of technology equipment delivered under a finance lease agreement to a Kazakh company implementing an investment project to realize the project. Only investment contracts concluded with the competent investment authorities before 1 October 2016 qualify for the exemption.

The law came into force on 1 January 2017, except for certain provisions related to the competencies of the antimonopoly authorities that will come into effect on 1 January 2018.

## OTHER

### Postponement of Obligatory Medical Insurance

A recently signed law<sup>9</sup> postponed the introduction of the compulsory social medical insurance. The commencement of compulsory social medical insurance contributions by employers, individual entrepreneurs, privately practicing notaries, privately practicing enforcement agents, lawyers, professional mediators, individuals earning income under civil law contracts postponed from 1 January 2017 to 1 July 2017. The state contributions were postponed from 1 July 2017 to 1 January 2018.

Accordingly, the law postponed the commencement of the compulsory social medical insurance system. Payments from the Social Medical Insurance Fund for medical care will start from 1 January 2018. Individuals will have the right for a medical care and for the selection of a health care organization under the Obligatory Social Medical Insurance since 1 January 2018.

### Railway Travel Documents

An Order<sup>10</sup> of the Minister of Investments and Development introduced changes to the regulations for realization of railway travel documents. The amendments specify that the carrier may arrange realization of travel documents (tickets) via ticket offices



of passenger agencies on the basis of gratuitous contracts, if the carrier provides the passenger agency with management and engineering support services in paperwork with travel documents (tickets) and includes the related costs into the fare.

The amendments extended the list of information printed on a railway ticket with the following points:

- a railway code and an identifying symbol of a railway administration;
- name of the document;
- number of the travel document (ticket);
- name of the carrier, series and number of VAT certificate;
- the carrier's business identification number;
- a security code;
- an ACS order number;
- date of the travel document (ticket) issuance;
- time of the travel document (ticket) issuance;
- number of the ticket office that realized the travel document (ticket);
- country code and fare in the countries en route (for international trains);

The order came into effect on 9 January 2017 and cover relations arising from 12 December 2016.

### Goods for Personal Use

The Minister of Investments and Development approved new criteria<sup>11</sup> to consider goods imported into the Customs Union by individuals as "goods for a personal use." According to the new criteria, the following goods are regarded as goods for personal use, if their quantity does not exceed the approved limit:

- fur goods (including head wears) with code 4303 10 of the Classifier of International Trade Activities of the Eurasian Economical Union - one item of the same name, size and model per a person;
- mobile telephone - two items per a person;
- tablet computer - two items per a person;
- portable computer and its accessories (note-book, net-book) - one item per a person;
- jewelry - five items per a person;
- bicycle - one item per a person;
- buggy - one item per a person.

An individual may import goods for the personal use into the Customs Union once per month.

<sup>9</sup> Law No. 29-VI of the Republic of Kazakhstan, dated 22 December 2016, On Amendments to Certain Legislative Acts of the Republic of Kazakhstan Regarding Obligatory Social Medical Insurance

<sup>10</sup> Order No. 870 of the Minister of Investments and Development of the Republic of Kazakhstan, dated 20 December 2016, On Amendments to Order No. 742 of the Minister of Transport and Communications of the Republic of Kazakhstan, dated 23 September 2013, On Approval of the Regulations for Realization of Railway Travel Documents (Tickets) in the Republic of Kazakhstan

<sup>11</sup> Order No. 12 of the Minister of Finance of the Republic of Kazakhstan, dated 11 January 2017, On Amendments to Order No. 250 of the Ministry of Finance of the Republic of Kazakhstan, dated 31 March 2015, on Approval of Criteria to Treat Goods Imported by Individuals into the Customs Union as "Goods for Personal Use"



The above criteria do not extend to second-hand goods, except for vehicles for personal use. Vehicles imported for a personal use are regarded as vehicles for commercial purposes, if their quantity exceeds one unit per person per year.

The criteria came into effect on 14 February 2017.

### Price for Liquefied Petroleum Gas

An order of the Minister of Energy approved the maximum<sup>12</sup> price of KZT 28 000 net of VAT per a ton for a wholesale trade of liquefied petroleum gas within Kazakhstan for a period from 1 January to 31 March 2017.

<sup>12</sup> Order No.527 of the Minister of Energy of the Republic of Kazakhstan, dated 12 December 2016, On Approval of the Maximum Price for a Wholesale Trade of Liquefied Petroleum Gas within Kazakhstan

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