

# NewsFlash

## Tax&Legal

### Dear readers,

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

May 2017

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### Customs Code of the Eurasian Economical Union

The member-states of the Eurasian Economic Union (hereinafter – the “EEU”) signed an agreement<sup>1</sup> on the new Customs Code of the EEU. The new Customs Code of the EEU will replace the current Customs Code of the Customs Union and international agreements on customs regulation issues concluded earlier. The new Customs Code will come into force after the Eurasian Economic Commission receives notifications on ratification of the agreement from the five member-states, but not earlier than 1 July 2017.

### Excise Taxes on Diesel Fuel

A governmental resolution<sup>2</sup> introduced changes to the application periods of the excise tax rates on diesel fuel. Previously, the lowered excise tax rates on diesel fuel applied from November to March. According to the amendments, the reduced excise tax rates on diesel fuel apply from November to May. The rates will stay the same. The amendments came into force on 1 April 2017.

### Electronic VAT Invoices

An order<sup>3</sup> of the Minister of Finance approved new rules for circulation of electronic VAT invoices. The main changes include:

- An option to register a VAT invoice issued earlier in paper format in the electronic VAT information system by indicating the date of the paper VAT invoice that is earlier than the date of uploading the invoice to the electronic system;
- An option to issue an electronic VAT invoice by an attorney (operator) on behalf of the principal or on behalf of participants to a joint activity;
- Indication of each participant's share in a joint activity;
- Introduction of general classifiers for the terms of delivery and departure, country of destination of goods/services;
- An option to indicate that a deal is made “without a contract;”
- A requirement to indicate the goods line number in the customs declaration not only for goods imported from third countries, but also for goods imported from the EEU (goods line number in the Statement on Import).

The new rules will come into effect on 1 October 2017. As the new rules enter into force, the current rules<sup>4</sup> adopted in 2015 will cease to be valid.

<sup>1</sup> Agreement on the Customs Code of the Eurasian Economic Union, dated 11 April 2017

<sup>2</sup> Governmental Resolution No.144, dated 31 March 2017, On Amendments to Governmental Resolution No.133 On Excise Tax Rates on Petrol (except for aviation gasoline) and Diesel Fuel, dated 13 March 2015

<sup>3</sup> Order No.301 of the Minister of Finance of Kazakhstan on Approval of Rules for the Circulation of Electronic VAT Invoices, dated 12 May 2017

<sup>4</sup> Order No.77 of the Minister of Finance of Kazakhstan on Approval of Rules for the Circulation of Electronic VAT Invoices, dated 9 February 2015

## In-Kind Fulfilment of Tax Liabilities

A governmental resolution<sup>5</sup> approved rules for the execution of tax liabilities via payment of taxes in-kind. The rules establish a procedure for the determination of the volume and value of minerals, and procedure for realization of minerals supplied by subsoil users to execute the tax liabilities related to:

- mineral extraction tax;
- rental tax on exports of crude oil and gas condensate;
- royalty;
- share of the Republic of Kazakhstan under a production sharing agreement.

The resolution came into force on 6 March 2017 and extends to relationships arising from 1 January 2016. The previous rules<sup>6</sup> are recognized as null and void.

## List of Exemptions

To fulfill Kazakhstan's commitments to the World Trade Organization, the Ministry of the National Economy approved<sup>7</sup> a list of goods (so-called List of Exemptions) subject to preparation of customs declarations and electronic VAT invoices if imported at the reduced WTO customs duty rates. The corresponding order came into effect on 24 March 2017.

According to explanations of the state revenue authorities, although the Instruction<sup>8</sup> on cross-border trade procedures for the EEU member-states defines the List of Exemptions as the list approved by the Decision<sup>9</sup> of the Eurasian Economic Commission, taxpayers are required to use the new List of Exemptions approved by the Ministry of National Economy starting from 24 March 2017. Taxpayer should apply the new List of Exemptions to prepare their import customs declarations and to account for mutual cross-border transactions with the EEU member-states.

Currently, the State Revenues authorities is working on appropriate amendments to the Instruction regarding the definition of goods from the List of Exemptions.

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<sup>5</sup> Governmental Resolution No.68 On Approval of Rules for In-Kind Execution of Tax Liabilities, dated 14 February 2017

<sup>6</sup> Governmental Resolution No.208/1 On Approval of Rules for the Determination of the Volume of Minerals that a Subsoil User Transfers to Kazakhstan as In-Kind Execution of Tax Liabilities, dated 11 December 2009

<sup>7</sup> Order No.59 of the Minister of the National Economy of Kazakhstan on Approval of List of Goods for which Import Customs Duties Apply, Duty Rates and the Validity Period of the Duty Rates, dated 9 February 2017

<sup>8</sup> Order No.640 of the Minister of Finance of Kazakhstan on Approval of Instruction on Accounting Procedure for Certain Goods Traded in Cross-Border Transactions between the EEU Member-States, dated 9 December 2015

<sup>9</sup> Decision No.59 of the Eurasian Economic Commission on List of Goods Subject to Reduced Import Customs Rates and Reduced Import Customs Rates under Agreements between Kazakhstan and the World Trade Organization, dated 14 October 2015