



KPMG in Kazakhstan and Central Asia
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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

Amendments to Tax Legislation

On 30 November 2016, the President signed the Law¹ on Introduction of Changes and Additions to Certain Legislative Acts on Tax and Customs Issues. The amendments:

- Saves the current turnover threshold for VAT registration for 2017 with the following gradual reduction of the threshold:
 - 25 000 times the monthly index factor in 2018
 - 20 000 times the monthly index factor in 2019
 - 15 000 times the monthly index factor in 2020
- Postpones the introduction of personal income tax filing, electronic VAT invoices, and E-audit
- Introduces tax benefits for borrowers whose loans are subject to refinancing under the State Program of Refinancing of Mortgage Loans.

We will provide the detailed analysis of the amendments in the next issue of the News Flash.

Legalization of Russian Tax Residency Certificates

The President signed a law² ratifying the agreement between Russia and Kazakhstan on the procedure for the recognition of tax residency certificates for the application of the tax treaty benefits. According to the agreement, tax residency certificates issued and sealed since 1 January 2011 by the competent state authorities of one participating country must be accepted in the other participating country with no special certification, apostillization or consular legalization.

The Agreement will enter into force after Kazakhstan and the Russian Federation receive the final diplomatic notes to inform each other about the completion of the necessary internal ratification procedures.

Special issue

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¹ Law of the Republic of Kazakhstan No. 26-VI On Introduction of Amendments and Additions to Certain Legislative Acts on Tax and Customs Issues, dated 30 November 2016
² Law No. 21-VI of the Republic of Kazakhstan On Ratification of the Agreement (in the form of exchange of diplomatic notes) on the Recognition of Official Documents Confirming Residency Issued by the Competent Authorities of the Republic of Kazakhstan and Russian Federation under the Convention between the Government of the Republic of Kazakhstan and the Government of the Russian Federation for Avoidance of Double Taxation and Prevention of Evasion from the Payment of Taxes on Income and Capital, dated 14 November 2016

Reporting on Receipt of Funds from Foreign Sources

According to recently introduced changes to the Tax Code, taxpayers are required to notify the tax authorities on receipt of funds and/or other property from foreign states, international or foreign organisations, foreigners, stateless persons, under agreements with value of more than 1 tenge, provided that the recipient's activity is aimed at:

- legal assistance, including distribution of legal information, protection or representation of interests of individuals and organisations, and provision of advisory services;
- public surveys and public opinion research, sociological surveys (except for surveys performed for commercial purposes), distribution and placement of the surveys results;
- gathering, analysis and distribution of information except for the activities performed for commercial purposes.

In addition, in certain cases³ taxpayers are obliged to provide the tax authorities with an information report on the receipt and use of the above-mentioned funds and/or property. To implement these requirements, the Ministry of Finance approved the procedure and deadlines for the submission of the notifications⁴ and reports⁵ to the tax authorities. According to the rules:

- Information report is due by the 15th day of the second month following the reporting quarter. Reporting period is a calendar quarter in which the reporter received and/or spent the received cash or sold the received property.
- A notification is due within ten business days after the transaction date.

The rules establish the procedure for the completion and submission of the forms and circumstances under which taxpayers are required to adjust the submitted forms by filing additional forms.

The orders on approval of the rules for submission of notifications and reports came into effect on 25 November and 2 December 2016, respectively.

Cyprus Excluded from Tax Haven List

An order⁶ of the Minister of Finance, excluded the Republic of Cyprus from the list of countries with a concessionary tax regime. The order came into effect on 4 November 2016.

SUBSOIL USE

Reduction of Export Duties on Oil Products

An order⁷ of the Minister of National Economy reduced the customs duties on export of oil bitumen (code 2713 20 000 0 under the Classifier of International Trade Activities of the Eurasian Economical Union) from USD 60 to EUR 15 per ton, with ongoing validity period. The order also establishes that the Ministry of National Economy approves the customs duties on export oil products with codes 2713 20 000 0 (oil bitumen) and 2715 00 000 0 (bituminous mixes) without applying a formula.

The order entered into effect on 15 November 2016.

Crude Oil Pricing Methodology

In accordance with the provisions⁸ of the Transfer Pricing Law, the Government approved pricing rules⁹ for exported crude oil received as Kazakhstan share under the North Caspian Production Sharing Agreement of 18 November 1997.

The resolution entered into effect on the signature date on 2 November 2016.



³ Subclause 2, clause 1-1 of Article 14 of the Tax Code

⁴ Order No. 553 of the Minister of Finance of the Republic of Kazakhstan On Approval of Rules, Form and Deadlines for Individuals and Legal Entities and/or their Structural Divisions to Notify the State Revenue Authorities of Receipt of Funds and/or other Property from Foreign States, International And Foreign Organizations, Foreigners, Stateless Persons, dated 19 October 2016

⁵ Order No. 554 of the Minister of Finance of the Republic of Kazakhstan On Approval of Rules, Form and Deadlines for Individuals and Legal Entities and/or their Structural Divisions to Submit Information Reports to the State Revenue Authorities on Receipt of Funds and/or other Property from Foreign States, International And Foreign Organizations, Foreigners, Stateless Persons, dated 19 October 2016

⁶ Order No. 480 of the Minister of Finance of the Republic of Kazakhstan On Introduction of Amendments to Order No. 595 of the Minister of Finance of the Republic of Kazakhstan, dated 29 December 2014, On Approval of the List of Countries with Preferential Tax Regime, dated 5 September 2016

⁷ Order No. 441 of the Minister of National Economy of the Republic of Kazakhstan On Introduction of Amendments and Additions to Order No. 81 of the Minister of the National Economy of Kazakhstan, dated 17 February 2016, On Approval of the List of Goods Subject to Export Customs Duties, Duty Rates and their Effective Periods, and Rules for the Calculation of Export Customs Duty Rates for Crude Oil and Oil Products, dated 6 October 2016

⁸ Sub-clause 3), Clause 10, Article 10 of the Law of the Republic of Kazakhstan On Transfer Pricing, dated 5 July 2008

⁹ Governmental Resolution No. 653 On Approval of the Pricing Rules (Methodology) for Export of Crude Oil Received as Kazakhstan Share under the North Caspian Production Sharing Agreement of 18 November 1997, dated 2 November 2016

OTHER

Index Factors for 2017

The law¹⁰ on the National Budget for 2017- 2019 establishes the following index factors effective from 1 January 2017:

- Minimum wage is KZT 24 459;
- Basic pension payment in KZT 12 802;
- Minimum pension is KZT 28 148;
- Monthly index factor is KZT 2 269;
- Minimum subsistence level for calculation of basic social payments is KZT 24 459.

Attraction of Expatriate Employees

Effective from 1 January 2017, the following provisions of the Law¹¹ "On Employment of the Population" related to attraction of expatriate employees will come into force:

- The state will charge fees for the issuance of work permits, except for intra-company transfers;¹²
- Quotas and work permit requirements will not apply to foreign nationals arrived to Kazakhstan for self-employment in occupations demanded in the priority sectors of economy. Work permits will be replaced by qualification statements for self-employment;
- Quotas for attraction of expatriate employees will be established:
 - by types of economic activities;
 - by country of the expatriates origin;
 - for attraction of labor migrants.

To implement these new requirements, the Ministry of Health Care and Social Development developed and approved:

- The procedure for the issuance and extension of work permits for attraction of expatriate employees and for intra-company transfers;¹³
- The procedure for issuance of qualification statements for self-employment to foreigners or stateless individuals;¹⁴
- List of the priority sectors and occupations demanded in the priority sectors of economy for individual employment of foreigners and stateless persons.¹⁵

In addition, a Governmental resolution¹⁵ approved the rates of charges for the issuance and (or) extension of work permits. The rates will vary from 137 to 250 times the monthly index factor effective on the date of the charge payment and depend on the type of economic activity and qualification of the attracted expatriate employee. For seasonal foreign employees the rate is 24 times the monthly index factor.

The respective orders and resolutions will come into force on 1 January 2017.

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¹⁰ Article 7 of Law No. 25-VI of the Republic of Kazakhstan On National Budget for 2017- 2019, dated 29 November 2016

¹¹ Articles 32-35 of Law No. 482-V of the Republic of Kazakhstan On Population Employment, dated 6 April 2016

¹² An intra-company transfer is defined as a temporary transfer of an expatriate employee from a company incorporated in the WTO member-country to a branch, a subsidiary or a representative office of this company in Kazakhstan for up to three years (with possibility for one-year extension)

¹³ Order No. 559 of the Acting Minister of Health Care and Social Development of the Republic of Kazakhstan On Approval of the Terms and Conditions for Issue and (or) Extension of Permits to Employers for Employment of Foreign Nationals and Intra-Company Transfer, dated 27 June 2016

¹⁴ Order No. 503 of the Minister of Health Care and Social Development of the Republic of Kazakhstan On Approval of the Rules for the Issuance of Qualification Statements for Self-Employment to Foreigners and Stateless Person and List of the Priority Sectors (Types of Economic Activities) and Occupations Demanded, dated 13 June 2016

¹⁵ Governmental Resolution No. 459 On Rates of Charge for the Issuance and (or) Extension of Work Permits for Foreign Nationals, dated 18 August 2016