

# Changes in Tax and Other Legislations for the 2023 year

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After two years of pandemic lockdowns, travel restrictions, mask mandates, vaccination controversies, supply chain disruptions, and labor shortages, many of us had looked forward to the slow ebb of the COVID-19 pandemic as the beginning of a return to “normal”, but instead 2022 has been a year of surprises and upheaval. Border closure with China, the impact of the war in Ukraine, logistic disruption and rapidly rising inflation has negatively affected the domestic and foreign business.

Yet, the Government of Mongolia anticipates GDP growth of 5% in 2023 with the “New Revival Policy” and carefully considered state budget.

In this newsletter we will outline some key changes that recently came into force along with the other developments made during the year 2022. We hope you’ll find it helpful and timely.

## **The State Budget Law for 2023**

The State Budget Law for the fiscal Year of 2023 was approved on 11 November 2022 and the several legislations are amended following the approval of Government budget including:

- Corporate Income Tax law of Mongolia;
- Personal Income Tax law of Mongolia;
- General Tax Law of Mongolia;
- Stamp Duty Law;
- Amendments to the Mineral Resources Law;
- Amendments to the Customs Duty Law;
- The Law of Mongolia on the Customs Duties Exemption;
- The of Mongolia on the Customs Duties Credit;
- The Law of Mongolia on Exemption of the Value Added Tax;
- Amendments to the Law on Workforce Mobility Law;
- Amendments to the Law on Minimum Wage;

## Corporate Income Tax Law

The following changes are introduced in the CIT law and effective from 1 January 2023.

### Deductible expenses added in Article 15 of the CIT law:

- When taxpayers other than mining, oil, and radioactive minerals exploration and exploitation license holders move their factory or warehouse outside of the capital city (to the areas rural except for Baganuur, Bagakhangai and Nalaikh districts), they can claim a deduction against their income equivalent to 150% of the costs incurred in connection with such relocation, subject to conditions (as per Article 13 of the CIT law) being satisfied.
- If the taxpayers other than mining, oil, and radioactive minerals exploration and exploitation license holders, who carry out business outside of the capital city (the rural areas except for Baganuur, Bagakhangai and Nalaikh districts), with headquarters registered with the regional Registration and Tax Authorities, hire new employees with the employment contract term of 183 days or more during 12 consecutive months, the salary expenses equivalent to 120% of the new hire costs are deductible.
- The resident taxpayers other than mining, oil, and radioactive minerals exploration and exploitation license holders engage in an IPO to become a publicly traded company by issuing stock on primary markets, the costs to facilitate the IPO equivalent to 120% of the expenditures incurred in connection with the transaction shall be allowed for a deduction, subject to conditions (as per Article 13 of the CIT law) being satisfied.
- Where the resident taxpayers pay for public transportation tickets of the employees or provide them commuter passes to use within the capital city, the qualified costs equivalent to 150% of the expenditures incurred in connection with such transportation and commuting shall be deductible.

### Provision added in the Article 17 'Depreciation' of the CIT law:

- The taxpayers other than mining, oil, and radioactive minerals exploration and exploitation license holders, who carry out business within Baganuur, Bagakhangai and Nalaikh, or other provinces/soums outside of the capital city, may

depreciate their newly built fixed assets (i.e. building facilities and landscaping) for 15 years based on the straight-line method. To start calculating the depreciation, the taxpayers are required to notify their request to the regional tax office.

- Prior to the above new provision, the applicable useful life for such fixed asset was default 25 years.

### Tax rate added in the Article 20 'CIT rate' of the law:

- Interest and **dividend income** of the taxpayer who bought debt instrument, **stock** or unit rights of the Mongolian listed company (except mining, oil, and radioactive minerals exploration and exploitation license holders) that are traded on domestic and international primary or secondary markets shall be taxed at 5 percent
- Software royalty and server rental fee earned by a non-resident entity taxpayer that was paid by a resident taxpayer engaged in software design and development activities in Mongolia shall be subject to a 5% withholding CIT on a gross basis.

### Other tax incentives added in the CIT law

- Operational income of the investment trust shall be exempted from CIT.
- Tax on income from the sale of domestically developed new innovative products, works and services of a start-up company shall be relieved for **five** years from the company registration date. Previously the relief was available for three years.
- Tax on income earned from thermal power and electricity generation projects shall be relieved by 90% of the tax liability for the first three years; and then by 50% for the subsequent three years. Tax returns for such project should be prepared and lodged separately if the business carries out other projects or business activities.

### Import VAT and Customs Duty

- Importation of a new bus with a passenger capacity of 45 persons for the exclusive purpose of public transportation shall be exempt from import VAT and Customs duty.

## Personal Income Tax Law

A below new progressive rate of PIT is coming into force at the start of the financial year 2023 that applies to employment and indirect income. Prior to this new progressive tax rate, employment income has been taxed at a flat 10% rate.

Employment income		Taxable bases	
Salary income		Deduct statutory social health insurance	
Indirect income (i.e., benefit, allowance)		Gross amount	
Annual taxable income bracket (in MNT)			Tax rate
0 – 120,000,000	12,000,000	10%	
120,000,001 – 180,000,000	12,000,000 + 15% of the excess over 120,000,000	15%	
Over 180,000,000	21,000,000 + 20% of the excess over 180,000,000	20%	

Calculation example: The individual earns a monthly salary of MNT 14,000,000, and the employer pays MNT 4,000,000 to the Landlord for his apartment rent every month. Please refer to the below PIT calculation.

Monthly social health insurance contribution: MNT 632,500

Taxable salary base: MNT 13,367,500 (14,000,000 – MNT 632,500)

Taxable benefit: MNT 4,000,000

Net salary pays: MNT 11,144,000 (13,367,500 – MNT 2,223,500)

Income bracket (MNT)	PIT rate	PIT payable (MNT)
10,000,000	10%	1,000,000
5,000,000	15%	750,000
2,367,500	20%	473,500
<b>17,367,500</b>	<b>12.80%</b>	<b>2,223,500</b>

Effective tax rate is 12.80% for this individual. Kindly note that the PIT rate for non-residents remains the same at 20%.

## Excise Tax Law

The excise tax imposed on alcoholic beverages (all kinds of vodka, liqueurs and cordial and other alcoholic beverages, and all kinds of cognac, whiskey, rum and gin) are subject to change from 01 January 2023 to 01 January 2029 onwards. There will be a progressive increase in the rates of excise tax per litre as follows:

Distilled spirits		Physical unit	2023–2024 (in MNT)	2025-2026 (in MNT)	2027-2028 (in MNT)	1 Jan 2029 onwards (in MNT)
All kinds of vodka, liqueurs and cordial and other alcoholic beverages	up to 25 percent	per litre	3,700	3,900	4,100	4,300
	25-26 percent		7,300	7,700	8,100	8,500
	26-28 percent		7,300	7,700	8,100	8,500
	28-30 percent		7,300	7,700	8,100	8,500
	30-32 percent		7,300	7,700	8,100	10,440
	32-34 percent		7,300	7,700	10,440	13,050
	34-36 percent		7,300	10,440	11,500	12,600
	36-38 percent		10,440	11,500	12,600	13,800
	38-40 percent		10,440	11,500	12,600	13,800
	40 percent and more		31,300	34,450	37,900	41,690
All kinds of cognac, whiskey, rum, and gin	up to 25 percent	per litre	9,100	9,600	10,100	10,600
	25-26 percent		18,300	19,200	20,200	21,200
	26-28 percent		18,300	19,200	20,200	21,200
	28-30 percent		18,300	19,200	20,200	21,200
	30-32 percent		18,300	19,200	20,200	26,100
	32-34 percent		18,300	19,200	26,100	28,700
	34-36 percent		18,300	26,100	28,700	31,600
	36-38 percent		26,100	28,700	31,600	34,800
	38-40 percent		26,100	28,700	31,600	34,800
	40 percent and more		38,280	44,000	50,600	58,200

## Change to National minimum wage

The [decision of the National Tripartite Committee](#) on Labor and Social Partnership to increase the minimum wage came into force on 1 January 2023. The minimum wage amount rises to MNT 550,000 per month (2022: MNT 420,000), an increase by MNT 130,000 or 30.95%.

As a result, the employee contribution to social health insurance is capped at MNT 632,500 per month for 2023 (2022: MNT 483,000).

As the work permit fee for foreign nationals is linked to a minimum wage amount, starting from 1 January 2023, it is set to MNT 1,100,000 per person.

## Foreign workforce quota for 2023

In addition, a foreign worker quota is established for the number of foreign workers that can be hired and apply for a work permit depending on economic sectors. This quota is renewed and approved by the Government at the end of each year on an annual basis. The [foreign worker quota for 2023](#) is approved as follows:

Economic sectors	Number of foreign workers	Percentage of total foreign workforce
Agriculture	108	0.5%
Mining and quarrying	8,000	39.3%
Manufacturing	984	4.8%
Electricity, gas, steam and air conditioning supply	1,511	7.4%
Water supply, waste management	100	0.5%
Construction	3,644	17.9%
Wholesale and retail trade	2,118	10.4%
Transportation and warehousing	1,642	8.1%
Hospitality and food service	146	0.7%
Information and communication	2	0.0%
Financial and insurance	41	0.2%
Real estate	3	0.0%
Professional, scientific and technical activities	8	0.0%
Administrative and support service activities	248	1.2%
Public administration and defense	73	0.4%
Education services	980	4.8%
Health and social welfare	154	0.8%
Arts, entertainment and recreation	15	0.1%
Other service activities	178	0.9%
Household service activities	300	1.5%
Activities of international organizations and bodies	96	0.5%
<b>TOTAL</b>	<b>20,351</b>	<b>100%</b>

In the previous years, the foreign workforce quotas were set with a percentage per organization, and generally 10%-60% of a company's workforce was represented by foreign nationals, depending on the industry and sector in which companies operate. Whereas for the 2023 year, the total number of foreign workforces per annum is set for the entire economic sector rather than per organization.

## Domestic labour testing

Effective from 1 July 2022, under the new Workforce Mobility Law, an employer is required to test the local market firstly by notifying skills in demand to the Labour and Welfare Offices (for positions other than Executives, Managers for International organizations, medical specialists, educational professionals etc). If the employer cannot find a satisfied candidate with the skills required within 14 business days from the position announcement with the Labour and Welfare Office, they are allowed to submit their request to invite a foreign national employee.

At the time of writing this newsletter (January 2023), this local labour market testing requirement is not in force yet. Therefore, we advise companies to seek clarification from the below website or Helpline before preparing any applications for work permits.

**Website:** <https://avah.hudulmur-halamj.gov.mn/#/>  
**Help line:** 70137003

## Temporary visa exemption

In connection with the Government decision to promote the years 2023-2025 as the 'Years to visit Mongolia', the Cabinet has announced temporary visa waiver from visa requirements for the nationals of the following 34 countries for up to 30 days.

The list of countries to be exempted from visa requirements to visit Mongolia up to 30 days in the years 2023 – 2025:

1. Republic of Austria
2. Kingdom of Belgium
3. Hungary
4. Hellenic Republic
5. Kingdom of Denmark
6. Kingdom of Spain
7. Italian Republic
8. Republic of Latvia
9. Republic of Lithuania
10. Principality of Liechtenstein
11. Grand Duchy of Luxembourg
12. Republic of Malta
13. Kingdom of the Netherlands
14. Republic of Poland
15. Republic of Portugal
16. Slovak Republic
17. Republic of Slovenia

18. Republic of Finland
19. French Republic
20. Republic of Croatia
21. Czech Republic
22. Kingdom of Sweden
23. Republic of Estonia
24. Kingdom of Norway
25. Republic of Iceland
26. Swiss Confederation
27. Republic of Bulgaria
28. Republic of Ireland
29. Republic of Cyprus
30. Romania
31. Principality of Monaco
32. United Kingdom of Great Britain and Northern Ireland
33. Commonwealth of Australia
34. New Zealand

Upon this decision, the number of visa-free travel countries to Mongolia will be increased by thirty-four to sixty-one. The list of other countries is available on [the website](#) of the Ministry of Foreign Affairs of Mongolia.

With the year-end close, we also would like to remind some of the important changes and developments made during 2022

### **The Personal Data Protection Law**

The Personal Data Protection Law of Mongolia was approved on 17 December 2021 and it shall come into effect on 1 May 2022. This law governs personal data collection, processing, usage and protection. This law enabled comprehensive regulations for handling personal data as compared to previously approved law on the Personal Secrecy.

Principles for data collection, processing and usage are defined as follows in the Personal Data Protection Law:

- Not to violate human rights and freedoms;
- To respect human rights and legitimate interests;
- Non-discrimination;
- Personal data to be collected, processed and used based on legal grounds and consent provided by the personal data owner;
- To ensure the personal data security; and
- To ensure accuracy and completeness of the personal data.

Requirements and details for personal data, sensitive personal data and genetic and biometric data collection, processing and usage, and conditions to delete personal data are separately regulated under the law and requirements for collecting personal data for historical, research,

culture, literature, statistical or journalism purposes are also introduced in the law.

Transfer of any personal data to any foreign individuals, entities and organizations is prohibited except as provided in international treaties to which Mongolia is a party, or with the consent of the data owner. Personal data owner, controller and processor rights, roles and responsibilities and requirements for subcontracting personal data collection, processing and usage activity are also defined.

The National Human Rights Commission of Mongolia and the Ministry of Digital Development and Communications have the authority to monitor law implementation, its public awareness and advertisement, provide instruction and take necessary actions, where required for the purposes of personal data protection.

Video recording, CCTV and voice recording systems requirements are specifically defined in the Law and it included the purposes of installing video recording devices and condition that prohibited for the installation of video recording equipment and use of video recordings.

The breach of this Law whose actions are not of a criminal nature shall be subject to liability under the Law on Civil Service or the Labor Code. In addition, an individual or legal entity that violates this Law may be fined up to MNT 20 million under the Infringement law of Mongolia or even may be subject to charges under the Criminal Code depending on the nature of the incident.

### **Business trip norm**

As you know, business travel expenses of employees must not exceed two times the state officials' travel expenses for CIT deduction purposes. The per diem norm of state officials domestic business trip is renewed on 2 June 2022 with the [Decree No 120 of Finance Minister](#).

Foreign per diem norm however remains unchanged and it was approved on 11 September 2011 with the [Decree No 188 of Finance Minister](#).

### **Note for 2022 annual leave**

In accordance with Labour law, came into force effective from 1 January 2022, where employees were unable to take their annual leave, compensation in lieu of annual leave should be paid at rate 50% greater than regular pay based on annual leave accrued.

## For more information ...

If you would like more information on Mongolia taxation, please check out the [Mongolia Tax Profile](#) prepared by KPMG, which provides an overview of the current tax environment.

Topics covered include:

- Corporate Income Tax
- Transfer Pricing
- Indirect Tax
- Personal Income Tax
- Other Taxes
- Trade and Customs

These and other useful publication can be found on the [KPMG website](#).

## Contact us

### **KPMG Mongolia**

Suite No. 602, 6th floor, Blue Sky Tower  
Peace Avenue 17, Sukhbaatar district  
1st khoroo, Ulaanbaatar 14240, Mongolia  
T : +976 7011 8101  
F : +976 7011 8102

### **Doljindemberel Baasankhuu**

#### **Tax Director**

T : +976 7011 8101  
E : [ddoljindemberel@kpmg.com](mailto:ddoljindemberel@kpmg.com)

### **Oyuntuya Dugersuren**

#### **Senior Tax Lawyer**

T : +976 7012 8109  
E : [ooyuntuya@kpmg.com](mailto:ooyuntuya@kpmg.com)

[www.kpmg.com/mn](http://www.kpmg.com/mn)

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