

NewsFlash

Tax&Legal

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Dear readers,

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

Taxation

Tax Treaty between Kazakhstan and Qatar

On 30 January 2015, the President signed a law¹ ratifying the Convention on the Avoidance of Double Taxation and the Prevention of Evasion from Taxes on Income between Kazakhstan and Qatar. The treaty will come into effect on the 30th day after Kazakhstan and Qatar receive the final diplomatic notes to inform each other about the completion of necessary internal procedures.

Rules for Controlling VAT Payments on Fair Trade

An order² of the Minister of Finance approved rules for controlling VAT payments on fair trade (hereinafter, the "Rules"). The Rules establish a procedure for controlling VAT payments on goods imported into Kazakhstan from a member state of the Customs Union and sold at a fair. The Rules do not apply to a fair organized only for demonstration of goods without trade.

According to the Rules, ten business days before a fair a taxpayer organizing the fair trade is required to notify in writing the state revenue authorities at the location of the fair. To amend the notification, the organizer should revoke the initially submitted notification and submit a new notification with the amended data.

By the 20th day of the month following the month in which a fair trade closes, the organizer of the fair trade is required to submit to the state revenue authorities at the location of the fair a report on the conduction of the fair trade. The Rules establish a notification form, a report form, and a list of documents that an organizer of a trade fair must submit to the state revenue authorities together with the notification and report.

The order came into force on 23 March 2015.

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¹Law №283-V of the Republic of Kazakhstan "On the Ratification of the Convention on the Avoidance of Double Taxation and the Prevention of Evasion from Taxes on Income between Kazakhstan and Qatar," dated 30 January 2015

²Order №42 of the Minister of Finance of the Republic of Kazakhstan "On the Approval of Rules for Controlling of VAT Payments on Fair Trade," dated 21 January 2015

Rules for Revoking of a Statement on Import of Goods and Payment of Indirect Taxes

An order of the Minister of Finance approved rules³ for revoking of a statement on import of goods and payment of indirect taxes. A taxpayer revokes a statement on import of goods and payment of indirect taxes if the taxpayer submitted the statement mistakenly or it returns all or part of the imported goods due to the poor quality of the goods and (or) their composition. A taxpayer submits a tax application on the revocation of a statement on import of goods and payment of indirect taxes (hereinafter, the "Tax Application on Revocation") to the state revenue authorities at its location (residence).

If a taxpayer returns part of the imported goods, it must report the amended data on a new statement on import of goods and payment of indirect taxes to be submitted instead of the revoked statement. A newly submitted statement is registered by the state authorities on the current date, whereas for the tax administration purposes the date of submission of the revoked statement is regarded as the date of submission of the new statement. If a taxpayer returns all imported goods, the corresponding statement on import of goods and payment of indirect taxes is revoked by deletion. Simultaneously with the Tax Application on Revocation, a taxpayer is required to submit an amended declaration on indirect taxes on imported goods.

The rules establish a form of the Tax Application on Revocation and a list of documents that a taxpayer is required to submit to the state revenue authorities along with the Tax Application on Revocation.

The order came into effect on 23 March 2015.

Rules for Confirmation of Payment of VAT and Excise Taxes

An order⁴ of the Minister of Finance approved rules for the state revenue authorities to confirm or reasonably refuse to confirm the payment of VAT and excise taxes on goods imported from a member state of the Customs Union. The state revenue authorities are required to confirm or refuse to confirm the payment of indirect taxes within ten business days from the date when a taxpayer submits the statement on import of goods and payment of indirect taxes (hereinafter, the "Statement").

The state revenue authorities send electronic confirmations of the payment of indirect taxes to taxpayers that submit the Statements electronically. Electronic confirmations are certified by an electronic digital signature of a tax official. To confirm the payment of indirect taxes with respect to the Statements submitted in hard copy, the state revenue authorities stamp the second section of the Statement.

The stamp is certified by:

- a signature of the executive stamping the Statement with an indication of his/her full name and date of the stamp;
- a signature of the head (deputy head) of the state revenue authorities, with an indication of his/her full name and the date of the signature;

- a stamp of the state revenue authorities specifying its name.

The state revenue authorities keep one copy of the stamped Statement and returns to the taxpayer or to its representative the remaining three copies of the Statement.

The state revenue authorities send to a taxpayer a substantiated refusal to confirm the payment of indirect taxes if it detects discrepancies (violations) in the submitted Statement. The refusal reflects the detected discrepancies (violations) and a necessity to revoke the submitted Statement and file a new one. The rules establish a list of violations that serve as a basis for the state revenue authorities to refuse to confirm the payment of indirect taxes.

The state revenue authorities send electronic refusals certified by an electronic digital signature of a tax official to taxpayers that submit the Statements electronically. With respect to the Statements submitted in hard copy, the state revenue authorities issue two copies of the refusal. One copy of the refusal along with the three copies of the Statement is provided to the taxpayer (or to its representative) and the remaining one is kept by the state authorities.

The rules establish the confirmation and the substantiated refusal forms.

The rules came into effect on 23 March 2015.

Rules for Submission of Notifications on Import (Export) of Goods

In accordance with point 4 of Article 276-4 of the Tax Code, an order of the Minister of Finance approved⁵ rules for the submission of notifications on import (export) of goods.

The rules regulate procedures for filing notifications under:

- temporary importation of goods into Kazakhstan from the member states of the Customs Union, if the goods are then exported from Kazakhstan without any modification of their properties or characteristics;
- temporary exportation of goods from Kazakhstan to the member states of the Customs Union, if the goods are then imported into Kazakhstan without any modification of their properties or characteristics;



³Order №16 of the Minister of Finance of the Republic of Kazakhstan "On Approval of Rules for Revoking of Statement on Import of Goods and Payment of Indirect Taxes," dated 13 January 2015

⁴Order №27 of the Minister of Finance of the Republic of Kazakhstan "On Approval of Rules for the State Revenue Authorities to Confirm or Reasonably Refuse to Confirm the Payment of VAT and Excise Taxes on Goods Imported from the Member States of the Customs Union," dated 15 January 2015

⁵Order №24 of the Minister of Finance of the Republic of Kazakhstan "On Approval of Rules for the Submission of Notifications on Import (Export) of Goods," dated 15 January 2015

The rules apply to the temporary importation (exportation) of goods:

- under agreements on the lease of movable property and vehicles;
- transferred between divisions of a single entity.

Within 20 business days from the date of the temporary importation (exportation) of goods, a taxpayer importing (exporting) the goods submits an electronic notification in the established form to the state revenue authorities at its location (residence). Taxpayers are required to submit separate notifications with respect to each shipment of goods under each temporary importation (exportation) contract and for each code of goods as per the Classifier of International Trade Activities of the Customs Union.

The rules came into effect on 15 March 2015.

Rules for Settlement of VAT by the Credit Method in the Customs Union

An order of the Minister of Finance approved rules⁶ for the settlement of import VAT by the credit method for goods imported into Kazakhstan from a member state of the Customs Union in accordance with Article 49-1 of Law⁷ on Implementation of the Tax Code. A taxpayer can settle import VAT by the credit method if:

- the goods are on the state-approved list of goods that may be imported with VAT settled by the credit method;
- the taxpayer submitted to the state revenue authorities at the place of the taxpayer's registration a commitment to report the amount of VAT to be settled by the credit method on its VAT declaration and to use the imported goods as prescribed in the Tax Code (hereinafter, the "Commitment").

The rules establish the Commitment form and a procedure for filing it to the state revenue authorities. By the 20th day of the month following the reporting tax period, a VAT payer submits to the state revenue authorities two hard copies of the Commitment along with the declaration on indirect taxes on imported goods. The state revenue authorities stamp one copy of the Commitment in acknowledgment of receipt and

returns the stamped copy to the taxpayer. The second copy remains with the state revenue authorities for their records.

Based on the Commitment a taxpayer imports goods with no actual payment of the related import VAT, provided that the taxpayer settles its excise tax liabilities as prescribed by Kazakhstan tax law. The taxpayer reflects the amount of the VAT reported on the Commitment in the "input" and "output" sections of the related VAT declaration.

The rules came into effect on 23 March 2015.

Financial Organizations

Financial statements of financial organizations

A resolution⁸ of the Board of the National Bank of Kazakhstan introduced amendments to legislative acts related to audit reports and publishing of financial statements of financial organizations.

According to the amendments, audit organizations are required to provide audit reports with respect to financial organizations and Development Bank of Kazakhstan Joint Stock Company to the National Bank of Kazakhstan. Earlier the reports were provided to the Committee on Regulation and Supervision of Financial Market and Financial Organizations. The deadline for the submission of the report remains the same – 30 April of the year following the reporting year.

Similar amendments were introduced to the rules for publishing financial statements by joint stock companies and financial organizations. According to the amended rules, financial organizations and Development Bank of Kazakhstan Joint Stock Company provide information on the fulfilment of the rules to the National Bank of Kazakhstan (in the previous version – to the Committee on Regulation and Supervision of Financial Market and Financial Organizations) within 10 calendar days after the publication of the financial statements.

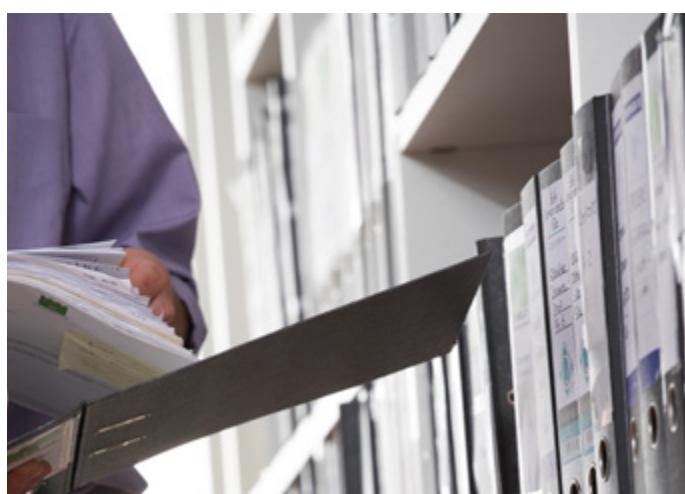
The resolution came into force on 9 March 2015.

Investment Legislation

Rules for Organizing of "One Stop Shop" Services for Investors

In accordance with point two of Article 12-2 of the Law on Investments, the Government developed and approved rules⁹ for organizing of "one stop shop" services for investors. A legal entity implementing an investment priority project is regarded as an investor if:

- the legal entity was registered with the state authorities during 12 calendar months before the date of the application for the investment preferences;
- the legal entity carries out activities that are on the state-approved list of activities identified for the investment priority projects;



⁶Order №26 of the Minister of Finance of the Republic of Kazakhstan "On Approval of Rules for the Settlement of Import VAT by the Credit Method for Goods Imported into Kazakhstan from a Member State of the Customs Union," dated 15 January 2015

⁷Law №100-IV of the Republic of Kazakhstan "On Implementation of the Tax Code of the Republic of Kazakhstan "On Taxes and other Obligatory Payments to the State (the Tax Code) , " dated 10 December 2008

⁸Resolution № 255 of the Board of the National Bank of Kazakhstan "On Introduction of Amendments to Certain Legislative Acts of the Republic of Kazakhstan with Respect to Accounting Issues, Deadlines for Audit Reports and Publishing of Financial Statements," dated 24 December 2014

⁹Resolution № 70 of the Government of the Republic of Kazakhstan "On Approval of Rules for Organizing of "One Stop Shop" Services for Investors," dated 18 February 2015

- the legal entity implements the investment priority project under a single investment contract.

According to the rules, the authorized investment authorities arrange a special area where investors can submit applications for the provision of public services and receive corresponding responses/documents or necessary assistance. The authorized investment authorities also provide space for public service centers representatives. Investors address questions and requests on the implementation of their investment projects to the authorized investment authorities. The authorized investment authorities consult investors on public services, as well as on the implementation of their investment projects.

The rules establish procedures for:

- consultation of investors;
- receipt of applications for the provision of public services and the issuance of responses to investors;
- interaction between the authorized investment authorities and the state authorities on issues related to the provision of public services;
- on-going support and monitoring that the authorized investment authorities perform with respect to public services provided to investors.

The resolution came into effect on 15 March 2015.

Labor Relations

Employment of Young Professionals

Following to the adoption of the Law¹⁰ on the State Youth Policy, amendments and additions related to the employment of young professionals were introduced to the Labour Code¹¹. According to the amendments, an employment contract with a young professional¹² employed for the first time may be concluded for a period of not less than two years, unless the contract is concluded:

- For a limited time period to perform a specific assignment;
- For a limited time period to replace a temporarily absent employee;
- For seasonal work.

In addition, probation periods should not be established for young professionals employed for the first time on positions that corresponds to their educational background, if less than one year past after their graduation.

The law came into effect on 21 February 2015.

¹⁰ Law №285-V of the Republic of Kazakhstan "On the State Youth Policy," dated 9 February 2015
¹¹ Law №286-V of the Republic of Kazakhstan "On Introduction of Amendment and Addition to the Labour Code of the Republic of Kazakhstan," dated 9 February 2015

¹² Young professional – a citizen of the Republic of Kazakhstan, less than 29 years old, graduated from technical, professional, secondary, higher or postgraduate educational organizations and working for less than three years in a position that corresponds to the educational background

For general information on doing business in Kazakhstan, please refer to the **Investment Guide** available in pdf, or download the IPad application on www.kpmg.kz

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