

NewsFlash

Tax&Legal

April 2015

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 Macedonia

On 12 March 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 Macedonia. The treaty will come into effect after Kazakhstan and Macedonia receive the final diplomatic notes to inform each other about the completion of necessary internal procedures.

Dubai Excluded from the Tax Haven List

An order² of the Minister of Finance excluded Dubai from the list of countries with a concessionary tax regime. The order came into effect on 30 March 2015 and applies to transactions executed from 1 January 2015.

Risk Management System for a Change of Indirect Tax Payment Deadlines

In accordance with Article 51-3 of the Tax Code, an order of the Minister of Finance establishes a risk management system³ for deferral of the payment deadlines for VAT and excise tax on imported goods (hereinafter - the "System"). The System applies only to import of goods for the in-country consumption.

To qualify for the deferral of the VAT and excise tax payment deadlines, an importer should meet the following criteria simultaneously:

1. The total book value of the importer's assets is not less than 325 000 times the monthly index factor established by the Government for the appropriate financial year;
2. The number of the importer's employees is not less than 250;
3. The importer is on the list of the large taxpayers subject to the state monitoring.

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¹Law No. 292-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 Macedonia, dated 12 March 2015.

²Order No. 139 of the Minister of Finance of the Republic of Kazakhstan, dated 27 February 2015, 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 States with a Concessionary Tax Regime.

³Order No. 123 of the Minister of Finance of the Republic of Kazakhstan, dated 25 February 2015, on Approval of the Risk Management System for a Change of the Payment Deadlines for VAT and Excise Tax on Imported Goods.

If a taxpayer does not meet the above-mentioned criteria, it is required to pay VAT and excise tax on the imported goods by the deadline specified in the customs legislation of Kazakhstan. The order came into force on 16 March 2015 and applies to transactions executed from 1 January 2015.

VAT Refund

Because Article 25 of the Law⁴ on Introduction of the Tax Code was abolished on 1 January 2014, the rules for claiming a VAT refund were amended⁵ to exclude provisions related to Article 25. The amendments also eliminated a clause on a refund of input VAT paid on purchases before 1 January 2009.

Procedure for the Write-off of Fines and Interest Penalties

In accordance with Articles 32-2 and 32-3 of the Law on Introduction of the Tax Code, the Ministry of Finance approved the following procedures:

- Procedure⁶ for the write-off of interest penalties recorded on taxpayers' accounts as of 1 January 2014 and not settled as of 1 October 2014;
- Procedure⁷ for the write-off of fines imposed on taxpayers before 1 January 2014 for violations of tax, pension and/or social insurance legislation and not settled as of 1 October 2014.

These procedures are not available for the following taxpayers:

1. large taxpayers;
2. taxpayers involved in international arbitration with respect to the fulfillment of tax liabilities;
3. taxpayers involved in one or more of the following activities:
 - subsoil use;
 - gambling business;
 - production of goods subject to excise tax.

Within two business days after the corresponding orders entered into force, the state revenue authorities established special committees that should determine the amounts of interest penalties and fines to be written-off from the eligible taxpayers' accounts. The state revenue departments are required to submit to the State Revenue Committee of the Ministry of Finance reports on the written-off interest penalties and fines by 10 July 2015 and 10 August 2015, respectively.

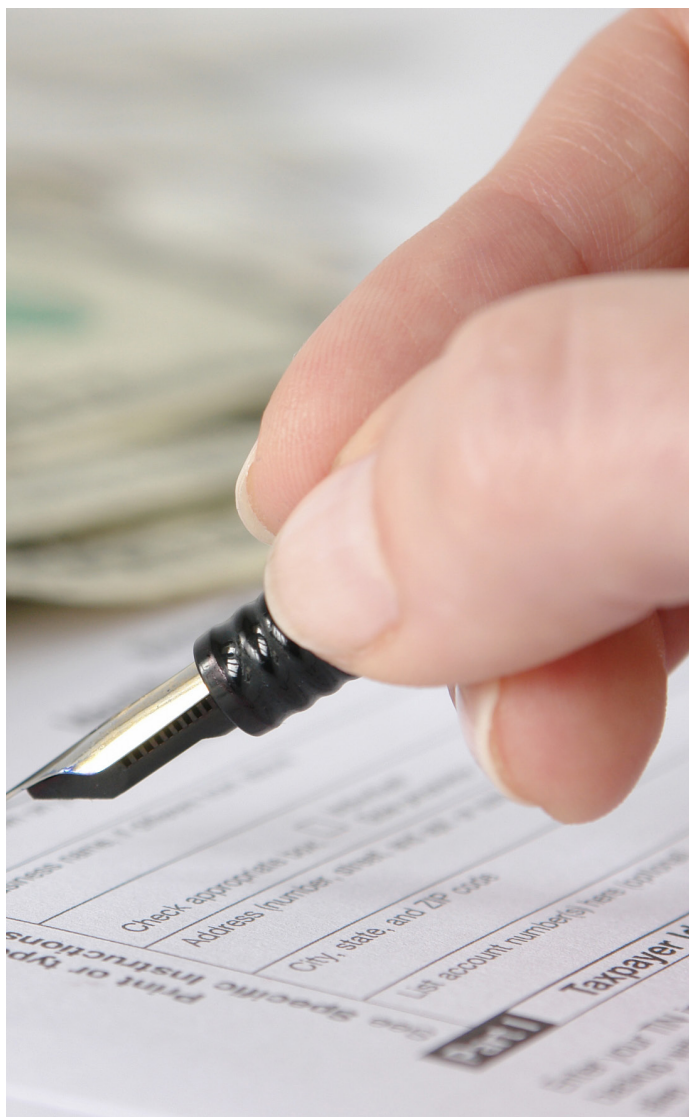
The procedures for the write-off of interest penalties and fines came into effect on 18 and 20 March 2015, correspondingly.

Tax Audit Checklists

The state authorities approved new checklists⁸ for the following types of tax audits:

- complex and thematic tax audits;
- cross-check tax audits;
- thematic tax audits on certain issues;
- chronometric inspections.

The checklists outline legislative requirements the compliance with which the tax authorities will check during tax audits. The new checklists came into effect on 12 March 2015.



⁴Law No. 100-IV of the Republic of Kazakhstan, dated 10 December 2008, on Introduction of the Code of the Republic of Kazakhstan on Taxes and other Obligatory Payments (the Tax Code)

⁵Governmental Resolution No. 132, dated 13 March 2015, on Introduction of Amendments to Governmental Resolution No. 373, dated 20 March 2009, on Approval of Rules for Refund of an Excess Amount of VAT and Criteria of Treating Sales of Goods, Works and Services Taxable at a Zero VAT Rate as Permanent Sales

⁶Order No. 68 of the Minister of Finance of the Republic of Kazakhstan, dated 5 February 2015, on Approval of the Procedure for the Writing-off of Interest Penalties Recorded on Taxpayers' Accounts as of 1 January 2014 and not Settled as of 1 October 2014

⁷Order No. 97 of the Minister of Finance of the Republic of Kazakhstan, dated 17 February 2015, on the Approval of the Procedure for the Writing-off of Fines Imposed on Taxpayers before 1 January 2014 for Violations of Tax, Pension and/or Social Insurance Legislation and not Settled as of 1 October 2014

⁸Joint Order No. 25 of the Minister of Finance of the Republic of Kazakhstan, dated 15 January 2015, and No. 40 of the Minister of National Economy of the Republic of Kazakhstan, dated 22 January 2015, on Approval of Tax Audit Checklist

⁹Order No. 87 of the Minister of Finance of the Republic of Kazakhstan, dated 4 February 2015, on Changes to Order No.357 of Acting Minister of Finance of the Republic of Kazakhstan, dated 17 July 2010, on Approval of the Form of Notification on Settlement of Customs Duties, Taxes and Interest Penalties

¹⁰Order No.98 of the Minister of Finance of the Republic of Kazakhstan, dated 17 February 2015, on Approval of Forms of Documents Envisaged by the Code of the Republic of Kazakhstan, dated 10 December 2008, on Taxes and other Mandatory Payments to the State (the Tax Code)

New forms of certain documents

The state revenue authorities approved new forms for the following documents:

- Notification on the settlement of customs duties, taxes and interest penalties (effective from 11 April 2015)⁹;
- Receipt for the payment of property, vehicle and land tax by individuals (effective from 12 April 2015);
- Document for the cash payment of state duties (effective as of 12 April 2015)¹⁰.

Subsoil use

Reduction of Export Duties on Oil and Oil Products

A governmental resolution¹¹ reduced the customs duties on export of crude oil (from USD 80 to USD 60 per ton) and oil products. According to the amendments, if the average market price for crude oil is equal to or exceeds USD 540 per ton, the customs duties on export of certain oil products are calculated by using the formula specified in the resolution. Previously, this formula applied if the crude oil market price was equal or exceeded USD 138.6 per ton. If the state monthly monitoring of crude oil market prices indicates the average market price for crude oil below USD 540 per ton, no formula is used, and the customs duties apply in accordance with the officially approved table.



The amendments specify that the break-even price for crude oil is USD 138.6 per ton. The resolution came into effect on 19 March 2015.

Finance

New Rules on Minimum Reserve Requirements

In a press release¹² of 26 March 2015, the National Bank announced the new rules on the minimum reserve requirements for financial institutions. According to the press release, the new rules provide for a more detailed reserves structure with a separate calculation of liabilities denominated in tenge and foreign currency. At the same time, the residency and the maturity principles will remain unchanged.

Starting from 23 June 2015, the periods for determination of the minimum reserve requirements and creation of the respective reserve assets will be equal to 28 calendar days and follow one after another. To comply with the minimum reserve requirements, cash assets should be maintained at the following level:

- from 23 June 2015 – not exceeding 70 percent of the average minimum reserve requirements for the 28-day period,
- from 5 January 2016 – not exceeding 50 percent of the average minimum reserve requirements for the 28-day period.

Effective from 12 May 2015, the rules will specify separate coefficients of the minimum reserve requirements for each type of the reserve liabilities. The coefficients for tenge-denominated liabilities will be lower than for liabilities denominated in foreign currency. The purpose of the amendment is to raise the attractiveness of the financial instruments in tenge and to reduce the level of dollarization of the national economy.

¹⁰Order No.98 of the Minister of Finance of the Republic of Kazakhstan, dated 17 February 2015, on Approval of Forms of Documents Envisaged by the Code of the Republic of Kazakhstan, dated 10 December 2008, on Taxes and other Mandatory Payments to the State (the Tax Code)

¹¹Governmental Resolution No. 145 of the Republic of Kazakhstan, dated 17 March 2015, on Introduction of Amendments to Governmental Resolution No. 520 of the Republic of Kazakhstan, dated 7 June 2010, on Customs Duties of the Republic of Kazakhstan

¹²Press release No.19 of the National Bank of the Republic of Kazakhstan, dated 26 March 2015

Measures to Reduce the Level of Dollarization of the Economy

The National Bank jointly with the Government developed a plan to reduce the level of dollarization of the Kazakhstan economy for 2015 – 2016. The plan reflects the following three strategic directions:

1. To ensure the macroeconomic stability;
2. To promote bank wire transfers and reduce the shadow turnover;
3. To establish the priority of the national currency over foreign currency.

The plan specifies certain measures for ensuring the macroeconomic stability, which include diversification of the economy and increase of the local content in the produced goods and services. It also describes procedures for promoting bank wire transfers. Finally, to strengthen the role of the national currency, the plan specifies the following measures:

- Increase of the state guarantee for deposits in Kazakh tenge from KZT 5 million to KZT 10 million;
- Reduction of the annual interest rate on foreign currency deposits to 3 percent;
- Provision of liquidity to banks and improvement of the banking sector;
- Restriction on indication of prices in foreign currency (including those stated in nominal units).

¹³Press Release No.16 of the National Bank of the Republic of Kazakhstan, dated 4 March 2015

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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