

Dear readers,

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

Finance

Insurance and Islamic Financing

On 27 April 2015, the President signed a law introducing amendments¹ to 40 legislative acts on insurance, activities of financial institutions and other matters (hereinafter - the "Law").

Islamic financing

The Law introduced concepts of Islamic insurance and Islamic leasing, as well as provisions regulating these financial operations. There are two types of Islamic financing, including:

- Financing with no subsequent sale of a good to a third party;
- Financing with a provision of a subsequent sale of a good to a third party.

The Law establishes provisions regulating a newly introduced type of Islamic financing *with a subsequent sale of a good to a third party* and amends the existing type of Islamic financing *with no subsequent sale of a good to a third party*. Islamic banks holding a license for conducting financing activities as a commercial agent or through participation in the charter capital of legal entities and/or via partnership are obliged to apply for a renewal of their license within 30 calendar days after the Law came into effect.

Insurance

With respect to insurance of employees against accidents at work, the Law amended:

- procedure for calculating and paying insurance premiums under a mandatory insurance contract;
- procedure for determining the extent of a damage and making insurance payments under a mandatory insurance contract;
- procedure for executing an annuity contract.

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¹Law No 311-V of the Republic of Kazakhstan, dated 27 April 2015 On Introduction of Amendments to Certain Legislative Acts of the Republic of Kazakhstan on Insurance and Islamic Financing Issues

There is a new provision in employees insurance according to which the period for a harm compensation to an employee is limited by the employee's retirement age. It means that an employee injured at work may receive the compensation payments only until he/she reaches the retirement age. This provision does not apply to individuals whose compensation payments were assigned prior to the Law effective date.

The Law states that the National Bank will be the only shareholder of an organization with the state participation, creating and maintaining the insurance database (hereinafter, the "Organization"). Other entities creating and maintaining insurance databases are obliged to transfer their databases to the Organization on a gratuitous basis within 180 calendar days after the date when the Law came into effect. The competent state authorities will be entitled to apply sanctions prescribed by legislation on companies that fail to comply with this requirement. Within three months after the Organization commences its activities, insurance organizations holding a license for the mandatory insurance activities are required to register with the Organization and conclude agreements on the provision of information to and receipt of insurance reports from the Organization.



Banking regulations

The Law significantly amended a procedure for a simultaneous transfer of assets and liabilities from one bank to another bank (banks). It also added specifics to a procedure for a voluntary reorganization of banks if one of the reorganized banks was restructured before the reorganization. In addition, the Law introduced a new article regulating a simultaneous transfer of assets and liabilities from a subsidiary bank to the parent bank and a reciprocal transfer of doubtful and bad assets from the parent bank to the subsidiary.

To implement the Law and new banking regulation provisions, the National Bank approved rules² for a simultaneous transfer of assets and liabilities from one bank to another bank (banks) and amended³ some legislative acts related to a simultaneous transfer of assets and liabilities between banks. In connection with the new provisions of banking regulations, the Law introduced changes and additions to the Tax Code provisions regulating taxation of financial institutions.

The Law came into force on 10 May 2015, except for a number of articles that are effective retroactively (since 1 January 2014, 1 June 2014, 1 September 2014, and 1 January 2015) or will come into effect on 1 June or 1 September 2016.

New Accounting Rules

The Ministry of Finance approved new Accounting Rules⁴ for Taxpayers other than Financial or Governmental Institutions. Previously the rules were governed by a Governmental resolution⁵.

The newly approved rules contain the following additional requirements:

- An entity prepares its accounting and financial reports on an accrual and going-concern basis;
- An entity separately accounts for revenues, expenses, assets and liabilities by types of activities if it is required by Kazakh legislation;
- A chief accountant of an entity must meet the qualification requirements established by the Qualification Reference Book⁶;
- Only a certified accountant qualifies to be the chief accountant of a public interest entity;
- An entity prepares its accounting source documents under the forms approved⁷ by the Ministry of Finance;
- Chief accountant of a company ensures the safekeeping and archiving of source accounting and other financial documents.

The order came into effect on 19 June 2015 except for a clause related to records adjustments, which will enter into force on 1 January 2016.

²Resolution No. 77 of the Board of the National Bank of Kazakhstan, dated 8 May 2015, On Approval of Rules on a Simultaneous Transfer of Assets and Liabilities (fully or partly) of a Bank to other Bank (Banks), including a Simultaneous Transfer of Assets and Liabilities between a Parent Bank and its Restructured Subsidiary, and the Competent Authorities' Approval of these Operations as well as Types of Assets and Liabilities to be Transferred

³Resolution No. 78 of the Board of the National Bank of Kazakhstan, dated 8 May 2015, On Introduction of Amendments to Certain Legislative Acts of Kazakhstan on Issues Related to a Simultaneous Transfer of Assets and Liabilities between Banks

⁴Order No. 241 of the Minister of Finance of the Republic of Kazakhstan, dated 31 March 2015, On Approval of Accounting Rules

⁵Governmental Resolution No. 1172, dated 14 October 2011, On Approval of Accounting Rules

⁶Order No.201-ә-м of the Minister of Labor and Social Protection of the Republic of Kazakhstan, dated 21 May 2012, On Approval of Managers, Specialists and other Workforce Qualification Reference Book

⁷Order No.562 of the Minister of Finance of the Republic of Kazakhstan, dated 20 December 2012, On Approval of Forms of Source Documents

Astana International Financial Centre

A Presidential decree⁸ establishes a special economic zone of Astana International Financial Centre in Astana. The Government together with the National Bank will ensure the functioning of the Financial Centre from 1 January 2016 and the placement of the Financial Centre on the territory of the International Specialized Exhibition “EXPO – 2017” from 1 January 2018.

In addition, the National Bank will:

- Relocate from Almaty to Astana by 1 January 2017;
- Establish a backup database centre of the National Bank in Almaty;
- Manage a relocation of the Kazakhstan Stock Exchange to Astana.

Foreign Currency Monitoring

Amendments⁹ to the Rules for the Monitoring of Internal Use of Foreign Currency added a new report (*Report on the Significant Foreign Currency Purchases of Clients*) to a package of banks’ monthly reporting to the National Bank.

A bank prepares this report on the foreign currency purchases of resident and non-resident legal entities in an amount exceeding the equivalent of two billion Kazakh tenge for a reporting month. A bank prepares the report for each client to reflect the amount of the foreign currency that the client purchases or sells for the national currency or for another foreign currency and indicates the transaction purpose.

The amendments shifted the deadline for the submission of the reports from the seventh to the 15th day of the month following the reporting month. The resolution came into effect on 10 May 2015.

Improvement of Conditions for Entrepreneurship

To improve the entrepreneurship environment in Kazakhstan, a resolution¹⁰ of the Board of the National Bank introduced changes to 17 legislative acts governing non-cash payments, bank accounts services and other financial transactions.

The amendments significantly reduced the number of budget classification codes for payments to the state. The amendments also changed forms of payment documents (payment order, collection order etc.) and procedures for serving bank accounts.

The resolution came into effect on 17 May 2015.

Subsoil use

Disposition of a Subsoil Use Right

The Government developed and approved rules for exercising the state’s priority right to acquire a subsoil use right being disposed¹¹. The rules describe a procedure for the state authorities’ consideration of an application for a disposal of a subsoil use right and stipulate deadlines for each stage of this procedure.

If the government decides to acquire a subsoil use right, the period for the state to acquire the subsoil use right may not exceed six months from the date when the decision was made. If the owner of the subsoil use right disposes the right on the gratuitous basis or contributes it to the charter capital of a legal entity, the price of the transaction would be the market value of the disposed subsoil use right determined in accordance with Kazakhstan valuation legislation.

The resolution came into effect on 7 June 2015.



Social security

Law on Minimum Social Standards

On 19 May 2015, the President signed the Law on Minimum Social Standards and Guarantees¹². The law establishes minimum social standards in the following spheres:

- labor;
- social security;
- education;
- family and children;
- health care;
- culture;
- physical culture and sport;

⁸Presidential Decree No. 24, dated 19 May 2015, On Astana International Financial Centre and Relocation of the National Bank of the Republic of Kazakhstan to Astana

⁹Resolution No. 33 of the Board of the National Bank of the Republic of Kazakhstan, dated 16 March 2015, On Changes and Additions to Resolution No. 221 of the Board of the National Bank of the Republic of Kazakhstan, dated 27 July 2012, On Approval of the Rules for the Monitoring of Internal Foreign Currency Use

¹⁰Resolution No. 28 of the Board of the National Bank of the Republic of Kazakhstan dated, 25 February 2015, On Changes to Certain Legislative Acts of the Republic of Kazakhstan with Respect to Significant Improvement of the Entrepreneurship Environment in the Republic of Kazakhstan

¹¹Governmental Resolution No.333, dated 27 April 2015, On Approval of the Rules for Exercising the State’s Priority Right to Acquire a Disposed Subsoil Use Right (or its Part) and (or) Objects Related to the Subsoil Use Right by the National Managing Holding, National Company

¹²The Law of the Republic of Kazakhstan No.314-V dated 19 May 2015 “On Minimum Social Standards and Guarantees Thereof”

- state-guaranteed legal support.

To implement the law, the state introduced amendments¹³ to a number of corresponding legislative acts. The new law and the amendments came into effect on 1 June 2015, except for a social standard related to the guaranteeing norms for technical and professional education. It will come into force on 1 January 2019. The Law on Subsistence Level is ceased to be valid.

Categories of Individuals Qualifying for Social Support

An order¹⁴ of the Minister of the National Economy approved a list of individuals entitled to social support determined in Article 12 (point 1.24-1) of the Tax Code.

The order came into effect on 9 May 2015.

Taxation

Vehicle Tax Exemption

In accordance with points 3.1 and 3.2 of Article 365 of the Tax Code, Governmental resolutions approved a list¹⁵ of specialized agricultural machinery and the quantity¹⁶ of cars and cargo vehicles of a manufacturer of agricultural or aquaculture goods that are exempt from vehicle tax.

The resolutions came into effect on 28 and 23 May 2015, respectively.

Antimonopoly legislation

Law on Competition

The President signed a law introducing amendments and additions¹⁷ to certain legislative acts on natural monopolies and regulated markets (hereinafter – the “Amendments”). The Amendments introduced the following important changes to the Law on Competition.

The Law on Competition now includes definitions of anti-competitive horizontal agreements (cartels) and discriminatory conditions (the conditions under which some participants to the market are set in an unequal position compared to others).

The Amendments enlarged a list of competencies of the antimonopoly committee. According to the new competencies, the antimonopoly committee:

- Circulates information on the application of antitrust law in Kazakhstan;
- Asks the law enforcement agencies to conduct investigation;

- Sends warnings on the unacceptability of actions that might lead to a violation of the antimonopoly legislation;
- Approves the list of goods (works, services) prices for which are regulated by the state.

The Amendments introduced the following changes with respect to the control over the economic concentration:

- A percentage of the voting shares in a company an acquisition of which requires a consent of the antimonopoly authorities increased from 25 to 50 percent;
- An acquisition of any percentage of the voting shares via the establishment of a legal entity is not regarded as an economic concentration;
- A consent of the antimonopoly authorities on a transaction is not required if the execution of the transaction is stipulated by a legislative act of Kazakhstan;
- A term of the antimonopoly authorities’ consideration of applications for consent to an economic concentration reduced from 50 to 30 calendar days.

According to the Amendments, an entity is fully exempt from administrative liabilities (fines and confiscation of monopolistic earnings) if it assists the antimonopoly authorities in detecting and investigating violations of antimonopoly legislation.

Entities subject to reporting to the antimonopoly authorities are now required to submit their annual audited financial statements by 31 August of the year following the reporting period. Previously, these entities were required to submit their semi-annual reports to the antimonopoly authorities twice a year.

Changes to the Law on Competition came into force on 18 May 2015.

Other

Rules for Depositing of Guarantee Funds for an Expatriate Employee

An order of the Ministry of Healthcare and Social Development approved new rules for depositing guarantee funds for foreign employees¹⁸. Earlier these rules were regulated by a Governmental resolution¹⁹.

A procedure for depositing funds to employers’ bank accounts did not change significantly. A new provision in the rules is that the state authorities provide an employer with a written consent for withdrawing the guarantee funds only upon a confirmation of the internal affairs authorities that the foreign employee left Kazakhstan.

¹³The Law of the RK No.315V dated 19 May 2015 “On Making Amendments to Certain Legislative Acts of the Republic of Kazakhstan concerning Minimum Social Standards and Guarantees thereof”

¹⁴Order No. 143 of the Minister of the National Economy of the Republic of Kazakhstan, dated 26 February 2015, On Approval of the List of Categories of Individuals Qualifying for Social Support under Legislation of Kazakhstan

¹⁵Governmental Resolution No. 316, dated 25 April 2015, On Approval of the List of Specialized Agricultural Machinery for which Manufacturers of Agricultural, Aquaculture (Fish Farming) Goods as well as Heads and/or Members of Farm Holdings are Exempt from Vehicle Tax

¹⁶Governmental Resolution No. 315, dated 25 April 2015, On Approval of the Needs Norms for Cars and Cargo Vehicles Used in Agriculture and for which Manufacturers of Agricultural and Aquaculture (Fish Farming) Goods as well as Heads and/or Members of Farm Holdings are Exempt from Vehicle Tax

¹⁷Law No. 312-V of the Republic of Kazakhstan, dated 5 May 2015, On Amendments and Additions to some Legislative Acts of Kazakhstan on Natural Monopolies and Regulated Markets

¹⁸Order No.167 of the Minister of Healthcare and Social Development of the Republic of Kazakhstan, dated 27 March 2015, On Approval of Rules for Employer’s Depositing Guarantee Funds for Expatriate Employees and the Amount of the Deposits

¹⁹Governmental Resolution No. 316, dated 24 April 2006, On Approval of Rules for Employer’s Depositing Guarantee Funds for Expatriate Employees and the Amount of the Deposits

Within three business days after the employer's application date, the relevant state authorities inquire the internal affairs authorities on whether a foreign employee for whom the employer deposited the funds left Kazakhstan. The internal affairs authorities are required to respond to the inquiring authorities within five working days after the inquiry date.

The order came into effect on 29 May 2015.

Export and Import of Goods Subject to Licensing

A Governmental resolution²⁰ approved a list of goods import or export of which to/from Kazakhstan is subject to licensing. The list is based on the unified list of goods import or export of which to/from the Customs Union is subject to bans or restrictions. The resolution also outlines a list of licensors and the state authorities approving the issuance of licenses.

The resolution came into force on 3 June 2015.

²⁰Governmental Resolution No. 287, dated 24 April 2015, On Approval of the List of Goods Export and/or Import of which is Subject to Licensing, as well as List of Licensors and State Authorities Issuing Licenses



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