



**Tax & Legal Guide**

Foreign Individuals coming to Kazakhstan

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# Welcome to Kazakhstan!

Deloitte would like to present this brief overview of the tax and legal issues and procedures applicable to foreign individuals working in Kazakhstan.

The information provided in this guide is based on 2021 legislation. Since Kazakhstan tax and legal system is developing at a fast pace and is subject to frequent changes; we would recommend that you use this brochure for general guidance purposes only and contact us to discuss any specific issues you may have.

For your convenience, this guide is presented in a Frequently Asked Questions format

# Frequently Asked Questions

## Arrival, Registration, Work Permits and Visas

**Question 1: I hold a work permit (and corresponding “working visa”). Do I need to notify the migration authorities upon arrival?**

**Answer:** No, the inviting party should notify the local migration authorities within three calendar days of arriving in Kazakhstan. This is done by taking your passport to be registered with the migration authority in the city/town in which you are permanently or temporarily residing.

**Question 2: Can I be employed in Kazakhstan with a Kazakh legal entity on a “business visa”?**

**Answer:** Under Kazakhstan law, business visas are only issued to those foreign nationals intending to visit Kazakhstan:

- on business trip;
- to hold business negotiations, conclude contracts, and provide consulting and audit services on an ad hoc basis; or
- to install, repair and maintain equipment.

There are also other purpose such as participation in round tables, meetings, accompanying humanitarian assistance, lecturing and conducting classes at educational institutions, participation in youth, student and school exchange programs, with the exception of training in educational institutions of the Republic of Kazakhstan, sport events.

In the vast majority of cases, foreign nationals are only entitled to be employed and work on a regular basis in Kazakhstan if they hold a “working visa” (which is linked to a work permit).

Note that if a foreign national fails to comply with the conditions of an issued visa and/or work permit, there is a risk that the foreign national could be fined, arrested or deported from Kazakhstan.

**Question 3: Do I require a work permit to work on a regular basis in Kazakhstan? If yes, what are the procedures and timeframes for applying for one?**

**Answer:** Generally yes, but there are exemptions.

### Exemptions

The following foreign individuals do not need a work permit to work on a regular basis in Kazakhstan:

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- citizens of Belarus, Armenia, Kyrgyzstan and Russia – pursuant to the Eurasian Economic Union Treaty;
- business people and heads of organisations entitled to investment concessions; and
- heads of branches and representative offices of foreign legal entities registered in Kazakhstan and heads, deputy heads of legal entities with a 100% interest of foreign participation in their charter capital.

The list is not exhausted we have reflected the main positions.

All other foreign individuals wishing to work on a regular basis in Kazakhstan require a work permit and “working visa”.

### Procedures/timeframes

Generally speaking, employers are responsible for obtaining work permits on behalf of their employees. The procedure normally takes approximately 4-8 weeks in total and includes:

- 1) filing the required documentation with the Social Welfare Department (“SWD”);
- 2) receiving notification from the State Commission within 7-10 business days;
- 3) paying the work permit fee required by the notification in step 2 to the State Commission<sup>1</sup> within 10 working days;
- 4) submitting a document to SWD which confirms that any required work permit fee has been paid within 10 working days;
- 5) SWD then issues the work permit which, save in the case of an internal corporate transfer scheme for which specific rules apply (see below), will be valid and can be extended as follows:
  - category 1<sup>2</sup> – issued for 1-3 years and extended for 1-3 years
  - categories 2<sup>3</sup> and 3<sup>4</sup> – issued for 12 months and extended for 12 months no more than three times
  - category 4<sup>5</sup> - issued for/up to 12 months without extension
  - seasonal workers - for a period of up to 90, 180, 270, 365 days, without the right to renewal.

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<sup>1</sup> This must also be paid to extend a work permit. Note, that starting from 2021 fee is required for internal corporate transfer scheme work permits as well.

<sup>2</sup> Heads of the companies and their deputies

<sup>3</sup> Heads of structural divisions

<sup>4</sup> Specialists

<sup>5</sup> Qualified employees

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To issue a work permit, save in the case of an internal corporate transfer scheme for which specific rules apply (see below), the SWD requires the employer/inviting party to comply with the following local content requirements:

- 1) For category 1 and 2, employees citizens of the Republic of Kazakhstan must make up 70% or more of the total number of employees;
- 2) For 3 and 4 categories employees, citizens of the Republic of Kazakhstan must make up 90% or more of the total number of employees.

Citizens of the Eurasian Economic Union Treaty are not treated as foreign employees when calculating these local content requirements.

In addition to local requirement rules, it is necessary to submit information on the fulfilment of obligations imposed on the issuance of work permits for the previous and current calendar years, the due date for which has come (if any).

Save in the case of an internal corporate transfer scheme for which specific rules apply (see below), there is no requirement to do a prior search of local candidates before applying for a work permit for a foreign national.

### Internal corporate transfer schemes

Some rules for such schemes are slightly different.

Under an internal corporate transfer scheme, the following local content requirement applies: the number of foreign employees (managers and specialists) attracted pursuant to an internal corporate transfer cannot be more than 50% of the number of Kazakh staff of the corresponding category.

When attracting a foreign employee to the top managerial position, the local content requirements do not apply.

To issue a work permit pursuant to the internal corporate transfer mechanism, the SWD requires the employer/inviting party additionally to:

- 1) ensure that its employees who are citizens of the Republic of Kazakhstan receive professional training in the field in which foreign workers are typically employed;
- 2) provide retraining to employees who are citizens of the Republic of Kazakhstan in the field in which foreign workers are typically employed;
- 3) improve the qualifications of employees who are local nationals;
- 4) create additional jobs for local nationals in the field in which foreign workers are typically employed.

Special conditions mentioned above are not required to perform, if employer has a program aiming to increase local content in personnel.

There is a requirement to do a prior search of local candidates when obtaining/extending work permits pursuant to the internal corporate transfer scheme.

Work permits issued for internal corporate transfers were free of charge till 2021, however currently still no payments are charged for work permit issuance for internal corporate transfers.

Work permits issued pursuant to the internal corporate transfer mechanism will be valid for up to 3 years and may be extended once for 12 months.

**Question 4: Can foreign nationals ever be employed in Kazakhstan without a work permit?**

**Answer:** Yes. Foreign nationals are entitled to be self-employed in Kazakhstan without a work permit when working in certain professions in priority economic sectors.<sup>6</sup>

However, they are only entitled to be employed without a work permit for a limited period of time which is necessary for achieving the purpose of coming to Kazakhstan and should leave the country once their employment contract expires (after a maximum of three years).

Foreign nationals are also entitled to take up a position in one of the specified priority economic sectors without an employment contract but only for up to three months provided a certificate confirming the person's relevant qualifications is issued by the competent authority (Ministry of Labor and Social Protection of the Population of the Republic of Kazakhstan. The period of stay can be extended beyond three months (up to 3 years) but only if the foreign national is engaged under an employment contract.

Work permits are not necessary for foreign nationals working in one of these specified priority economic sectors but they would need to apply themselves for a "C4 visa"; a single-entry visa for up to 90 days or a multiple-entry visa up to 3 years.

**Question 5: Are there any specific requirements to be aware of for documents to be submitted with a work permit applications?**

**Answer:** A passport copy, consent to use of personal data, information on local content, confirmation of employment, diplomas and qualification documents, including the qualification confirmation letter will need to be submitted. As a foreign national's personal documentation originates from a foreign country, they will need to be legalised or apostilled (depending on their country of origin). The local employer's qualification confirmation, consent to use of personal data and information on local content should be on official letter-headed paper, stamped with the company stamp and signed by the employer.

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<sup>6</sup> E.g. education, health and social services, real estate operations, provision of services to consumers, provision of communal, social and personal services, transport, communication, and manufacturing

**Question 6: Are there any exemptions from the local staff content requirements when a company/employer is applying for a work permit?**

**Answer:** According to Kazakhstan law, local content requirements do not apply to:

- 1) small enterprises;
- 2) state institutions and enterprises;
- 3) permits being granted under quotas for priority countries of origin, provided a ratified international cooperation labour migration and social security treaty is in place for migrant workers;
- 4) foreign nationals arriving in Kazakhstan for self-employment work in certain priority sectors (see question 4 above);
- 5) staff in representative offices and branches of foreign legal entities employing no more than 30 persons.

**Question 7: What are the consequences of violating the work permit rules when hiring foreign nationals?**

**Answer:** The following administrative fines will be imposed<sup>7</sup> (in Monthly Calculation Index ("MCI")):

- 30 MCI on individuals;
- 50 MCI on officials;
- 100 - 200 MCI on non-commercial organizations and small and medium-sized businesses; and
- 700 MCI on large businesses.

Additionally there can be further administrative fines for violating registration procedures, entering into transactions with individuals working without a work permit, and hiring foreign nationals who do not meet the qualification requirements indicated in their work permits.

**Question 8: Are foreign nationals entitled to visit Kazakhstan without a visa?**

**Answer:** There was an amendments to the visa-free country rules, which came into force in Kazakhstan on 18 September 2019, which provide that nationals with valid passports from 57 specified countries can visit Kazakhstan for up to 30 calendar days without having to apply for a visa. However, visa free regime has been suspended due to Covid-19 until 31 December 2021.

Recently Kazakhstan renewed visa-free regime with 30 countries with a favorable epidemiological situation and a high level of vaccination, namely with Italy, Netherlands, France, Germany, Spain, Japan, United Arab Emirates, Saudi Arabia, Kuwait, Poland

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<sup>7</sup> 2021 MCI = 2,917 KZT; 2022 MCI = 3,063 KZT

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Denmark, Chile, Hungary, Korea, Czech Republic, Bahrain, Qatar, Monaco, Cyprus, Iceland, Finland, Malta, Sweden, Portugal, Liechtenstein, Slovakia, Luxembourg, Canada, Singapore, Belgium.

Meanwhile, inviting parties are required to receive for arriving foreign national a permit to enter Kazakhstan from the Interdepartmental Commission to prevent the occurrence and spread of COVID-19 infection in the territory of the Republic of Kazakhstan. It should be noted that the Interdepartmental Commission grants permit for foreigner individuals who employed in Kazakhstan and pays attention whether attracted foreign employee is necessary for Kazakhstan and there is no local specialist who could replace the foreign one. Citizens of countries with which visa free regime was renewed are exempted from this entry permit requirement.

## Residency Status

### Question 9: What are the tax residency rules in Kazakhstan?

**Answer:** A foreign individual is considered a Kazakhstan tax resident if he or she permanently resides in Kazakhstan.

An individual is deemed as permanently residing in Kazakhstan for the current tax year if his or her presence in the country is not less than 183 calendar days (including both arrival and departure days) in any consecutive 12-month period ending in the current tax year.

This rule is used to determine an individual's residency status and tax base, whether a tax return needs to be filed and the relevant individual income tax rate.

## Filing Requirements

### Question 10: Do I need to file a tax return in Kazakhstan?

**Answer:** It depends on your residency status and income type.

**Individual tax filing obligations** arise in Kazakhstan:

a. for **residents** who

- 1) have received Kazakhstan-source income that is not subject to taxation at the source of payment in Kazakhstan; or
- 2) have received income from any sources outside of Kazakhstan; or
- 3) have money in the amount exceeding KZT 411,297 on a foreign bank account as of December 31 of the reporting year;
- 4) have the following assets outside of Kazakhstan - overseas immovable property, shares and equity interests in foreign entities.

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The requirements in items 3 and 4 above are applicable for Kazakhstan citizens and resident permit holders who qualify as tax residents only. Any such tax return is for informative purposes only and does not give rise to any tax obligations in Kazakhstan.

- b. for **non-residents** who have received Kazakhstan-source income, which was not taxed/not subject to taxation at the source of payment in Kazakhstan.

### **Question 11: Do I have to pay tax in Kazakhstan if I qualify as a tax non-resident?**

**Answer:** Yes but only if you are a non-resident who has received Kazakhstan-source income which includes all income received by an individual for work or other activities in Kazakhstan, irrespective of where payment is made.

## Tax Rates

### **Question 12: At what rate will my income be taxed at?**

**Answer:** Residents are liable to tax at 10% on all income delivered to them in cash or in kind, except for dividends from Kazakh sources, which are taxed at 5%.

Non-residents are liable to tax at 10% on their employment income processed through local payroll and 20% - in the absence of tax agent (i.e. where employment income is reported in a personal income tax return). Dividend and interest income are taxed at 15%, other income – at 20%.

## Tax Year, Filing Deadlines and Tax Forms

### **Question 13: What does the tax period start and end in Kazakhstan?**

**Answer:** Tax period equal a tax year starting 1<sup>st</sup> of January and ending 31<sup>st</sup> of December.

### **Question 14: When do I need to file a tax return?**

**Answer:** Annual tax returns are due by 31 March of the year following the reporting year. Filing extensions are possible for up to 30 calendar days if returns are filed electronically via Electronic Digital Signature (EDS). The EDS should be obtained in advance.

Importantly, only filing deadlines may be extended. Payment deadlines may not be extended.

### **Question 15: What form should I use to file my individual income tax return and how do I file it?**

**Answer:** The annual individual income tax return is form 240.00 (and its various appendices, depending on the type of income to be reported).

Returns can be filed in hard copy (paper-based) with the tax authorities directly, by mail or electronically using an EDS.

**Question 16: Can spouses file joint returns?**

**Answer:** No, only individual tax returns are possible in Kazakhstan.

**Question 17: In what currency should I report my taxable income?**

**Answer:** Any income received needs to be reported in Kazakhstan tenge (“KZT”). Should income be received originally in a foreign currency, the latter should be converted to KZT using the National Bank of Kazakhstan exchange rate as at the date income was received.

**Tax Payments**

**Question 18: How is tax paid in Kazakhstan?**

**Answer:** Individual income tax can be either withheld at the source of payment by the paying entity, if required, or paid by the individual himself/herself.

**Question 19: How do I pay tax myself?**

**Answer:** Individual income tax not withheld at source should be paid in cash or by bank transfer from your personal bank account no later than on the 10<sup>th</sup> of April of the year following the reporting one.

**Question 20: In what currency should I pay the tax due?**

**Answer:** Individual income tax should be paid in KZT. It is also possible to make the payment in a specific foreign currency in accordance with the National Bank of Kazakhstan’s instructions. However, it is worth mentioning that payments from abroad tend to be delayed and can sometimes be misallocated in the beneficiary’s tax account. To facilitate payment, we advise opening a personal bank account in a local bank.

**Question 21: Can my employer pay tax on my behalf?**

**Answer:** Individual income tax payments from a corporate bank account are not recommended as the tax authorities are not able to allocate them to individuals’ personal accounts, which can lead to payment default.

**Question 22: Is interest charged on a late tax payment?**

**Answer:** Yes, interest is charged for each day a payment remains overdue.

**Taxable Income**

**Question 23: Which income elements are taxable?**

**Answer:** The majority of employment income elements are taxable, including:

- salaries;

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- bonuses;
- living allowances;
- overseas premiums;
- hardship allowances;
- allowances for cars provided for private use;
- housing allowances;
- rest and recreation payments;
- home leave payments;
- tax paid or reimbursed by an employer;
- stock options;
- employer contributions to pension plans.

Investment income, including:

- foreign bank interest;
- dividends;
- positive capital gains;
- winnings from Kazakhstan lotteries (if the non-taxable limit is exceeded);
- gambling winnings;
- specific insurance payouts.

## Non-Taxable Income

### Question 24: What income is non-taxable?

**Answer:** There are limited types of income that are exempt from tax in Kazakhstan, including:

- interest on deposits with Kazakhstan banks (for tax residents);
- specific business-related expenses;
- employer obligatory and/or accumulative insurance contributions;
- medical costs within established limits, except cosmetology;
- child birth payments, monetary assistance following the death of a close relative (burial) properly documented and within established limits;
- child alimony;
- income from the sale of residential property, apartments, rooms, country houses, garden cottages or allotments, and shares in the same, if the property is located in Kazakhstan and has been owned (ownership registered with the state authorities) for over one year;
- income from the sale of vehicles subject to state registration in Kazakhstan is not taxable provided the vehicles have been owned for over one year (from the moment of ownership registration in Kazakhstan).

## Tax Deductions

### Question 25: What tax deductions am I entitled to?

**Answer:** Kazakhstan tax residents can claim the following deductions on their taxable income for 2021 tax year:

- the Minimum Monthly Salary (“MMS”) of KZT 42,500 per month;
- standard deduction of KZT 2,572,794 for certain categories of persons, including disabled persons, disabled child, adoptive parents, parent of disabled child;
- obligatory pension fund contributions;
- voluntary pension contributions made in their own favour;
- insurance contributions made by an individual in their own favour according to cumulative insurance agreements;
- specific medical expenses up to KZT 274,198, provided they have been properly documented.

## Social / Pension Contributions

### Question 26: Do I need to make social/pension contributions in Kazakhstan while I am on assignment?

**Answer:** No, unless:

- you acquire a Kazakhstan residence permit or
- you become a Kazakhstan citizen or
- you are a foreign employee on the territory of Kazakhstan without a residence permit in Kazakhstan citizen of one of the Eurasian Economic Union Treaty member countries (Belarus, Armenia, Kyrgyzstan and Russia).

In the latter case, there is the Obligatory Social Medical Insurance (OSMI) deductions – payments that should be remitted to the budget by the tax agent (employer) at a 2% tax rate. OSMI deductions are based on an employee’s monthly gross salary, up to a maximum monthly income of KZT 425,000, and this is the obligation of the employer (i.e. the tax agent is obliged to withhold OSMI deductions from the employee’s gross income on a monthly basis).

Furthermore, effective from 2021 citizens of Eurasian Economic Union Treaty member countries are obliged to pay obligatory pension contributions at a flat rate of 10%, provided they have a local employment agreement. The gross monthly income amount due to obligatory pension contributions is set at KZT 2,125,000. Employers are required to deduct pension contributions from employees’ income.

**Question 27: Does my employer make social/pension contributions in Kazakhstan on my behalf?**

**Answer:** An employer is also obliged to pay monthly social contributions at a flat rate of 3.5% (taxable base is capped at KZT 297,000) and OSMI contributions at a 3% rate (taxable base is capped at KZT 425,000) for foreign employees without a residence permit in Kazakhstan provided they are citizens of Eurasian Economic Union member at their own expense.

**Double Tax Treaties**

**Question 28: Can an expatriate, who is a Kazakhstan tax resident, be exempt from filing a return in Kazakhstan?**

**Answer:** You need to check whether Kazakhstan has entered into a double tax treaty (“DTT”) with your home country. If so, your residency will be determined according to the so-called DTT “tie breaker rules”, which prevail over domestic law. If under the DTT you are considered as a resident of another country, you may be exempt from filing a personal income tax return and paying income tax in Kazakhstan, provided certain conditions to be met.

**Question 29: How can I claim DTT exemption?**

**Answer:** You may need to file a tax return, and provide the tax authorities with a document issued and certified by the relevant authorities in the treaty country confirming residency status there.

The following is a list of countries with which Kazakhstan has a DTT in place:

Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, China, Czech Republic, Estonia, Finland, France, Georgia, Germany, Hungary, India, Iran, Ireland, Italy, Japan, Korea, Kyrgyzstan, Latvia, Lithuania, Luxemburg, Macedonia, Malaysia, Moldova, Mongolia, the Netherlands, Norway, Pakistan, Poland, Qatar, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, United Arab Emirates, the USA, Uzbekistan and Vietnam.

**Question 30: How can I claim a foreign tax credit in Kazakhstan?**

**Answer:** If you are a Kazakhstan tax resident and have paid tax abroad on foreign source income, you can credit it against your Kazakhstan tax liability.

For this, you need to provide an official document that has been certified by the foreign tax authorities and that confirms the amount of tax paid abroad. The documentation should be translated into Kazakh or Russian, and apostilled/legalised.

**Question 31: How can I claim DTT benefits in my home country?**

**Answer:** To claim DTT benefits in your home country you might need to obtain a tax residency and/or tax payment certificate from the Kazakhstan tax authorities for non-residents.

The tax authorities will issue a Kazakhstan tax residency confirmation based on a written application supported by documents such as passport copies, registration in Kazakhstan and copies of employment contracts, to confirm physical presence in Kazakhstan.

Moreover, the tax authorities may also issue confirmation of income received and taxes paid in Kazakhstan following an application together with supporting documentation.

**Consequences of violating Tax Law in Kazakhstan**

**Question 32: What are the consequences of violating tax law in Kazakhstan?**

**Answer:** Tax law violations are punishable by administrative fines in accordance with the Administrative Violations Code.

Failure to provide a tax return on time will lead to an initial warning. A repeated violation is punishable for individuals by an administrative fine of 15 MCI. The tax authorities also require a special administrative violation protocol to be signed, otherwise they will not accept a late return.

Concealment of taxable items results in an administrative fine of 200% of the total tax due and 300% for each repeated offence. Failing to disclose information on property outside of Kazakhstan or money in foreign bank accounts in a personal income tax return is punishable by an administrative fine of 100 MCI for each item of property/bank account and 200 MCI for failure to correct the above offence within a year.

Understating tax in a tax return is punishable for individuals by an administrative fine of 10 MCI.

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