



Tax & Legal Guide Foreign Individuals in 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 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: Yes, unless you qualify for the exemption* referred to below, you should notify the local migration authorities within five calendar days of arriving in Kazakhstan. You do this by taking your passport to be registered with the migration authority in the city/town in which you are permanently or temporarily residing.

The period of validity of your registration with the migration authorities may not exceed the period of validity of your Kazakhstan visa or your passport. Foreign nationals holding a work permit will be registered for the duration of their work permit (and corresponding “working visa”).

Please be aware that if a foreign national changes his/her permanent or temporary residence address in Kazakhstan, he/she is required to re-register with the local migration authority within five calendar days of this change.

* Exemption: Citizens of 48 countries (including the USA, most European countries, Singapore, Canada and certain other countries) holding a work permit and corresponding working visa will be automatically registered in Kazakhstan for up to 90 calendar days if they arrive in the country through an international airport). They will receive two stamps on their migration card to show this has been done. Likewise, citizens of visa-free regime countries (see Question 8 below) visiting Kazakhstan also do not need to register and notify the migration authority.

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

Answer: Not necessarily. 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.

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, 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:

- citizens of Belarus, Armenia, Kyrgyzstan and Russia – pursuant to the Eurasian Economic Union Treaty;
- business people and employees of organisations entitled to investment concessions; and
- heads of Kazakh legal entities and their deputies with 100% foreign ownership, branches and representative offices of foreign legal entities registered in Kazakhstan.

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 4-6 weeks in total¹ and includes:

- 1) filing the required documentation with the Employment and Social Programmes Department (“ESPD”);
- 2) receiving notification from the State Commission within 5-10 business days;
- 3) paying the work permit fee required by the notification in step 2 to the State Commission²;
- 4) submitting a document to ESPD which confirms that any required work permit fee has been paid;
- 5) ESPD 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 from 1 year to a maximum of 3 years and can be extended as follows:
 - category 1³ – annually
 - categories 2⁴ and 3⁵ – no more than three times

¹ This is now a much shorter timescale than previously. Under an internal corporate transfer scheme, this period is longer and normally takes 6-10 weeks, due to the requirement to perform a search within the local labour market.

² This is a new requirement and must also be paid to extend a work permit. Note, however, that no fee is required for internal corporate transfer scheme work permits.

³ Heads of the companies and their deputies

⁴ Heads of structural divisions

⁵ Specialists

- category 4⁶ and seasonal workers – no extension.

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

- 1) For first and second category, employees citizens of the Republic of Kazakhstan must make up 70% or more of the total number of employees;
- 2) For third and fourth 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.

Save in the case of an internal corporate transfer scheme for which specific rules apply (see below), there is no longer a 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 ESPD 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.

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

As noted above, work permits issued for internal corporate transfers remain free of charge.

⁶ Qualified employees

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 employed in Kazakhstan without a work permit when working in certain professions in priority economic sectors.⁷

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 Health and National Economy 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 30 days or a multiple-entry visa up to 90 days

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, confirmation of employment, diplomas and qualification documents 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 confirmation of employment from a previous employer, should be on official letter-headed paper, stamped with the company stamp and signed by the employer.

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;

⁷ Eg education, health and social services, real estate operations, provision of services to consumers, provision of communal, social and personal services, transport, communication, and manufacturing

- 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 to 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:

- KZT 72,150 (approximately US\$ 220) on individuals;
KZT 120,250 (approximately US\$ 365) on officials KZT 240,500-481,000 (approximately US\$ 730-1,455) on individual entrepreneurs and small and medium-sized businesses; and
- KZT 1,683,500 (approximately US\$ 5,000) 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: New visa-free country rules came into force in Kazakhstan on 1 January 2017, which provide that nationals with valid passports from 80 specified countries can visit Kazakhstan for up to 30 calendar days without having to apply for a visa. The eligible countries include OECD and EU countries, as well as the UAE, Malaysia, Singapore, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Estonia and others.

Consequences of violating Tax Law in Kazakhstan

Question 9: 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.

Late registration with the tax authorities is subject to an administrative fine of 8 times the monthly calculation index (MCI) for individuals (US\$ 60) and up to 70 MCI (US\$ 516) for legal entities.

Failure to provide a tax return on time will lead to an initial warning. A repeat violation is punishable by an administrative fine of 15 MCI (US\$ 110) for individuals and up to 70 MCI (US\$516) for legal entities. 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 150% of the total tax due and 200% 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 (US\$ 738) for each item of property/bank account and 200 MCI (US\$ 1475) for each repeat offence.

Understating tax in a tax return is punishable by an administrative fine of 10 MCI (US\$ 74) for individuals and up to 50% of the total tax due for legal entities.

Residency Status

Question 10: What are the tax residency rules in Kazakhstan?

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

An individual is deemed as permanently residing in Kazakhstan for the current tax year if their presence in the country exceeds 182 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.

In addition, if an individual is deemed to be simultaneously a tax resident of Kazakhstan and a treaty country (a country with which Kazakhstan has entered into a double tax treaty), then residency could be determined based on the treaty's so-called "tie breaker rules", which prevail over domestic tax law. However, to apply treaty provisions, an individual needs to be able to present a residency certificate from their treaty country confirming residency status there.

Filing Requirements

Question 11: 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;
 - 2) have received income from any sources outside of Kazakhstan; or
 - 3) held money in a bank account outside of Kazakhstan on 31 December of the reporting year;

- 4) have assets outside of Kazakhstan including overseas immovable property, shares in foreign entities and equity interests in foreign entities.

The requirements in items 3 and 4 above are applicable for all resident individuals, however starting from 2019 (in relation of to the 2018 tax year) will only be applicable to Kazakhstan citizens and resident permit holders who qualify as tax residents. 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 not subject to taxation at the source of payment in Kazakhstan.

Question 12: 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 to.

Tax Rates

Question 13: At what rate will my income be taxed at?

Answer: Residents are taxed at 10% on all income paid in cash or in kind, except for dividends, which are taxed at 5%.

Non-residents are taxed at 10% on their employment income processed through local payroll and 20% in the absence of tax agent (ie where employment income is to be reported in a personal income tax return). The rate is 15% on dividends and interest and 20% on other income.

Tax Year, Filing Deadlines and Tax Forms

Question 14: What does the tax year start in Kazakhstan?

Answer: The tax year is from 1 January until 31 December.

Question 15: 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. Electronic filing keys should be obtained in advance.

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

Question 16: 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 a filing key.

Question 17: Can spouses file joint returns?

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

Question 18: In what currency should I report my taxable income?

Answer: Any income received may be reported in one of two ways:

- in the currency in which it was received being converted to KZT using the National Bank of Kazakhstan exchange rate as at the date income was received
- in KZT

Tax Payments

Question 19: 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 if it is not withheld at the source of payment.

Question 20: If I need to, how do I pay tax myself?

Answer: Individual income tax not paid at source should be paid in cash or by bank transfer from your personal bank account by 10 April of the year following the reporting tax year.

Question 21: 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 22: 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 23: Is interest charged on a late tax payment?

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

Taxable Income

Question 24: Which income elements are taxable?

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

- salaries
- 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, except those not taxable according to the Tax Code
- employer contributions to pension plans
- capital gains
- winnings from Kazakhstan lotteries (if the non-taxable limit is exceeded)
- gambling winnings
- specific insurance payouts

Non-Taxable Income

Question 25: What income is non-taxable?

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

- specific business-related expenses
- employer obligatory and/or accumulative insurance contributions
- medical costs, 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 has been owned (ownership registered with the state authorities) for over one year. If this is not the case, tax should be paid on any positive difference between the selling price and documented acquisition expenses. If documentation confirming acquisition prices is not available, taxpayers may deduct the market value of the property at the moment of acquisition from the sale price
- 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). If this is not the case, actual purchase expenses/original value of the vehicle may be deducted from the sale price as described above.

Tax Deductions

Question: What tax deductions am I entitled to?

Answer 26: Kazakhstan tax residents can claim the following deductions on their taxable income:

- the Minimum Monthly Salary ("MMS")
- 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 8 MMS, provided they have been properly documented

Social / Pension Contributions

Question 27: Do I need to make social/pension contributions in Kazakhstan while I am on assignment?

Answer: Not unless you acquire a Kazakhstan residence permit or become a Kazakhstan citizen.

Question 28: Does my employer make social/pension contributions in Kazakhstan on my behalf?

Answer: Not unless you acquire a Kazakhstan residence permit or become a Kazakhstan citizen. An employer is also obliged to pay social contributions for foreign employees without a residence permit in Kazakhstan provided they are citizens of Eurasian Economic Union member countries (Belarus, Armenia, Kyrgyzstan and Russia).

Double Tax Treaties

Question 29: 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 classed 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 are met.

Question 30: 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, Italy, Japan, Korea, Kyrgyzstan, Latvia, Lithuania, Luxemburg, Macedonia, Malaysia, Moldova, Mongolia, the Netherlands, Norway, Pakistan, Poland, Qatar, Romania, Russia, Saudi Arabia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, United Arab Emirates, the USA, Uzbekistan and Vietnam.

Question 31: 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 32: How can I claim DTT benefits in my home country?

Answer: To claim DTT benefits in your home country you will probably have 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.

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