



Special Legal Alert

Change of currency residence
status for branches and
representative offices of
foreign legal entities

Dear friends,

In this alert, we would like to inform you on some important changes presented in a draft of Currency Regulation and Control Law ("Draft Law").

A primary novelty of Draft law is attribution of currency resident status to branches (representative offices) of foreign organisations operating in Kazakhstan ("BFO") that are currently non-residents and for that reason are entitled to perform currency operations with residents and non-residents in any currency.

Resident status for BFO for currency purposes under the Draft Law means they will only be able to transact with Kazakhstan residents in Kazakhstani tenge. Importantly, under the Draft Law provisions, BFOs can continue doing transactions with their head companies and other BFOs in any currency.

Clearly, these currency law amendments may affect Kazakhstan's ability to attract investments. For this matter, the Draft Law was amended¹ and, its latest available version include exceptions to BFO resident status and currency regimes:

- Branches of foreign companies that concluded agreements with Kazakhstan (production sharing agreements and others) will retain non-resident status. The list of these foreign companies will be approved by an act of Kazakhstan government.
- The following regimes will not apply to BFOs:
 - Restrictions relating to aims of purchase of foreign currency
 - A requirement on export or import repatriation
 - A requirement to register capital movement transactions
 - A requirement to notify when opening accounts in foreign banks.

Among other legal novelties — Draft law provides for an access of branches of foreign financial organizations into Kazakhstani market starting from December 2020. Such branches will also be treated as residents for currency purposes.

Please note that Draft law does not have retroactive force. Representatives of Kazakhstani business and the National Bank plan to review the Draft Law together with the Prime Minister. The Parliament will review it in December 2017.

How Deloitte can help

Deloitte Legal will be glad to provide detailed advice on any questions you may have after reading this Special Legal Alert. The contact details of the main team members are shown below.

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Contact us:

Almaty/Astana

Agaiша Ibrasheva

Tel.: +7(727) 258 13 40

Fax: +7(727) 258 13 41

Email: aibrasheva@deloitte.kz

Olessya Kirilovskaya

Tel.: +7(727) 258 13 40

Fax: +7(727) 258 13 41

Email: okirilovskaya@deloitte.kz

Viktoriya Tyan

Tel: +7(717) 258 04 80/81

Fax: +7 (717) 259 14 09

Email: vtyan@deloitte.kz

deloitte.kz

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