



**Monthly News Digest:**  
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**President Nazarbayev signs amendments to a number of legislative acts to bring them into line with the Constitution**



The Law was signed to bring a number of legislative acts into line with changes to the Constitution (except for those governing constitutional laws), amending 7 codes and 46 laws.

The Criminal Code has been amended:

- to include a new criminal punishment in the form of revocation of citizenship
- so that 14 examples of extremely severe terrorism can be punishable by the revocation of citizenship, specifically for acts of terrorism, creating and managing terror groups, participating in terror groups and others
- so that crimes causing severe harm to the country's national and vital interests now include genocide; separatism; the creation and management of extreme groups or participation in them and others

Likewise, to ensure legislative acts comply with point 2 of article 39 of the Constitution, the word "inter-faith" has been added to laws on the legal status of foreign nationals; the first President of the Republic of Kazakhstan's state prize for peace and progress, national security and migration.

**Kazakhstan ratifies amendments to the treaty with Kyrgyzstan for nationals of both countries to reside in each other's country**

The president has signed a law ratifying a protocol to amend the 11 May 2012 treaty between Kazakhstan and Kyrgyzstan outlining the procedure for Kazakhstan nationals to reside in Kyrgyzstan and vice versa.

The amendments mean Kyrgyzstan nationals temporarily residing in

Kazakhstan only have to register at their place of residence after 30 days.

**Kazakhstan and China sign a treaty to exempt certain types of income of the China-Kazakhstan Fund from taxation**

After a meeting of the heads of state, China and Kazakhstan signed a treaty to free certain types of investment income generated by the China-Kazakhstan Production in Kazakhstan from taxation.

The treaty means Fund dividends from direct project participation are exempt from taxation.

In cases where the Fund participates indirectly in a project, the Kazakhstan Government will exempt the Fund or the company representing it from dividends tax up to the Fund's participation in that company's equity, in accordance with a list of companies approved by the Kazakhstan Government.

**Maximum domestic wholesale sales price for liquid oil gas approved**

Subpoint 7) of article 6 of the gas and gas supply law from 9 January 2012 approves a domestic wholesale sales price for liquid oil gas between 1 July and 30 September of KZT 34,319 per tonne, exclusive of value added tax.

**A list of subsoil sites to be auctioned has been approved**

Minister for Investment and Development Order № 456 dated 12 2017 approves a list of 109 subsoil sites due to be auctioned.

**A new version of the list of common mineral resources**

Minister for Investment and Development Order № 372 dated 31 March 2015 approves a new list of common minerals, which now includes:

1. Non-metallic feed for metallurgy purposes, moulding sand, alumina-containing rock (feldspar and pegmatite), limestone, dolomite spar, limestone-dolomite rock, limestone used in the food industry

2. Other non-metallic feed, firestone, kaolin, vermiculite and cooking salt

3. Local construction materials, volcanic pervious rock (kunkur, slag and pumice stone), volcanic hydrous glass and vitreous rock (pearlite and obsidian), gravel and shale, sandy gravel, plaster, gypsum rock, anhydrite, soot, clay and clay rock (heat-proof and fusible clay, loam, claystone, siltstone and clay slate), chalk, marl, chalky rock, silica rock (bergmeal, gaize and diatomite), quartzo-feldspathic rock, rubble, sedimentary, igneous and metamorphic rock (granite, basalt, dunstone and marble), sand (building, quartz and quartzo-feldspathic), apart from moulding, sandstone, natural pigments and shell limestone.

**The environmental emission charge for disposing of industrial and consumer waste in South Kazakhstan Oblast has been changed**

South Kazakhstan Oblast Maslikhat Resolution № 13/152-VI dated 27 June 2017 has changed the charge for environmental emissions in South Kazakhstan Oblast.

**The 2017 quota for hiring foreign nationals to work in Kazakhstan has been changed**

According to Government Resolution № 479, the 2017 quota for hiring foreign nationals to work in Kazakhstan will now be shown as a percentage of the total workforce.

The total number of quotas issued in December 2016 has not changed, but the number of quotas per type of economic activity has.

**Rules for hiring foreign nationals to work for the state authorities have been amended**

Under the amended rules for hiring foreign nationals to work for the state authorities in Kazakhstan, the latter establish any positions available and any corresponding qualification requirements and send them for agreement to the authorised bodies.

The rules also set the consideration period for application to hire foreign nationals.

If a foreign national's performance is assessed positively, his or her employment agreement may be extended for up to one year.

### **New rules for issuing employees with milk or equivalent food products**

Minister for Employment and Social Welfare Order № 186 dated 30 June 2017 has changed the rules for issuing milk or equivalent food products to employees.

The order lists the chemical substances that need to be present before 0.5 litres of 3.2% fat content milk can be provided per shift, irrespective of shift length.

### **VAT registration procedures have been simplified since 1 May 2017**

Applications for VAT registration can now be filed electronically using a chief executive's digital signature.

A taxpayer new becomes a VAT payer from the application date and not from the first day of the month following the month in which an application was filed.

The tax authorities will now consider a VAT registration application within one business day as opposed to the previous five business days.

The tax authorities will no longer reject voluntary VAT registration applications.

The procedure for the tax authorities to de-register entities for VAT purposes and the corresponding processing period have been changed.

Due to the simplification of VAT registration procedures, VAT payer requirements have been made more stringent.

### **Tax audit checklists have been approved**

In line with point 1 of article 143 of the Entrepreneurial Code, Joint Ministry of Finance Order № 254 dated 18 April 2017 and Ministry of the National Economy Order № 200

dated 5 May 2017 has approved tax audit checklists for:

- comprehensive or targeted tax audits
- cross-tax audits
- specific targeted tax audits
- chronometric inspections

The checklists include not only requirements for audit target activities where non-compliance could threaten human life and health, the environment, and the legal interests of individuals, legal entities and the State.

Checklist requirements are subject to audit.

### **Rules and deadlines for providing taxpayers with a preliminary tax audit act have been approved**

Rules and deadlines have been approved for providing taxpayers with a preliminary tax audit act, for the latter to dispute a preliminary act in writing, and for considering appeals, and the category of taxpayers to receive a preliminary tax audit act.

The rules cover tax audits that result in the accrual of taxes and other obligatory budget payments; obligations to calculate, withhold and transfer obligatory pension contributions and obligatory professional pension contributions; calculate and pay social contributions and (or) obligatory social medical insurance contributions, late payment interest and loss reductions, except for:

1) targeted audits to confirm the accuracy of VAT for refund, in accordance with point 5 of article 627 of the Tax Code and performed based on:

a taxpayer's request in a VAT return to approve VAT for refund

a taxpayer application to apply points 1 or 2 of article 273-1 of the Tax Code

2) audits based on a non-resident's application for an income tax refund or nominal bank deposit made in accordance with a double tax treaty

Preliminary acts of tax audit apply to major taxpayers subject to monitoring, and taxpayers that have entered into investment contracts.

Major taxpayers subject to monitoring include those included in the list in by point 3 of article 623 of the Tax Code.

Taxpayers with investment contracts include Kazakhstan legal entities that have concluded investment contracts in accordance with article 285 of the Entrepreneurial Code.

### **State procurement rules have been changed**

Certain government resolutions have been amended, specifically:

- state procurement rules
- model rules for the national management holding company, national holding companies, national holding companies and organisations in which the national management holding company, a national holding company or national company hold at least a 50% direct or indirect interest to procure goods, work or services
- rules for conducting electronic state procurements

After the amendments to the state procurement and electronic procurement rules, a potential supplier's bid price for work is recognised as a dumping price if it is more than 5% lower than the price in technical specifications (to prepare design estimates) and duly approved design estimates that have passed a state review in accordance with architectural, town planning and construction law and or a departmental review performed in accordance with vehicle highway law and duly approved.

### **Rules have been approved to issue banks and (or) bank holding companies with permits to:**

- create or acquire a subsidiary
- create or acquire a subsidiary acquiring parent bank doubtful and bad assets
- hold a significant interest in the equity of another entity and revoke permits for banks and

(or) bank holding companies to create or acquire a subsidiary, or hold a significant interest in the equity of another entity.

- To receive a permit to create or acquire a subsidiary, except for a subsidiary acquiring parent bank doubtful and bad assets, a bank and (or) bank holding company should apply to the authorised body with all required documents. Applications may be in hard copy or filed electronically through the e-gov website.

A bank and (or) bank holding company already permitted by the authorised body to create or acquire a subsidiary, and which only has characteristics of significant equity participation in other entities, should, within 30 calendar days of the discrepancy arising, petition the authorised body to terminate the permit to create or acquire a subsidiary and issue a permit for significant participation in the equity of another entity by presenting documents confirming the given change.

The rules also stipulate:

- a procedure for issuing a permit to a bank and (or) bank holding company to hold a significant interest in the equity of an another entity
- the procedure for revoking a bank and (or) bank holding company permit to create or acquire a subsidiary, hold a significant interest in the equity of another entity.

- The Monthly News Digest provides a review of the latest significant introductions and additions to normative legal acts in Kazakhstan. Deloitte is not responsible or liable for the use of the information contained in the Monthly News Digest.
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- Licensing and Regulatory
- Real Estate



Legal Due Diligence



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