



Tax Alert

Important changes in tax legislation which may potentially impact your business

Dear friends,

As many of you are aware, in accordance with the text of Article 656 of the new Tax Code of Kazakhstan, in force from 1 January 2018, income of foreign individuals and stateless persons who arrive in Kazakhstan for short periods of time, including business trips of short duration, and are employed by non-resident legal entities without a permanent establishment in Kazakhstan, are no longer exempt

from tax under the Kazakhstan legislation.

Thus, at present, the new edition of the provisions regulating the above issue implies that, in the absence of any exemptions and different administrative mechanisms of taxing the income of such persons through tax agents, the foreign specialists will incur administrative obligations to register with the Kazakh tax authorities, submit annual individual tax return for the income originating from a Kazakh

source in connection with the said short-term visits, as well as to obtain certificate of tax residence from abroad. In addition, natural persons who are residents of countries, with which Kazakhstan does not have international double-taxation agreements, are also required to pay tax on income received in connection with their presence in Kazakhstan.

Since last year, Deloitte has brought the issue of reinstating the previous edition of the provisions regulating

the above situations, which provided for automatic exemption of the income of such short-term visitors that satisfied the relevant criteria, and different options of dealing with the said situation, to the attention of the legislators on several occasions and via different platforms. However, as of the time of writing, we have not received any official reply pertaining to the issue at hand. Thus, the issue remains open to many taxpayers.

Moreover, we do not preclude the possibility that the aforementioned exemption will not be returned to the article, and all responsibility relating to the tax liabilities of natural persons arriving in Kazakhstan on a temporary basis, including in the framework of one-day visits, may be imposed on the party accepting the services of the non-resident companies. That is, all obligations in relation to administering control over the deadlines of non-resident companies' personnel's presence in Kazakhstan, such natural persons' income declaration and application of tax exemptions under the international conventions on the basis of individual certificates of tax residency may be imposed on the accepting party as the tax agent.

In our opinion, absence of exemption, on the one hand, will create difficulties for foreign companies associated with doing business in Kazakhstan through their personnel / employees and local organizations interested in the services of such persons, due to the need to register each individual with Kazakhstan tax authorities regardless of the term stay, additional obligations for each foreigner with respect to filing of tax declaration, as well as the need to obtain certificates confirming residence in a foreign state in cases of application of double tax treaties. On the other hand, there will be an increase in the workload of Kazakh tax authorities related to the administration and consideration of taxpayer issues on new requirements.

Placing the responsibility on a receiving party will result in the increase of the costs of non-resident companies' services in Kazakhstan, due to additional administrative burden on the host organization to control the length of stay of foreign specialists and to file tax reports with respect to the individuals attracted, including the application of the provisions of the conventions to each individual visitor.

As a result, additional difficulties with doing business will lead to a worsening investment climate in the country. Furthermore, we also understand that in most cases the requirements envisaged, do not result in budget increase, provided the provisions of the conventions are duly applied.

Since the issue at hand directly impacts a large number of taxpayers in Kazakhstan and the potential approval of the new edition discussed above may additionally complicate the tax administration process, simultaneously increasing the workload of both tax agents and tax authorities, we consider it necessary to contact the legislators further to voice the practical and business-oriented opinions formed in relation to the described situation for the purposes of subsequent discussion of the possible ways to reassess the approved and planned amendments.

How Deloitte can help:

In case you would like to express your opinion on the issue or in any other way participate in the stated discussion, please reach out to our specialists whose contact information may be found below.

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