



Customs Alert

New rules for registering waybills for goods

Important customs and tax law changes that may impact your business.

In this alert we will be commenting on some the most important points around the introduction of waybills for goods (“Waybills”).

On 31 December 2019, the Ministry of Finance published Order No. 1424 dated 26 December 2019 approving a list of goods requiring the registration of waybills for goods and introducing rules for registering them.

With Order No. 531 from 4 June 2021 the Ministry of Finance amended Order No. 1424 from 26 December 2019 to set new deadlines for introducing Waybills.

The Minister of Finance issued Order No. 1104 on 16 November 2020 to approve the rules and deadlines for implementing a

Waybill pilot project (the “Rules”), which given the changes made, contains new deadlines for registering Waybills.

What you need to know!

1. Waybills are used in tax and customs administration

Waybills are used in tax and customs administration procedures as shipping documents, including to confirm the shipment of goods to taxpayers and as primary accounting documents.

Suppliers (for imports – recipients) issue Waybills using the form in Appendix 1 to the Rules through the e-invoice “Virtual Warehouse Module” information system (“IIS”) in Kazakh or Russian. They are signed electronically according to the statutory procedure.

Waybills are issued electronically, except in specific cases when taxpayers are entitled to issue them on paper. However, electronic version held in the IIS are recognised as the original.

2. Goods requiring Waybills and the date from which Waybills are required:

- 1) biofuel, whose production and turnover is regulated by the Law *On the State Regulation of Biofuel Production and Turnover* - **from 1 October 2021;**
- 2) ethyl alcohol and/or alcohol products, whose production and turnover is regulated by the Law *On the State Regulation of Ethyl Alcohol and Alcoholic Product Production and Turnover* - **from 1 October 2021;**
- 3) certain types of oil products - **from 1 October 2021;**
- 4) tobacco goods, whose production and turnover is regulated by the Law *On the State regulation of Tobacco Product Production and Turnover* - **from 1 October 2021;**
- 5) goods whose Eurasian Economic Union (EAEU) Foreign Economic Activity Commodity Nomenclature (FEA CN) code and name are included in a list of goods for which Kazakhstan, in accordance with its WTO obligations, applies import customs duties lower than EAEU Integrated Customs Tariffs approved in accordance with an international treaty to which Kazakhstan is a party (other than those specified in subpoint 9) of this list) - **from 1 August 2022;**
- 6) goods imported into Kazakhstan from EAEU member countries - **from 1 October 2021;**
- 7) goods exported from Kazakhstan to EAEU member countries - **from 1 October 2021;**
- 8) goods labelled in accordance with international agreements and Kazakhstan law - **from 1 August 2022;**
- 9) goods for which electronic invoices are issued via the IIS "Virtual Warehouse module" - **from 1 January 2022.**

3. Waybills are subject to registration:

- when moving, selling and/or shipping goods in Kazakhstan;
- when importing goods into Kazakhstan from non-EAEU countries and EAEU member countries;
- when exporting goods from Kazakhstan to non-EAEU and EAEU member countries.

4. Waybill registration deadlines

Waybills should be registered:

1. **when moving, selling and/or shipping goods in Kazakhstan:**
 - by the moment the goods are moved, sold and/or shipped.
2. when importing goods into Kazakhstan:
from EAEU member countries and non-EAEU countries:
 - by the moment goods that have been cleared through customs are moved or sold.**from EAEU member countries:**
 - before crossing the Kazakhstan state border.
3. **when exporting goods from Kazakhstan to EAEU member countries and non-EAEU countries:**
 - by the moment goods are moved, sold and/or shipped.
4. **when transiting Kazakhstan by road from one EAEU member country to another EAEU member country**
 - at vehicle checkpoints when crossing the Kazakhstan state border.

5. Waybill registration, correction and revocation

Recipients may confirm or reject Waybills within 20 calendar days of their registration date in the IIS in accordance with the statutory procedure. Recipients will be liable by law if a Waybill is not submitted or is submitted late.

Recipients are not required to confirm Waybills:

- 1) when selling goods for export;
- 2) when selling goods to an individual who is not an individual entrepreneur;
- 3) when selling goods (except for excisable goods) to recipients in retail trade, provided they simultaneously:
 - apply the special simplified tax return system;
 - are not registered as a value added tax payer;
 - comply with the requirements of the general economic activity classifier for retail trade;
 - use a cash register with a data record and transfer function.

When registering a Waybill, any such taxpayer should automatically enter "small sales outlet" as the recipient category.

This point does not cover the sale of goods in special economic zones that are either fully or partially within the EAEU customs border;

- 4) goods are sold to end customers;
- 5) Waybills are issued to recipients registered in administrative and territorial regions of the country with no public telecommunications networks;
- 6) when the Kazakhstan National Bank transports and sells auctored products.

Waybill corrections

- When changes and/or additions are needed in an already issued Waybill, and the errors do not involve replacing the supplier and/or recipient of goods, a corrected Waybill is issued and the already issued Waybill is cancelled.

Revoking Waybills:

- Waybills can be revoked without issuing a new Waybill;
- Suppliers (recipients for imports) can cancel or recall incomplete and/or incorrect Waybills within 5 working days their registration, if the Waybill is not confirmed or rejected by the recipient.

6. Waybills are not registered:

- for retail sales of goods to individuals;
- when importing goods from (into) Kazakhstan subject to export controls, according to a list approved by Kazakhstan Government Resolution No. 104 from 5 February 2008, for the news of the Kazakhstan armed forces, other Kazakhstan troops and military formations, in accordance with points 6, 7 and 7-1 of article 9 of the Kazakhstan export control law;
- when moving goods within one entity and/or between structural divisions of the same entity in Kazakhstan, except for alcoholic products.

7. Waybill currency

When moving goods in Kazakhstan or exporting goods from Kazakhstan, Waybills are issued exclusively in tenge, except in the following cases:

- for transactions to sell goods under a production sharing agreement;
- for transactions to sell goods for export that are subject to 0% VAT in accordance with articles 386, 446 and 449 of the Tax Code;
- sales turnover taxable at 0% VAT, in accordance with point 3 of article 393 of the Tax Code.

- when importing goods into Kazakhstan, Waybills are issued in tenge or in the specific invoice currency.

8. Administrative liability

The Kazakhstan Administrative Offences Code stipulates liability for failing to register or provide Waybills.

Article 283-1. Failure to submit or the late submission of waybills; incorrect name and quantity (volume) of goods in waybills, and incorrect reference in waybills to personal identification numbers-codes for petroleum products, tobacco items, ethyl alcohol and alcoholic products, and biofuels

1. A failure to submit or a late submission of waybills:

entails a fine on individuals of 5, small businesses or non-profit organisations of 10, on medium-sized businesses of 20, and on large businesses of 30 times the monthly calculation index.

2. The action stipulated in part one of this article committed repeatedly within a year after the imposition of an administrative penalty:

entails a fine on individuals of 10, on small businesses or non-profit organisations of 20, on medium-sized businesses of 40, and on large businesses of 60 times the monthly calculation index.

3. An incorrect name and quantity (volume) of goods in waybills, and incorrect personal identification number-code for petroleum products, tobacco items, ethyl alcohol and alcoholic products, biofuels:

entail a fine on individuals of 10, on small businesses or non-profit organisations of 20, on medium-sized businesses of 40, and on large businesses of 50 times the monthly calculation index.

4. The actions stipulated in part three of this article committed repeatedly within a year of the imposition of an administrative fine:

entail a fine on individuals of 20, on small businesses or non-profit organisations of 40, on medium-sized businesses of 60, and on large businesses of 100 times the monthly calculation index.

5. A failure to complete a waybill, and the turnover of certain types of petroleum products, tobacco items, biofuels; the turnover and movement of ethyl alcohol and/or alcoholic products without waybills:

entail a fine on individuals of 20, on small businesses of 50, on medium-sized enterprises of 100, and on large businesses of 200 times the monthly calculation index with the confiscation of the ethyl alcohol and/or alcohol products, certain petroleum products, tobacco items, biofuels that are the direct object of an

administrative offence and/or income or money received as a result of the administrative violation.

6. The actions stipulated in part five of this article committed repeatedly within a year of the imposition of an administrative fine:

entail a fine on individuals of 40, on small businesses of 100, on medium-sized businesses of 200, and on large businesses of 400 times the monthly calculation index, with the confiscation of the ethyl alcohol and/or alcohol products, certain petroleum products, tobacco items, biofuels that are the direct object of an administrative offence and/or income or money received as a result of the administrative violation.

This Customs Alert describes the rules approved by Ministry of Finance Order No. 1424 from 26 December 2019 approving a list of goods requiring the registration of waybills for goods and introducing rules for registering them and does not outline pilot project rules in accordance with Ministry of Finance Order No. 1104 from 16 November 2020 approving Rules and deadlines for implementing a pilot project to issue waybills.

How Deloitte can help:

The Deloitte team can provide you with consulting services on issues of interest to you.

Due to constant changes in tax law and differences in its interpretation, we cannot guarantee that further reviews by the state authorities will not reveal additional errors and discrepancies. When considering issues that are not clearly regulated by law, we will use our judgement and interpret the issue based on our experience.

We will be pleased to discuss any questions you may have related to the issues highlighted in this Alert. The contact details of our key tax and legal team members are provided below.

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