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Customs Alert Be in the Know

Tax & Legal
November – December 2015



1. General

In this Customs Alert, we provide a brief summary of new documents adopted during sessions of the Eurasian Economic Commission (the “EEC”) within the framework of the Eurasian Economic Union (the “EEU”) between Belarus, Kazakhstan, Russia, Armenia and Kyrgyzstan, and published on the official EEU website <http://eaeunion.org/> and EEU legal portal <http://docs.eaeunion.org/ru-ru/>. Also, we offer you a summary of new Kazakhstan regulatory legal acts dealing with international trade.

2. Eurasian Economic Union

Kazakhstan's Accession to World Trade Organization

For settlement of certain issues related to the accession of Kazakhstan to the World Trade Organization the EEC Board Resolution № 57 dated October 2015 approved the draft Protocol on certain issues of import and circulation of goods in the customs territory of the EEU and the draft Resolution of the Supreme Eurasian Economic Council "On certain issues related to the accession of Kazakhstan to the World Trade Organization".

The Protocol passing through ratification procedures in the EEU countries. Kazakhstan has ratified the Protocol by Law of the Republic of Kazakhstan № 439-V dated December 9, 2015.

Resolution has entered into force on 14 October 2015.

Resolution of EEC Board № 59 dated October 14, 2015 approved the List of goods in respect of which Kazakhstan applies import customs duty rates lower than CCT EEU and amounts of such import duty rates in accordance with the commitments accepted as a condition of joining the World Trade Organization (hereinafter, the "*reduced rates*").

The full text of the document can be found on the official EEC website and EEU legal portal.

Resolution enters into force with the entering into force of the Protocol on certain issues of import and circulation of goods in the customs territory of the EEU signed on October 16, 2015, but not earlier than 30 calendar days from the date of Resolution's official publication.

Resolution of the EEC Council №166 dated December 15, 2015 amended the Instruction on filing the declaration on goods¹ (hereinafter, the "DG"). Thus, inter alia, in Kazakhstan in the presence of goods in one consignment, in respect of which the CCT EEU duty rates are applied, as well as the goods in respect, of which the *reduced rates* of import customs duties are applied², such goods shall be declared in different DGs.

Resolution shall enter into force with the entering into force of Resolution of EEC Board № 59 dated October 14, 2015 but not earlier than 30 calendar days from the date of Resolution's official publication.

¹ Approved by the CCU Resolution № 257 dated 20 May 2010

² Approved by the EEC Board Resolution № 59 dated 14 October 2015

Control of the customs value of imported goods

EEC Council Resolution № 139 of November 3, 2015 amended the following:

- Instructions on how to fill the declaration on goods, approved by the Resolution of the Commission of the Customs Union (hereinafter, the “CCU”) № 257 dated 20 May 2010
- The order of the control of customs value of goods approved by the CCU Resolution №376 of 20 September 2010
- Classifier of documents approved by the CCU Resolution № 378 of September 20, 2010

Amendments are associated with the ability to compare the customs value of the declared goods to the value of identical goods imported earlier under the same foreign trade agreement.

For such purposes, Instructions filing the declaration of goods provides for indication of registration DG *in column 44* of DG under classifier 09031 in relation to goods which are identical to the declared goods and the customs value of which is accepted by the customs authority based on the results of an additional review in accordance with Article 69 of the Customs Code of the Customs Union.

The amendments will contribute to reduction of the time of completion of the customs operations upon declaration of goods falling under the risk management system.

Resolution has entered into force on 3 December 2015.

The Order for filing and registration of the transit declaration, the completion of the procedure of customs transit

EEC Council Resolution №147 of 10 November 2015 amended the Order of the performance of the customs operations by the customs authorities connected with the filing, registration of the transit declaration and the completion of the customs procedure of customs transit³.

So, among other things, the Order provides for the list of documents that remain in the customs authority of destination, when transporting consignments of goods by the group of rail cars (containers), directed by a single transport document in case of uncoupling on the route of one or more rail cars (containers). It was determined that the document confirming the fact of uncoupling of rail cars shall be submitted with the customs authorities with a set of documents for the goods transferred.

The full text of the document can be found on the official EEC website and EEU legal portal.

Resolution enters into force on 10 May 2016.

³ Approved by the CCU Resolution № 438 dated 17 August 2010

The protocol on the exchange of electronic information between the tax authorities of EEU states - members for the implementation of tax administration

EEC Council Resolution № 142 dated November 3, 2015 approved the draft Protocol on the exchange of electronic information between the tax authorities of EEU states - members for tax administration.

In order to ensure the proper execution of the tax legislation, the Protocol provided for the exchange of information

- on certain types of income of legal entities of EEU member-states in accordance with the requirements for the composition and structure of the information (application № 1 of the Protocol);
- on certain types of income of individuals of EEU member-states in accordance with the requirements for the composition and structure of the information (application № 2 of the Protocol);
- on certain types of property registered (located) in the territory of a member-state, and the owner (owners) in accordance with the requirements for the composition and structure of the information (application № 3 of the Protocol);
- on the receipt of information in accordance with the format of the notification (application № 4 of the Protocol).

The full text of the document can be found on the official EEC website and EEU legal portal.

Resolution has entered into force on 9 December 2015.

Protective measures in relation to certain types of goods

EEC Council Resolution № 148 dated 10 November 2015 and № 154 of 17 November 2015 imposed anti-dumping duties on the following goods imported into the EEU customs territory:

- a non-rotatable tracked bulldozers with angel and straight dozer up to 250 horse power originating in China and the classified under 8429 11 009 0 CN FEA EEU code, for a period of 5 years
- tires designed for use on various axes of trucks, cars, buses, trolley buses, tip-trucks, trailers and semi-pneumatic tires and pneumatic tires with new bore diameter of 17.5 to 24.5 inches, inclusive, originating in China and classified under 4011 20 100 0 and 4011 20 900 0 CN FEA EEU codes, for a period of 5 years.

Name of goods	Manufacturer	Anti-dumping duty amount (% of customs value)
Non-rotatable tracked bulldozers with angel and straight dozer up to 250 h. p.	• Xuanhua Construction Machinery Co., Ltd (No. 21, Dongsheng Road, Xuanhua, Hebei Province, China)	9,65%
	• Shantui Construction Machinery Co., Ltd (No. 58, Highway G327, High-Tech District, Jining City, Shandong Province, China)	11,31%
	• Shanxi Zoomlion Heavy Industry Science & Technology Machinery Co., Ltd (Guanbei	13,80%

	Village, Huayin City, Shanxi Province, China)	
	<ul style="list-style-type: none"> Tianjin Liugong Machinery Co., Ltd. (No. 203, Jingsan Road, Tianjin Airport Economic Area, China) 	44,65%
	<ul style="list-style-type: none"> Прочие 	44,65%
Tires designed for use on various axes of trucks, cars, buses, trolley buses, tip-trucks, trailers and semi-pneumatic tires and pneumatic tires with new bore diameter of 17.5 to 24.5 inches, inclusive	<ul style="list-style-type: none"> Aeolus Tyre Co., Ltd. (No. 48, Jiaodong South Road, Jiaozuo, Henan Province, China) 	19,86%
	<ul style="list-style-type: none"> Triangle Tyre Co., Ltd. (No. 56, Qingdao Middle Road, Weihai City, Shandong Province, China) 	14,79%
	<ul style="list-style-type: none"> Shandong Wanda Boto Tyre Co., Ltd. (No. 68, Yongshen Road, Dongying City, Shandong Province, China) 	28,03%
	<ul style="list-style-type: none"> Deruibao Tire Co., Ltd. (Guangrao Economic Development Zone, Dongying City, Shandong, China) 	35,35%
	<ul style="list-style-type: none"> Guizhou Tyre Co., Ltd. (No. 41, Bai Hua Ave., Guiyang, Guizhou Province, China) 	32,14%
	<ul style="list-style-type: none"> Certain China manufactures 	19,52%
	<ul style="list-style-type: none"> Others 	35,35%

The full text of the document can be found on the official EEC website and EEU legal portal.

Resolution № 148 entered into force on 12 December 2015, Resolution № 154 entered into force on 18 December 2015.

Mandatory preliminary information about goods imported by air

EEC Council Resolution № 158 dated December 1, 2015 established that starting from April 1, 2017 a mandatory preliminary information about goods imported into the EEU customs territory by air will be introduced.

In particular, the preliminary information shall be submitted with the customs authority of destination by the carrier or other entity acting in the name and on behalf of the carrier.

The information includes information about the aircraft and the route of flight; information about imported goods specified in the transport (transportation) documents (information shall be provided for each document).

It is instructed to the EEU state authorities authorized in the field of customs affairs to finalize the information systems of the customs authorities of their countries prior to October 1, 2016.

The full text of the document can be found on the official EEC website and EEU legal portal.

Resolution enters into force on 31 December 2015

Amendments to the EEU Common Customs Tariff

The table below shows the EEC Resolutions amending the EEU Common Customs Tariff:

EEC Board Resolution No., publication date	CN FEA EEU code	Brief description of goods	Import duty rate ⁴
72 ⁵ 3 December 2015	2825 90 200 0	Beryllium oxide and hydroxide	0% ⁶
EEC Council Resolution No., publication date	CN FEA EEU code	Brief description of goods	Import duty rate ⁷
145 12 November 2015 ⁸	8430 41 000 1 8430 49 000 1	Drilling rigs with drilling depth of 200 m	2% ⁹
146 12 November 2015 ⁹	3701 30 000 0	Other photo plates and film, the length of any of the parts is more than 255 mm	0% ¹⁰
150 ¹¹ 17 November 2015	3003 40 000 1	Pharmaceutical preparations containing ephedrine, pseudoephedrine and norephedrine	0%
	3003 40 000 2		0%
	3003 40 000 3		0%
	3003 40 000 9		0%
	3004 40 000 2		5%
	3004 40 000 3		5%
	3004 40 000 4		5%
	3004 40 000 5		7,5%
	3004 40 000 8		5%

The full text of the document can be found on the official EEC website and EEU legal portal.

⁴ Customs duty rates as a percentage of customs value or in Euro, or in US dollars

⁵ Resolution enters into force on 2 January 2016

⁶ Import customs duty rate 0% applies from January 2, 2016 to December 31, 2017, inclusive. Note 59C EEU CCT

⁷ Customs duty rates as a percentage of customs value or in Euro, or in US dollars

⁸ Resolution has entered into force on 12 December 2015

⁹ Import customs duty rate 2% applies from January 1, 2017 to December 31, 2017, inclusive. Note 1C EEU CCT

¹⁰ Import customs duty rate 0% applies from 12 December 2015 to 31 December 2018, inclusive. Note 60C EEU CTT

¹¹ Resolution withdraws commodity positions 3003 40 000 0, 3004 40 000 1 и 3004 40 000 9. Resolution enters into force on 16 January 2016

3. Republic of Kazakhstan

Amendments and additions to some legislative acts of Kazakhstan on the issues of taxation and customs administration

RK Law № 432-V of December 3, 2015 amended

- Code of the Republic of Kazakhstan dated 10 December 2008 "On taxes and other obligatory payments to the budget" (hereinafter, the "Tax Code")
- Code of the Republic of Kazakhstan dated June 30, 2010 "On Customs Affairs in the Republic of Kazakhstan" (hereinafter, the "Customs Code").

Below we propose to get acquainted with the most significant changes in customs regulations.

1. Article 142 of the Customs Code is set out in the new edition. For example, to obtain information on the absence and (or) the availability of debt on customs payments and taxes, the tax payer is entitled to submit a request via the web portal of "electronic government"; web application of information systems of the customs authorities; State Corporation "Government for citizens".

The customs authority shall provide the information on absence and (or) the presence of this debt in the order specified in Article 598 of the Tax Code.

Information about absence (presence) of debt on customs payments and taxes are presented with indication of not terminated obligations to pay customs duties and taxes on the day of application.

Term of implementation of the new wording of Article 142 - July 1, 2017

2. Article 157 of the Customs Code was amended in the part of inspection in the absence of the taxpayer at the location. Thus, in case of return of postage or other organization communication of documents provided for in paragraph 1 of Article 159, paragraph 1 of Article 163, paragraphs 2 and 4 of Article 164 of the Customs Code, due to the absence of the payer at the location, which are directed by the customs authority by registered letter with acknowledgment, the customs authority inspects the location of the payer not later than ten working days from the date of receipt of the notification by post or other communication organization, based on which the survey is drawn up.

Inspection report shall contain established information and shall be executed with the participation of witnesses.

If an inspection report states that the payer is virtually absent at the location, the date of delivery of the documents referred to in paragraph 3-1 of this Article shall be the date of preparation of the report.

3. The Law amended Article 159 of the Customs Code. Thus, the notice on recovery of debts on customs payments and taxes, penalties can also be sent by electronic means with the written consent of the payer.

Also, the term of notification issuance has been increased up to ten working days from the day:

- of expiry of the notification deadline on review results
 - of expiry of the notification deadline on elimination of violations based on results of cameral customs inspection
 - of reveal of debts on customs payments and taxes, penalties on tax accounts of the taxpayer
4. There are also amendments in part of the order of complaint submission and the order of complaint consideration as well as the timing of its consideration.
 5. Amendments in Article 220 and 220-1 of the Customs Code in part of in-house control in connection with the unification of the order of cameral customs inspections in accordance with the provisions of the tax law.

A more detailed news release with the treatment of all significant changes in terms of customs and tax regulations will be sent soon.

The Law was officially published December 5, 2015/.

Export customs duties

Order of the Minister of National Economy of the Republic of Kazakhstan № 755 December 8, 2015 amended the export customs duty rates¹² for certain types of goods:

CN FEA code	Name of goods	Customs duty rate		Validity of customs duties
		Exported outside the Republic of Kazakhstan	Exported from member-states of AFTZ	
2715 00 000 0	bituminous mixtures	15%	0	permanently
7204	Waste and scrap; ferrous metal ingots for remelting (charge ingots)	15%, but not less than EUR 15 per 1 ton	15%, but not less than EUR 15 per 1 ton	until November 30, 2016, inclusive
8607 19 100 1	Axis assembled or disassembled; wheels and parts thereof, used	5%	5%	permanently

The Order came into force on December 15, 2015

¹² Export duty rates are approved by Order of the Minister of National Economy of the Republic of Kazakhstan № 405 May 27, 2015

Rules for issuing permits for transit

Order of the Minister for Investment and Development of the RK № 384 dated March 31, 2015 in accordance with the Law of RK of July 21, 2007 "On export control" approved the Rules for issuing permits for the transit of goods.

Issuance of permits for the transit of goods subject to export control shall be made by the authorized bodies responsible for state regulation in the field of export control in the prescribed form. These rules apply to individuals and legal entities.

Also, the Order defines the list of documents required to obtain a permit.

The Order came into force on December 4, 2015

Rules of import and export of pharmaceuticals, medical products and medical equipment

Order of the Minister of Health and Social Development of the RK № 668 of August 17, 2015 approved the Rules of entry into the territory of the Republic of Kazakhstan of medicines, medical products and medical equipment and the export from the territory of the RK of medicines, medical products and medical equipment.

Thus, the import of medicines from countries that are not EEU member-states shall be made in accordance with the Regulation on the importation into the customs territory of the Customs Union of medicines and pharmaceutical substances approved by EEC Board Resolution №134 of August 16, 2012.

Issuance of the decision (permission), agreement on the import into the territory of the Republic of Kazakhstan of drugs is carried out by the authorized body or its territorial divisions.

Moving the drugs under the customs procedures: release for domestic consumption, processing for domestic consumption, re-import and abandoning in favor of the state - are carried out, provided that they are included in the relevant information systems of the state register of medicines, medical products, medical equipment of the RK (without clearance the conclusion (of permission, approval), the authorized body, except as specified in paragraph 7 of the said Regulation.

The full text of the document can be found in official sources of the RK.

The Order entered into force October 14, 2015.

Certain issues of indirect taxation

Improvement of special economic zones

RK Law № 362-V of October 27, 2015 made amendments and additions to some legislative acts of the Republic of Kazakhstan on improvement of special economic zones (hereinafter, the "SEZ"), including

- Code of the Republic of Kazakhstan dated 10 December 2008 "On taxes and other obligatory payments to the budget"
- The Law of the Republic of Kazakhstan dated January 8, 2003 "On investments"
- The Law of the Republic of Kazakhstan dated 21 July 2011 "On special economic zones in the Republic of Kazakhstan."

So, in terms of taxation it is established that organizations operating in the SEZ, among others, do not include organizations that realizes (realized) investment priority projects and strategic investment project in accordance with the legislation of the Republic of Kazakhstan on investments.

In addition, the articles 151-1 - 151-10 of the Tax Code the priority activities are set out in the new edition. It is also provided that the list of priority activities for the economic activities referred to in Articles 151-1 - 151-10 of the Tax Code and the list of facilities, construction of which is intended for the implementation of these activities, as well as the procedure for the inclusion of priority activities and construction facilities in these lists are determined by the Government of the Republic of Kazakhstan.

The full text of the document can be found in official sources of the RK.

The law enters into force after ten calendar days after its first official publication, except for certain paragraphs that come into effect on 1 January 2015 and 1 January 2016, the Law was officially published on October 29, 2015.

Excise taxes on petrol and diesel fuel

Government Resolution № 887 of November 6, 2015 amended the excise rates on gasoline, except for aviation, (2710 12 411 - 0 2710 12590 CN FEA code)¹³:

№	Type of activity	Excise tax rate per 1 ton (tenge)
1	Wholesale of gasoline by manufacturers (except for aviation fuel) and diesel fuel of domestic production	10 500
3	Retail sale of gasoline by manufacturers (except for aviation fuel) and diesel fuel for domestic consumption	11 000
6	Transfer of excise goods specified in paragraph 5 of Article 279 of the Tax Code, which are the product of tolling	10 500

The Resolution came into effect on November 25, 2015

¹³ Excise rates are established by the Resolution of the Government of the Republic of Kazakhstan № 133 of March 13, 2015

4. Dear client

Please contact us should you have any questions regarding the application of Customs Union or Kazakhstan customs law.

The Deloitte customs group provides services specifically designed to assist those performing foreign economic activities understand and apply statutory rules and regulations concerning the import and export of goods. We have a team of experts to work on our engagements who have both theoretical and practical customs knowledge, which, in our opinion, is the key to a quality and professional job.

**We are always glad
to be of assistance!**

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