



## Customs Alert

# Rules and deadlines for implementing a pilot project to issue waybills for goods (release 2)

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

In this alert, we comment on issues arising around Minister of Finance issued Order No. 1104 on 16 November 2020 approving rules and deadlines for implementing a pilot project to issue waybills for goods and their work flow. ("Rules").

According to the Rules, waybills for goods ("Waybills") are issued by suppliers (for imports - by the recipient) using the form in Appendix 1 to the Rules, through the e-invoice information system "Virtual Warehouse Module", signed with a digital signature.

Waybills are issued electronically, except when taxpayers are entitled to issue them on paper for specific reasons.

### 1. Duration of the Waybill pilot project

The pilot project is being implemented throughout Kazakhstan:

- for excisable products imported into Kazakhstan from other Eurasian Economic Union ("EAEU") countries and exported from Kazakhstan to other EAEU countries **from 31 December 2020 - 1 July 2021\***;
- for goods for which e-invoices are issued through the virtual warehouse, **from 31 December 2020 - 1 November 2021\***;

- for goods in the WTO exemption list, **from 1 July 2021 – 1 February 2022\***.

\*- the option to postpone the end the pilot project is currently being discussed. Please follow our news.

## 2. Pilot Project participants include entities:

- producing and/or selling excisable goods;
- importing goods into Kazakhstan from other EAEU member countries;
- exporting goods from Kazakhstan to other EAEU member countries;
- importing excisable goods into Kazakhstan from EAEU non-member countries;
- exporting WTO exemption list goods and/or excisable goods and/or goods for which e-invoices are issued through the virtual warehouse, from Kazakhstan to EAEU non-member countries;
- selling WTO exemption list goods;
- selling goods for which e-invoices are issued through the virtual warehouse.

## 3. Waybills used in the following transactions are subject to registration:

- 1) **when moving** and/or selling excisable goods in Kazakhstan;
- 2) **when selling** WTO exemption list goods in Kazakhstan;
- 3) **when importing** goods into Kazakhstan from other EAEU member countries, except for those imported by passenger vehicle;
- 4) **when exporting** WTO exemption list goods and/or excisable goods and/or goods for which e-invoices are issued through the virtual warehouse, from Kazakhstan to non-EAEU countries;
- 5) **when exporting** goods from Kazakhstan to other EAEU member countries, except for those exported by passenger vehicles in Kazakhstan;
- 6) **when selling** property requisitioned by the State in Kazakhstan;
- 7) **when selling** goods for which e-invoices are issued through the virtual warehouse in Kazakhstan.

*The exceptions in subpoints 3) and 5) above do not apply to products containing gold.*

*If entities taking part in the pilot project violate the procedure and deadlines for issuing Waybills established by the Rules, the State Revenue Committee will send notice of the same to the participant either electronically or on paper. Receipt of the*

*notice and familiarisation with it does not exempt the recipient from registering, confirming or rejecting the receipt of Waybills.*

## 4. Waybills used in the following transactions are not subject to registration:

- **when selling** goods for retail, except for the case stipulated in point 72 of the Rules;
- **when importing goods** into Kazakhstan from non-EAEU countries and from other EAEU member countries through major pipelines and/or power transmission lines;
- **when exporting** goods from Kazakhstan to non-EAEU countries and to other EAEU member countries through major pipelines and/or power transmission lines;
- **when moving** goods within one entity and/or between structural divisions of one entity in Kazakhstan, with the exception of excisable goods;
- **when shipping** returnable packaging, except in cases where packaging is included in the WTO exemption list;
- **when importing** goods into Kazakhstan from other EAEU member countries, where the destination is a non-EAEU country;
- **when exporting** goods from Kazakhstan to other EAEU member countries, for which the destination country is a non-EAEU country, with the exception of WTO exclusion list goods and/or excisable goods and/or goods for which e-invoices are issued through the virtual warehouse.

## 5. Deadlines for registering Waybills

An obligation to issue Waybills arises:

### 1. when moving or shipping goods in Kazakhstan:

- by the moment goods are moved or shipped;

### 2. when importing goods into Kazakhstan:

from non-EAEU countries:

- by the moment goods that have undergone customs clearance are moved or sold;

from other EAEU member countries:

- before crossing the Kazakhstan border;

### 3. when exporting goods from Kazakhstan to non-EAEU countries and other EAEU member countries:

- by the moment goods are moved, sold and/or shipped;

### 4. when goods are transported by road from one EAEU member country to another EAEU member country through Kazakhstan:

- at a Kazakhstan border road checkpoint;

#### 5. when goods are transported by air:

- within one working day of the aircraft's arrival date;

#### 6. when selling goods in Kazakhstan:

- by the moment the process to sell the goods starts, unless otherwise specified in this subpoint.

#### 6. Waybill registration deadlines for the sale of goods in Kazakhstan:

Waybills are registered:

1. By retail sellers voluntarily, including to update virtual warehouse balances:

- by the 10<sup>th</sup> of the month following the sales month, reflecting sales for the month;

2. For the delivery of goods, except for excisable goods, by any mode of transport:

- within one working day of the day transportation documentation was drafted for the delivery;

3. For the wholesale sale of goods in Kazakhstan, except for excisable goods:

- within two business days of the date of sale of the goods, unless otherwise specified in point 2 above;

4. For a retail sale of goods (except excisable goods) to individuals who are the final customers:

- within 15 calendar days of the date of sale, with reference to sales for the day;

5. For a retail sale of goods (except excisable goods) to individual entrepreneurs and legal entities:

- within two working days of the date of sale.

#### 7. Registration, adjustment and revocation of Waybills

Waybills for goods are confirmed/rejected by recipients within 10 calendar days of their registration in the e-invoice information system, except for when goods are delivered (transported) by a mode of transport for which Waybills can be confirmed or rejected within 20 working days of their registration in the e-invoice information system.

If a Waybill has to be amended, additions made to it, or errors that do not entail a change in supplier and/or recipient of goods corrected, then a corrected Waybill is issued following the cancellation of the previously issued Waybill.

Issued Waybills that are incomplete and/or incorrect will be cancelled or revoked by the supplier (in the case of imports - by the recipient) as follows:

#### for excisable goods:

- within five working days of the Waybill registration date, if the recipient has not confirmed or rejected the Waybill;

#### for other goods:

- within 10 calendar days of the Waybill registration date, if the recipient has not confirmed or rejected the Waybill.

#### 8. Recipient of goods do not have to confirm Waybills when:

- goods are sold for export;
- airports sell fuel and lubricants to refuel aircraft belonging to foreign airlines operating international flights;
- goods are sold to a retail reseller, except for the sale of excisable goods and goods sold to a special economic zone fully or partially located within the EAEU customs border, except for when Waybills are issued voluntarily as per point 17 of the Rules;
- goods are sold to an individual who is not an individual entrepreneur, except for when Waybills are issued voluntarily as per point 17 of the Rules;
- Waybills are issued to recipients registered in administrative and territorial regions of the country with no public telecommunications networks.

#### 9. Return of goods

##### Products can be returned:

**1. Based on a Waybill rejected by the recipient** - the supplier moves the goods to the shipment warehouse using a Waybill indicating "rejected";

**2. If a Waybill is revoked before the recipient confirms or rejects it** - the supplier moves the goods to the shipment warehouse using a Waybill indicating "revoked";

**3. According to a Waybill previously confirmed by the recipient** - the recipient issues a Waybill to return the goods, and enters the registration number of the previously issued Waybill in the e-invoice information system.

#### 10. Currency on registration of Waybills for goods.

Waybills should be issued in tenge when moving goods in Kazakhstan and exporting them to outside of Kazakhstan, except for:

- sales transactions (operations) concluded according to a production sharing agreement (contract);
- transactions (operations) to sell goods for export, subject to VAT at 0% 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;
- For goods imported into Kazakhstan, Waybills are issued in tenge or the invoice currency.

### 11. E-invoice statements based on Waybills

#### **E-invoice statements for goods subject to the Waybill requirement are issued:**

- based on a Waybill indicating its registration number in line 32 "Document confirming the delivery of goods, work or services". At the same time, the information in the Waybill and e-invoice must be identical;
- with no link to an electronic consignment note, indicating "NON SNT" in line 32 "Document confirming the delivery of goods, work or services", together with a quantity (volume) of goods not exceeding the quantity (volume) of goods in the virtual warehouse before the e-invoice was issued.

#### **Invoices should refer to:**

- a transaction agreement number and date;
- when goods imported from an EAEU member country are moved or sold, their origin is confirmed by the number of the Waybill issued when the goods were imported from the other EAEU member country, if it contains state revenue authority observations.

In the event of a technical failure, Waybill registration, confirmation or rejection deadlines; the deadline for issuing e-invoice statements linked to a Waybill, including for the voluntary procedure, are extended for the time it takes to correct technical errors and reboot the e-invoice information system and for three working days once technical errors have been corrected and the e-invoice information system has been rebooted.

If a recipient rejects a Waybill recorded in an e-invoice after the deadline and if its number and date have been entered in line 32 "Document confirming the delivery of goods, work or services", then the registration the supplier of Waybill, as well as an extract based on it e-invoice is carried out no later than 3 (three) working days after the date of rejection of the Waybill.

In this case, the number of the rejected Waybill is indicated in the issued Waybill.

## 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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