

Will SEZ Become more Attractive for Investors in Light of New Amendments to Tax Law?

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Reducing tax burdens and tax liabilities have always been important issues for entrepreneurs and organisations. However, today's companies only have a few tools at their disposal provided by civil, employment and tax law to reduce or defer taxes.



Companies intending to perform or already performing priority activities may consider the possibility of applying concessions for entities participating in special economic zones (SEZ). The latest amendments to the Tax Code create favourable operating conditions for SEZ participants.

For a start, we need to understand what is meant by "special economic zone." A SEZ is a limited territory with a special legal status and concessionary economic conditions created for specific purposes such as to develop the region, support industry economies, attract investment and create highly effective and competitive production.

There are 10 SEZ in Kazakhstan, which may be divided into three main groups – industrial and production, service and technical implement zones. Priority activities are set for each SEZ based on its goals.

According to Ministry of Investment and Development data, as at 16 November 2015, over 400 entities had

registered in SEZ, with 70% registered before 2012. Growth in the number of participants has since slowed down, and in 2015, only 42 organisations entered into SEZ operating agreements, of which 50% joined the Astana – New City SEZ.

Provided they meet specific tax law requirements, SEZ participants are entitled to:

- reduce corporate income tax ("КПН") by 100%
- apply a 0% coefficient to land tax rates
- apply a 0% coefficient to the charge for the use of land plots
- reduce property tax to 0%

Likewise, if suppliers, in accordance with a list of goods drafted by the government, sell goods in a SEZ that are used entirely in operations that meet the SEZ's objectives, they are entitled to apply 0% value added tax, which helps reduce the VAT burden on suppliers, at the same time stimulating supplies to SEZ. For SEZ participants this means a cash saving of 12% (VAT) on goods.

In addition, organisations operating in a SEZ are entitled to customs concessions that are not covered into this publication.

Below we discuss amendments to the Tax Code from October 2015:

1. From 1 January 2015, there is no longer a requirement to receive confirmation from the executive authorities that income received (due) is eligible to tax breaks, simplifying the procedure for applying concessions. Now, organisations operating in SEZ may determine whether income received from the sale of goods they produce meets Tax Code conditions themselves, and not depend on the executive authorities.

2. The Tax Code now states that if tax law is amended after an organisation's details have been entered in the integrated register of SEZ participants, the organisation in question may apply the SEZ taxation provisions that were in effect as at the date details were entered.

The date an organisation's details are entered in the integrated register of SEZ participants is the date a SEZ operating agreement is concluded.

Consequently, if amendments to tax law stipulate the removal and (or) amendment of coefficients and (or) rates applicable to land tax, property tax and the charge for the use of land plots; the value of CIT reductions, the organisation will be entitled to apply the version of the Tax Code in force as at the date an agreement was concluded.

This amendment enters into force from 1 January 2016 and will remain in force until a SEZ participant agreement expires, but no longer than the statute of limitation, i.e. 5 years.

In other words, the new addition has been made to protect organisations operating in SEZ against possible amendments to tax law, providing so-called "stability" on the above taxes over a specific period.

3. Amendments were made to the list of priority activities for each SEZ in articles 151-1 - 151-10 of the Tax Code. The legislator has simplified activity types, grouping them according to types of economic activity, in accordance with the general classifier of economic activities approved by the authorised body for technical regulation.

Thus, if the Tax Code previously required concrete definitions for activities for each SEZ and the naming of items being produced, the detailed list for each SEZ is now determined by the government.

4. The legislator has extended the concession on the charge for the use of land plots. From January 2016, organisations are entitled to apply a 0% coefficient to the charge for the period referred to in an agreement for the temporary use of land (lease), but for no longer than the SEZ remains in operation. Previously, the concession was valid for 10 years.

All the above amendments may be treated as beneficial to taxpayers, while the following may be treated as the opposite.

From January 2016, the 100% reduction in CIT will no longer extend to organisations building and commissioning objects to be used directly in SEZ operations (except for the Burabai SEZ).

This means that over 100 SEZ participants¹ that declared their projects as construction and commissioning will not be able to make use of the CIT reduction. If organisations perform several SEZ activities simultaneously, including the construction and

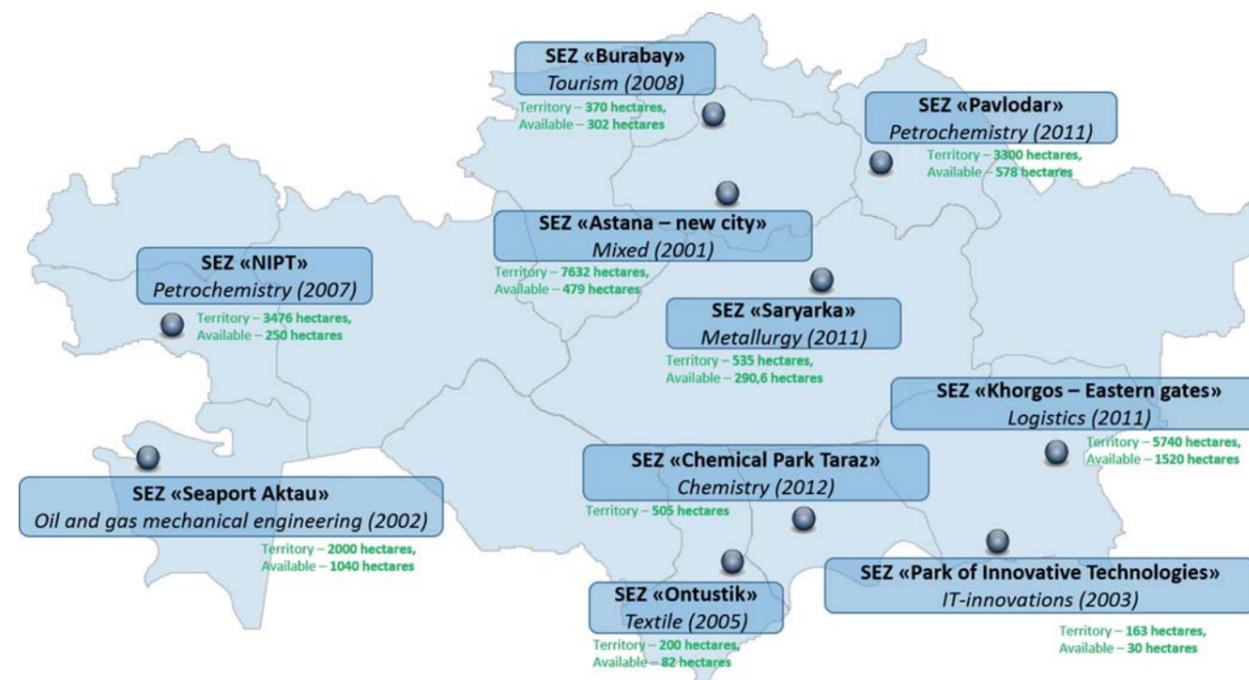
The question arises as to whether tax concession stability will be extended for those organisations already carrying out construction work and those that have not yet started. In practice, the construction of capital production assets takes over two years. According to figures for 2015, approximately 100 projects were in the realisation stage, while only a half of them were due to be completed by the end of 2019. Thus, given the limited validity of the stability provision, organisations may apply it only during the period after construction.

commissioning of objects, they are obliged to keep a separate record of income and expenses.

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to be completed by the end of 2019. Thus, given the limited validity of the stability provision, organisations may apply it only during the period after construction.

In conclusion, to make use of the above tax concessions, it is not enough for organisations to become SEZ participants, they also have to follow the Tax Code. Despite this, we can still hope that the new legislative amendments will attract entities to work in SEZ.



¹ According to details on SEZ participants published on the Ministry of Investment and Development website (<http://invest.mid.gov.kz/ru/pages/edinnyj-reestr-uchastnikov-sez>)