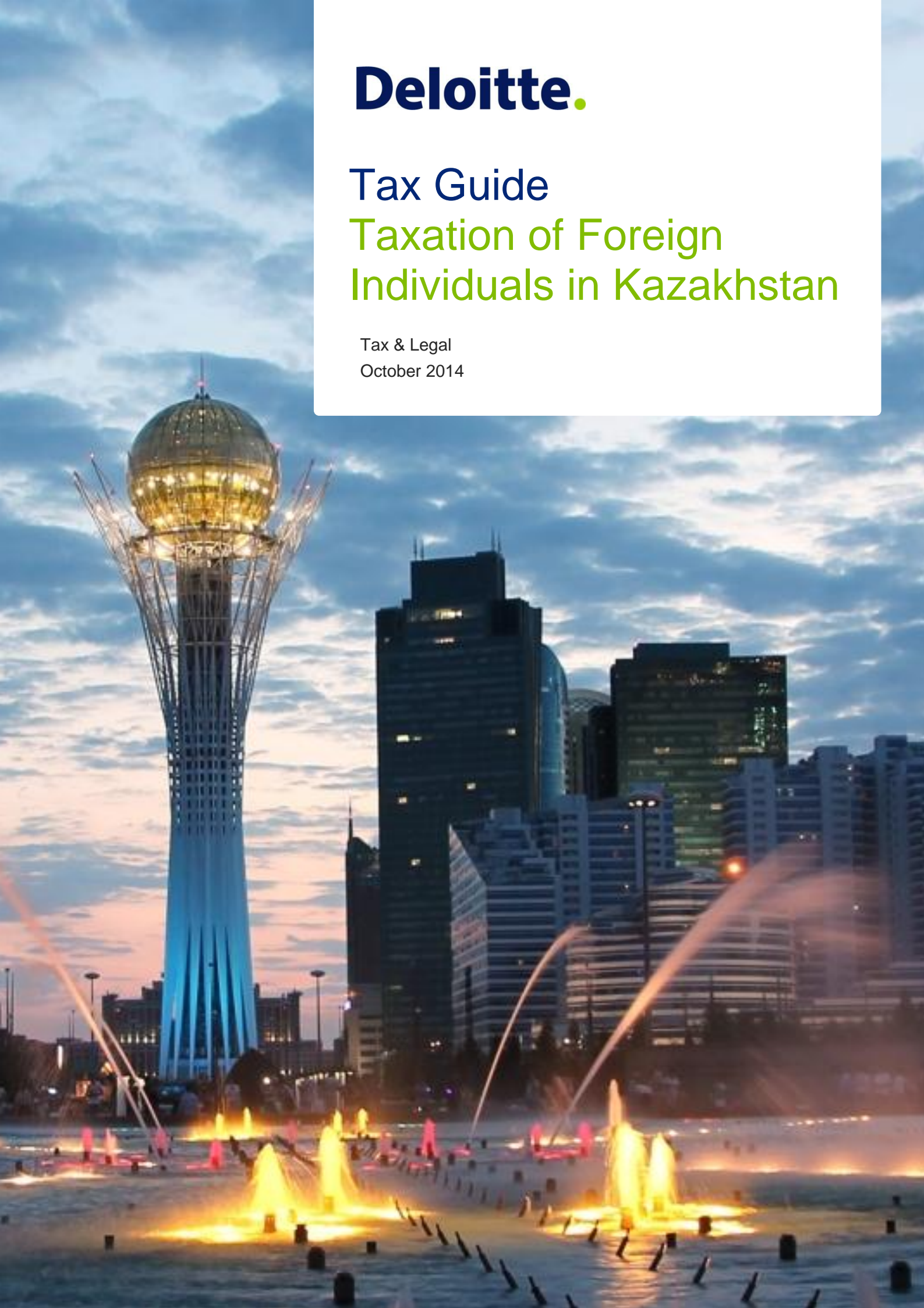


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Tax Guide

Taxation of Foreign Individuals in Kazakhstan

Tax & Legal
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Welcome to Kazakhstan!

Deloitte would like to present this brief overview of the tax and legal issues and procedures applicable to foreign individuals working in Kazakhstan.

Since the Kazakhstan tax system is developing at a quick pace and subject to frequent change, we would recommend that you use this brochure for general guidance purposes only and contact us to discuss any situation questions you may have.

For your convenience the guide is presented in a Frequently Asked Questions format.

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Frequently Asked Questions

Arrival, Registration and Work Permits

Question: Do I need to notify the migration authorities upon arrival?

Answer: Yes, unless you qualify for the exemption referred to be below, you should notify the local migration authorities within five calendar days of crossing the Kazakhstan state border by having your passport registered with the migration authorities in your place of permanent or temporary residence.

Registration with the migration authorities may not exceed the validity of your passport or your Kazakhstan visa.

Nationals entering Kazakhstan from countries that have ratified an international visa-free treaty may register for up to 30 calendar days, while citizens from Customs Union member states may register for up to 90 days. Registration may be extended for the same period.

Foreign individuals holding a work permit will be registered for the period of duration of their work permit.

Citizens of 48 countries (including the USA, most European countries, Singapore, Canada and certain other countries) will be automatically registered in Kazakhstan for up to 90 calendar days if they arrive in the country through an international airport).

Question: Can I work in Kazakhstan on a business visa?

Answer: No. Under Kazakhstan law, business visas are issued to those foreign nationals intending to visit Kazakhstan:

- on business trip
- to hold business negotiations, conclude contracts, and provide consulting and audit services
- to install, repair and maintain equipment

In the vast majority of cases, foreign nationals are only entitled to work in Kazakhstan if they hold a working visa (which is linked to a work permit).

A foreign national's failure to comply with the conditions of an issued visa will result in an administrative fine on the individual in question and the inviting, with possible deportation from Kazakhstan.

Question: Do I require a work permit to work in Kazakhstan? If yes, what are the procedure and timeframe involved in applying for one?

Answer: Generally, yes.

However, citizens of Belarus or Russia do not require a work permit. The same is true for business immigrants.

The heads of branches and representative offices of foreign legal entities registered in Kazakhstan are also exempt from having to receive a work permit.

All other foreign individuals wishing to work in Kazakhstan require a work permit.

Most commonly, employers are responsible for obtaining work permits. The procedure normally takes approximately 1.5-2 months in total and includes:

- 1) a search for suitable local candidates in local employment databases
- 2) filing documentation with the Employment and Social Programmes Department (“ESPD”)
- 3) following State Commission approval, depositing cash to the value of an economy class return ticket to the foreign national’s country of origin in a deposit bank account in the individual’s name
- 4) filing a bank certificate with the ESPD confirming the existence of bank deposit accounts in the name of a foreign national
- 5) receiving the work permit

When issuing a work permit, the ESPD requires the employer/inviting entity to:

- 1) provide vocational training to local nationals in technical and professional areas considered in demand by the regional employment markets, agreed with the ESPD
- 2) provide refresher training to local nationals in technical and professional areas considered in demand by the regional employment markets, agreed with the ESPD
- 3) improve the qualifications of local nationals
- 4) create additional jobs for local nationals

Special conditions may be created depending on the category of foreign national to be employed.

Question: May foreign nationals be self-employed in Kazakhstan?

Answer: Yes. Foreign nationals are entitled to be self-employed in Kazakhstan in certain professions (such as anthropologist, ballet dancer, astronomer and several others).

In addition, self-employed foreign nationals are exempt from having to meet any special work permit terms and conditions.

Question: Are there any specific requirements for the documents involved in work permit applications?

Answer: As a foreign national’s personal documents, such as passport, diploma and qualification certificates, originate from a foreign country, they will need to be legalised/apostilled.

Question: Should the local inviting company/employer comply with local staff content requirements when applying for a work permit?

Answer: Yes. The ESPD will only issue a work permit, if:

- starting from 1 January 2012, Kazakhstan nationals account for at least 70% of the category 1 and 2 work force

- starting from 1 January 2012, Kazakhstan nationals account for at least 90% of the category 3 and 4 work force

However, employers will only be required to meet local staff content rules until Kazakhstan accedes to the World Trade Organisation and currently does not apply to:

- 1) small businesses
- 2) government agencies and organisations
- 3) work permits issued within priority project quotas and countries of origin of foreign nationals working in special economic zones, and to self-employed foreign nationals
- 4) Karachaganak, North Caspian and Tengiz project subsoil users, as well as their operators, contractors and subcontractors (except for organisations hired by the subcontractors themselves) until 1 January 2015, subject to the provision of documents supporting their participation in these projects

Question: What are the consequences for foreign nationals of violating work permit rules?

Answer: Violations of the rules for hiring foreign nationals and for working illegally in Kazakhstan will be subject to the following administrative fines:

- KZT 55,560 (approximately US\$ 305) on individuals
- KZT 92,600 (approximately US\$ 509) on officials
- KZT 370,400 (approximately US\$ 2,037) on individual entrepreneurs, small and medium-sized businesses
- KZT 1,852,000 (approximately US\$ 10,182) on large businesses

A foreign national or stateless person working without a valid work permit will be subject to an administrative fine of KZT 46,300 (approximately US\$ 255) and deported from Kazakhstan.

Question: Are foreign nationals entitled to any visa breaks?

Answer: Recent Kazakhstan immigration rule changes have introduced limited visa-free entry to Kazakhstan for citizens of the USA, Italy, the UK, France, Germany, the Netherlands, Malaysia, UAE, South Korea and Japan.

Thus, between 15 July 2014 and 15 July 2015 citizens of the above countries with valid passports will be entitled to travel to Kazakhstan for up to 15 calendar days without having to apply for a visa.

Multiple entries and exits from Kazakhstan, including transit to other countries, are permitted within the 15-day period.

If an extension to the initial 15-day period in Kazakhstan is justified, foreign individuals should obtain a single-entry business visa from the Ministry of Internal Affairs (for up to 30 calendar days only) or an investor's visa from the Ministry of Foreign Affairs (for up to 90 calendar days only), accordingly.

Consequences of Tax Evasion

Any violation of tax law entails administrative fines in accordance with the Administrative Offences' Code. Late registration with the tax authorities is subject to an administrative fine of 5-35 times the monthly calculation index (MCI) (US\$ 50–350). If the delay in registering with the tax authorities is more than 90 days, the administrative fine will be 8-70 MCI (US\$ 80-701).

Tax evasion will result in an administrative fine of between 15 and 50% of the total amount due or administrative arrest for up to 45 days, with the seizure of the objects and tools that served as the means for committing the offence, as well as assets generated as a result of illegal actions.

Violation of the statutory deadline for registering with the tax authorities entails an administrative fine of 10-75 MCI (US\$ 100–750).

Residency Status

Question: What are the tax residency rules in Kazakhstan?

Answer: A foreign individual is considered a Kazakhstan tax resident if he/she permanently resides in Kazakhstan.

An individual is deemed as permanently residing in Kazakhstan for the current tax year if their presence in the country exceeded 182 calendar days (including both arrival and departure days) in any consecutive 12-month period ending in the current tax year.

This rule is used to determine an individual's residency status and tax base, whether a tax return needs to be filed and the relevant individual income tax rate.

In addition, if an individual is deemed to be simultaneously a tax resident of Kazakhstan and a treaty country (a country with which Kazakhstan has entered into a double tax treaty), then residency could be determined based on the treaty's so-called "tie breaker rules", which prevail over domestic tax law. However, to apply treaty provisions, an individual needs to be able to present a residency certificate from their treaty country confirming residency status there.

Filing Requirements

Question: Do I need to file a tax return in Kazakhstan?

Answer: It depends on your residency status and income type.

Individual tax filing obligations arise in Kazakhstan:

a) for **residents** who

- 1) have received Kazakhstan-source income that is not subject to taxation at the source of payment in Kazakhstan
- 2) have received income from any sources outside of Kazakhstan;
- 3) held money in a bank account outside of Kazakhstan on December 31 of the reporting year

The Tax Code requires tax residents to file a tax return if they hold money on a foreign bank account. Such tax return bears only informative character and does not lead to any tax obligations in Kazakhstan.

b) for non-residents who

1) have received Kazakhstan-source income not subject to taxation at the source of payment in Kazakhstan

Question: Do I have to pay tax in Kazakhstan if I qualify as a tax non-resident?

Answer: Yes, if you are a non-resident who has received any Kazakhstan-source income.

Question: What is Kazakhstan-source income?

Answer: Kazakhstan-source income includes all income received by an individual for work or other activities in Kazakhstan, irrespective of where payment is made.

Tax Rates

Question: At what rate will my income be taxed at?

Answer: Residents are taxed at 10% on all type of income paid in cash or in kind, except for dividends, which are taxed at 5%.

Non-residents are taxed at 10% on their employment income, 15% on dividends and interest and 20% on non-employment/other income.

Tax Year, Filing Deadlines and Tax Forms

Question: What is the tax year in Kazakhstan?

Answer: The tax year is from 1 January until 31 December 31.

Question: When do I need to file a tax return?

Answer: Annual tax return are due by 31 March of the year following the reporting year. Filing extensions are possible for up to 30 calendar days if returns are filed electronically. Electronic filing keys should be obtained in advance.

Importantly, only filing deadlines may be extended. Payment deadlines may not be extended.

Question: Are there any penalties for filing a late tax return?

Answer: Yes. The tax authorities may impose a fine for a late tax return of 15 MCI (KZT 27,780 in 2014). In addition, the tax authorities require a special administrative violation protocol be signed, otherwise they will not accept a late return.

Question: What form should I use to file my individual income tax return and how do I file it?

Answer: The annual individual income tax return is form 240.00 (and its various appendices, depending on the type of income to be reported).

Returns can be filed in hard copy (paper based) with the tax authorities directly, by mail or electronically using a filing key.

Question: Can spouses file joint returns?

Answer: No, only individual tax returns are possible in Kazakhstan.

Question: In what currency should I report my taxable income?

Answer: Any income received may be reported in one of two ways:

- in the currency in which it was received at the National Bank of Kazakhstan exchange rate as at the date income was received;
- In KZT.

Tax Payments

Question: How is tax paid in Kazakhstan?

Answer: Individual income tax can be either withheld at the source of payment by the paying entity, if required, or paid by the individual if it is not withheld at the source of payment.

Question: If I need to, how do I pay tax myself?

Answer: Individual income tax not paid at source should be paid in cash or by wire transfer from your personal bank account by 10 April of the year following the reporting tax year.

Question: In what currency do I pay tax?

Answer: Individual income tax should be paid in KZT as the tax authorities do not accept tax payments in any other currency. To facilitate payment, we advise that you open a personal bank account in one of the local banks.

Question: Can my employer pay tax on my behalf?

Answer: Individual income tax payments from a corporate bank account are not recommended as the tax authorities can find it hard to allocate them to individuals' personal accounts, which can lead to prolonged negotiations and documentation to prove that your employer is merely acting as an agent on your behalf.

Question: Is interest charged on a late tax payment?

Answer: Yes, interest is charged for each day a payment remains overdue.

Taxable Income

Question: Which income elements are taxable?

Answer: The majority of employment income elements are taxable, including:

- salaries
- bonuses
- living allowances

- overseas premiums
- hardship allowances
- cars provided for private use
- housing allowances
- rest and recreation
- home leave payments
- tax paid or reimbursed by an employer
- stock options
- employer contributions to pension plans

Investment income, including:

- foreign bank interest
- dividends, except those not taxable according to the Tax Code
- employer contributions to pension plans
- capital gains
- winnings from Kazakhstan lotteries (if the non-taxable limit is exceeded)
- gambling winnings
- specific insurance payouts

Non-Taxable Income

Question: What income is non-taxable?

Answer: There are limited types of income that are exempt from tax in Kazakhstan, including:

- specific business-related expenses
- employer obligatory and/or accumulative insurance contributions
- medical costs, except cosmetology; child birth payments, monetary assistance following the death of a close relative (burial) properly documented and within established limits
- child alimony
- income from the sale of residential property, apartments, rooms, country houses, garden cottages or allotments, and shares in the same, if it has been owned (ownership registered with the state authorities) for over one year. If this is not the case, tax should be paid on any positive difference between the selling price and documented acquisition expenses. If documentation confirming acquisition prices is not available, taxpayers may deduct the market value of the property at the moment of acquisition from the sale price
- income from the sale of vehicles subject to state registration in Kazakhstan is not taxable provided they have been owned for over one year (from the moment of ownership registration in Kazakhstan). If this is not the case, actual purchase expenses/original value of the vehicle may be deducted from the sale price as described above

Tax Deductions

Question: What tax deductions am I entitled to?

Answer: Kazakhstan tax residents can claim the following deductions to reduce taxable income:

- the Minimum Monthly Salary (“MMS”)
- obligatory pension fund contributions
- voluntary pension contributions made in one’s own favor
- insurance contributions made by an individual in his own favor according to cumulative insurance agreements
- specific medical expenses up to 8 MMS, provided they have been properly documented

Social / Pension Contributions

Question: Do I need to make social/pension contributions in Kazakhstan while I am on assignment?

Answer: Not unless you acquire a Kazakhstan residence permit or become a Kazakhstan citizen.

Question: Does my employer make social/pension contributions in Kazakhstan on my behalf?

Answer: Not unless you acquire a Kazakhstan residence permit or become a Kazakhstan citizen.

Double Tax Treaties

Question: Can an expatriate be exempt from Kazakhstan income tax?

Answer: You need to check whether Kazakhstan has entered into a double tax treaty (“DTT”) with your home country. If so, you may be exempt from income tax in Kazakhstan, provided certain conditions are met.

Question: How can I claim DTT exemption?

Answer: You may need to file a tax return, and provide the tax authorities with a document issued and certified by the relevant authorities in the treaty country confirming residency status there.

The following is a list of countries with which Kazakhstan has a DTT in place:

Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, China, Czech Republic, Estonia, Finland, France, Georgia, Germany, Hungary, India, Iran, Italy, Japan, Korea, Kyrgyzstan, Latvia, Lithuania, Malaysia, Moldova, Mongolia, the Netherlands, Norway, Pakistan, Poland, Romania, Russia, Singapore, Slovakia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, United Arab Emirates, the USA and Uzbekistan.

Question: How can I claim a foreign tax credit in Kazakhstan?

Answer: If you are a Kazakhstan tax resident and have paid tax abroad on foreign source income, you can credit it against your Kazakhstan tax liability.

For this, you need to provide an official document that has been certified by the foreign tax authorities and that confirms the amount of tax paid abroad. The documentation should be translated into Kazakh or Russian, and apostilled/legalised.

Question: How can I claim DTT benefits in my home country?

Answer: To claim DTT benefits in your home country you will probably have to obtain a tax residency and/or tax payment certificate from the Kazakhstan tax authorities for non-residents.

The tax authorities will issue Kazakhstan tax residency confirmation based on a written application supported by documents such as passport copies, to confirm physical presence, registration in Kazakhstan and copies of employment contracts.

The tax authorities may also issue confirmation of income received and taxes paid in Kazakhstan following an application, but may also request additional documents.



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Please do not hesitate to contact us should you require professional tax and legal services. We will be glad to help

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