

Tax Alert

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Key changes

This Tax Alert covers the most significant amendments and additions to tax and accounting legislation.

Kazakhstan has acceded to the Convention on Mutual Administrative Assistance in Tax Matters

An official signing ceremony for the Act confirming Kazakhstan's accession to the Convention on Mutual Administrative Assistance in Tax Matters took place at Organisation for Economic Co-Operation and Development (OECD) headquarters¹.

Currently, 63 countries have acceded to the Convention, whose main aim is to tackle tax avoidance and evasion at an international level. Countries help each other by exchanging information, conducting simultaneous tax controls, and enforcing tax payments and others.

According to the established procedure, the Convention will enter into force three months after its approval. It will allow Kazakhstan to systemise tax monitoring for Kazakhstan individuals and companies not only domestically but also abroad.

International treaty amendments signed

On 30 January 2014, the President signed a Law *On the Introduction of Amendments and Additions to Certain Legislative Acts of Republic of Kazakhstan on International Treaties of the Republic of Kazakhstan* so as to improve legislation dealing with international treaties.

The Law stipulates amendments and additions to Laws *On International Treaties of the Republic of Kazakhstan* and *On Languages in the Republic of Kazakhstan*.

A planning system has been introduced to systemise the process for concluding international agreements and improve Ministry of Foreign Affairs monitoring.

Planning will be based on concepts for concluding international treaties provided by the state authorities, and which should help in determining the viability of signing a particular treaty, planning the conclusion process and state internal procedures, and also in monitoring contractual obligations accepted by Kazakhstan.

The International Treaties Law provides also prohibits the conclusion of international treaties that do not meet Kazakhstan national interests and that

¹ Government Resolution *On the Government of the Republic of Kazakhstan's Signing of the Convention on Mutual Administrative Assistance in Tax Matters* dated 29 November 2013

have the potential to impair national security or lead to the loss of Kazakhstan independence.

Amendments have also been made to laws stipulating the conclusion of bilateral treaties with foreign countries in Kazakh and, with the parties' consent, other languages.

Kazakhstan National Chamber of Entrepreneurs - membership fees

Starting from 2014, companies in Kazakhstan will have new type of expense, namely, annual obligatory membership fee to Kazakhstan National Chamber of Entrepreneurs.

Rules on obligatory membership fee payment to National chamber of Kazakhstan entrepreneurs (hereinafter, "Rules") has been approved by RK Government Resolution dated 31 December 2013.

According to the Rules, companies are divided into the following groups based on aggregate annual income (hereinafter, "AAI") for determination of obligatory membership fees' size:

- 1) companies with AAI² up to 60 thousand MCI³;
- 2) companies subjects with AAI² from 60 thousand MCI up to 1.5 million MCI³;
- 3) companies subjects with AAI² in excess of 1.5 million MCI³.

Recently, Government has set the sizes of annual obligatory membership fees:

- AAI between 60 thousand MCI and 1.5 million MCI – 160 MCI or 296,320 KZT;
- AAI in excess of 1.5 million MCI – 4,400 MCI or 8,148,800 KZT.

Companies with AAI up to 60 thousand MCI are relived from obligatory membership fee's payment during five years.

Membership fees are set by a session of the National Chamber and published annually in the mass media, including internet-resources, before 1 July.

At the National Chamber's request, the tax authorities should provide information on the name of individual entrepreneurs, legal entities and their identification numbers, if their aggregate annual income corresponds to the above criteria.

Based on information provided by the tax authorities, the National Chamber should issue annual paper or electronic membership fees invoices by 1 July. Payment should be made before 31 December in accordance with account details shown on the National Chamber website.

² AAI for calendar year preceding the reporting calendar year

³ Monthly Calculated Index, established by the law on republic budget and effective on 1 January of calendar year preceding the reporting calendar year

The Tax Code stipulates that membership fees paid to the National Chamber are deductible for corporate income tax purposes up to the maximum set by the government.

Entry into force of Double Tax Treaties with Luxembourg and the United Arab Emirates

In a previous issue we informed you about the ratification of Double Tax Treaties (“DTT”) with Luxembourg and the United Arab Emirates (“UAE”).

The Kazakhstan Association of Taxpayers in connection with frequent taxpayer requests, has forwarded a letter to the Ministry of Finance Tax Committee requesting a clarification of the dates the above DTT came into effect.

The following response was received:

- 1) the effective date of the Luxembourg DDT is 11 December 2013;
- 2) the effective date of the UAE DDT is 27 November 2013.

In addition, according to point 2 of article 29, the Luxemburg DTT applies to:

- a) taxes withheld at the source of payment on income received from 1 January or after 1 January of the calendar year following the year the DDT came into force;
- b) other taxes on income and capital taxable in any tax year starting 1 January or after 1 January of the calendar year following the year the DDT came into force.

According to point 3 of article 30, the UAE DTT applies to:

- a) taxes withheld at the source of payment on amounts payable or offset from 1 January or after 1 January of the calendar year following the year the DDT came into force;
- b) other taxes, in relation to a taxable period starting from 1 January or after 1 January of the calendar year following the year the DTT came into force.

Based on the above, the above DTTs apply to taxes on income received by contracting country residents from 1 January 2014.

Ratification of the Kazakhstan and Switzerland Double Tax Treaty

In the December tax alert, we informed you that the Majilis had approved amendments to the Kazakhstan and Switzerland Double Tax Treaty.

A protocol between the Kazakhstan Government and the Swiss Federal Council on amendments and additions to the above Treaty was ratified by Kazakhstan in a Law dated 11 February 2014.

Amendments are made to Article 25 “Mutual agreement procedures” and Article 26 “Information exchange” of the Treaty. These amendments allow expanding cooperation between tax offices of agreeing countries and conducting an information exchange for the purpose of preventing tax evasion.

The terms “pension fund or pension plans”, “pension” are aligned according to legislation of the Republic of Kazakhstan.

Signing of a Double Tax Treaty between Kazakhstan and Slovenia

The draft of a Double Tax Treaty between the Governments of Kazakhstan and Slovenia was approved in accordance with a Government Resolution dated 3 February 2014.

The Treaty is yet to be ratified. The contracting countries will notify each other in writing through diplomatic channels once all internal procedures required for the Treaty to come into force have been completed. The treaty will enter into force upon receipt of the final written notification.

The treaty will apply to taxes withheld at source and other taxes on income or capital earned from 1 January or after 1 January of the calendar year following the year in which the Treaty enters into force.

Transfer of assets to a Unified Accumulating Pension Fund

The transfer of assets from private pension funds to the Unified Accumulating Pension Fund will be completed by 1 April, as reported by National Bank Chairman, Kairat Kelimbetov. He also announced that a special program to reduce the level of problem loans will be developed in the banking sector in the near future.

How to contact us

Should you have any questions about the information in this issue of our Tax Alert or any other questions regarding business operations in Kazakhstan, please do not hesitate to contact any of our team members.

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