

Tax Alert

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Major changes

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

Amendments to the Double Tax Treaty between Kazakhstan and Czech Republic were made

On March 11 amendments to the Double Tax Treaty between Kazakhstan and Czech Republic were presented for review and on March 27 those amendments were approved.

Changes were mainly introduced to Articles 23 “On elimination of double taxation” 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 Law “On bankruptcy” facilitated the amendments to the Tax Code

The law #177-V “On introduction of amendments and additions to certain legislative acts of the Republic of Kazakhstan on bankruptcy, rehabilitation and bankruptcy” dated March 7, 2014 facilitated the amendments to the Tax Code.

The following changes were made:

- Article 24 of the Tax Code was supplemented by paragraph 6-1 on cooperation between the tax authorities and the National Bank of Kazakhstan during the tax audit to obtain the assurance that the taxpayer’s insurance reserves, reserves on unearned premiums, unrealized losses derived from unsettled losses, realized but not claimed losses are in compliance with established insurance and insurance activity legislation.
- Paragraph 3, of Article 89-1 "Income of insurance, reinsurance business entity from insurance and reinsurance agreements” was outlined in new edition.
- Article 90 "Income from decrease in set provisions (reserves)"was supplemented by subparagraphs 7) and 8), that do not consider as income:
 - The decrease in financial accounting of claims in the form of uncollected loans and interest on those loans, accounts receivable and guarantees in case if the claim to the debtor was not partially or fully terminated in the reporting period in accordance with the Kazakhstani legislation;

- The decrease of the claim due to debt forgiveness by the taxpayer that is able to deduct expenses on provisions (reserves) in accordance with Article 106, p. 1 or interest and principal on bad debt within the maximum amount of the relation of the loan and interest forgiven during the tax period to the amount of principal at the beginning of the tax period. However, the maximum value of such relation is 0.1.
- Article 106-1 on "Deductions due to the decrease of the reinsurance assets" is outlined in new edition.
- Article 155 was supplemented by paragraph 29 that lists incomes of the individual that are not considered as income for the purpose of Personal Income Tax.

Duties on crude oil are to change

Based on Resolution #21 of the Government of Kazakhstan dated March 11, 2014 export duties on crude oil are to be changed.

Starting from March 2012 export duty on crude oil is USD 80 for a metric ton. Moreover, starting from March 2, 2014 the list of petroleum products subject to export duties was extended – export duties on the oils, bituminous mixture and waste petroleum products is now USD 112,58 for a metric ton.

The list of income sources of an individual not subject to pension and social contributions amended

Based on the Resolution of the Government # 250 dated March 20, 2014 certain amendments to legislative acts are made.

In particular, starting from March 1, 2014 the following amendments to the Rules of calculation and payment of social contributions and the Rules of calculation, withholding and payment of obligatory pension contributions and obligatory professional pension contributions entered into force.

Social contributions are not paid on income indicated in:

- Paragraph 3, Article 155;
- Paragraph 1, Article 156;
- Subparagraphs 4), 5), 6) of paragraph 2, Article 357 of the Tax Code

Except for income mentioned in subparagraphs 10), 12), 13) of paragraph 1, Article 156.

Obligatory pension contributions are not to be withheld from payments provided in:

- Paragraph 3, Article 155 of the Tax Code, except for those set in subparagraph 13) of paragraph 3, Article 155 of the Tax Code (in part of lost income);
- Paragraph 1, Article 156 of the Tax Code except for those set in subparagraph 10), 12), 13), 26-1) of paragraph 1, Article 156 of the Tax Code;
- Subparagraph 1), 2), 3), 4), 5) of paragraph 2, Article 357 of the Tax Code;

- Subparagraph 13 of paragraph 1, Article 156 of the Tax Code with regards to income received in-kind or a material benefits.

Forms of tax applications amended

Based on the Resolution of the Government # 106 dated February 18, 2014 amendments were introduced to the Resolution of the Government # 1390 dated November 29, 2013 “On approval of the forms of tax applications”.

That is:

- Subparagraph 4) of paragraph 1 was amended;
- The form of tax application on the call back of the tax return is presented in new edition;
- The form of tax application for obtaining a certificate on incomes derived from the sources in Kazakhstan and withheld (paid) taxes in presented in new edition.

This Resolution is effective from January 1, 2014 is subject to official publication.

The procedures on obligatory professional pension contributions were approved

Based on the Resolution of the Government #255 dated March 26, 2014 procedures and rules for obligatory professional pension contributions were approved. Below we provide the main provisions of those Rules:

- Obligatory professional pension contributions in favor of their employees are paid by depositors from their own funds (gross up method).
- The applicable professional pension contributions rate is set in accordance with Article 26 of the Law of the Republic of Kazakhstan “On pension support in the Republic of Kazakhstan”.
- Depositors make obligatory professional pension contributions on a monthly basis based on employee’s monthly accrued salary.
- The base for calculation of obligatory professional pension contributions is all monthly incomes of an employee stipulated by the Tax Code.
- The following benefits are not considered as income for the purpose of obligatory professional pension contributions:
 - stipulated in paragraph 3, Article 155 of the Tax Code;
 - stipulated in paragraph 1, Article 156 except for those set in subparagraphs 12), 13), 26-1) of paragraph 1, Article 156 of the Tax Code;
 - stipulated in subparagraphs 4), 5) of paragraph 2, Article 357 of the Tax Code.
- Expenses related to the payment of obligatory professional pension contributions are included to the wage funds.
- The amount of obligatory professional pension contributions paid by the depositors is deductible for CIT purposes in accordance with the tax legislation of the Republic of Kazakhstan.

The letter of the Tax Code on the Chisinau Convention

As was mentioned in our December tax alert, the Tax Committee of the Ministry of Finance finds the Chisinau convention not applicable for tax matters. Based on the request of the Association of the Taxpayers, on April 22 the Tax Committee of the Ministry of Finance presented its position towards the Chisinau Convention (letter №HK-13-452-HK-3204 dated 22.04.2014). It states that the Chisinau Convention is not applicable to tax issues and drafts of the Minutes and Memorandums between the member-countries are being discussed. Those Minutes and Memorandums stipulate recognition of the residence based on the original or a notarized copy of the document proving the residence without the legalization procedure. This provision will apply retrospectively. However, currently tax departments were instructed to request the confirmation of residence from the authorized bodies of foreign countries in cases when provided residence certificates were not legalized until those Minutes and Protocols are not finally approved. Thus, if the residence certificate violates the provisions of paragraph 5, Article 219, the tax agent is obliged to withhold income tax from payments made to the non-resident in accordance with Article 193.

How to contact us

Should you have any questions about the information contained 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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