

International Tax Kazakhstan Highlights 2018



Investment basics:

Currency – Kazakhstan Tenge (KZT)

Foreign exchange control – Payments between residents can be made only in Tenge, payments between residents and nonresidents may be made in any currency. Certain transactions may be subject to the national bank's notification or registration regime.

Accounting principles/financial statements – Large entities and public companies in Kazakhstan must use IFRS, while small and medium-size enterprises, branches and representative offices of foreign entities may use IFRS or national financial reporting standards.

Principal business entities – Principal forms of business include the joint stock company, limited liability company, unregistered partnership (consortium), branch and representative office of a foreign corporation.

Corporate taxation:

Residence – A company is considered to be a Kazakh tax resident if it is established under the laws of Kazakhstan or if its governing body/place of actual management and control is located in Kazakhstan.

Basis – Resident companies are taxed on worldwide income. Nonresidents generally are taxed only on Kazakhstan-source income.

Taxable income – Entities are subject to corporate income tax on business profits and other taxable income. Expenses may be deducted against income if wholly and exclusively incurred for business-related purposes and if are substantiated by supporting source documentation.

Taxation of dividends – Dividends received are effectively exempt from income taxation, except for

certain categories of dividends (such as dividends received from risk investment funds) provided specific requirements are met.

Capital gains – Capital gains are taxed at the standard corporate income tax rate. Certain categories of capital gains (including gains derived from the sale of shares that principally do not derive their value from subsurface use property) are exempt if certain conditions are satisfied.

Losses – Operating losses generally may be carried forward for up to 10 years following the year in which the loss is incurred. The carryback of losses is not permitted.

Rate – The standard corporate income tax rate of 20% applies to domestic and foreign companies.

Surtax – A surtax exists in the form of an excess profit tax levied on subsurface users. Starting from 1 January 2018, the excess profits tax is abolished for subsurface users engaged in the mining industry.

Alternative minimum tax – No

Foreign tax credit – A credit generally is available for foreign taxes paid on foreign-source income, based on documentation confirming the foreign income tax payment.

Participation exemption – No

Holding company regime – No

Incentives – Certain incentives are available in the form of accelerated tax deductions for capital expenditure, provided certain requirements are met. There also are incentives for investments in priority economic sectors relating to business in special economic zones, and investments in qualifying investment priority projects. In addition, special tax regimes/incentives are available for qualifying nonprofit organizations and organizations operating in social spheres.

Withholding tax:

Dividends – A withholding tax of 15% is levied on dividends paid to nonresidents without a permanent establishment (PE) in Kazakhstan. A 20% tax rate applies to dividends paid to nonresidents registered in a tax haven jurisdiction. The tax rate may be reduced in line with the corresponding provisions of an applicable tax treaty in force with Kazakhstan.

Interest – A 15% withholding tax is levied on interest paid to nonresidents without a PE in Kazakhstan. Interest paid to nonresidents registered in a tax haven jurisdiction is subject to a 20% rate. The tax rate may be reduced in line with the corresponding provisions of an applicable tax treaty in force with Kazakhstan.

Royalties – Royalties paid to nonresidents without a PE in Kazakhstan are subject to a 15% withholding tax. A 20% rate applies to royalties paid to nonresidents registered in a tax haven. The tax rate may be reduced in line with the corresponding provisions of an applicable tax treaty in force with Kazakhstan.

Technical service fees – The tax code does not specifically provide a definition of technical services. However, as a general rule, payments for technical services to nonresidents without a PE in Kazakhstan are considered Kazakh source income, and are subject to a 20% withholding tax. Certain technical service fees may be reclassified as royalties subject to a 15% withholding tax. The tax rate may be reduced in line with the corresponding provisions of an applicable tax treaty in force with Kazakhstan. A 20% rate applies to technical service fees paid to a nonresident registered in a tax haven, regardless of the nature of services provided.

Branch remittance tax – A net profit tax applies. A PE of a nonresident foreign company is subject to a net profit tax of 15% on net after-tax income, in addition to corporate income tax. The net profit tax is payable regardless of whether net profits are “remitted” to the parent company. The tax rate may be reduced in line with the corresponding provisions of an applicable tax treaty in force with Kazakhstan.

Other taxes on corporations:

Capital duty – No

Payroll tax – An employer is required to remit social tax at a flat rate of 9.5%, applied to an employee’s gross salary (both local and foreign), at its own expense.

As tax agents, employers are required to withhold and remit a 10% individual income tax and obligatory pension fund contributions on behalf of employees. Contributions

to private pension accounts are equal to 10% of the monthly salary, up to a maximum of KZT 212,130 per month. See also under “Social security,” below.

In addition to employee contributions, employers are liable for additional professional pension fund contributions equal to 5% of gross income of employees (Kazakh citizens and residence permit holders) involved in hazardous/harmful activities.

Real property tax – Property tax is levied on immovable property located in Kazakhstan at progressive rates ranging from 0.1% to 1.5%, depending on a taxpayer’s activities.

Social security – The employer must pay social security contributions to the State Social Security Fund at an effective rate of 3.5% (with an income cap of KZT 282,840), in addition to local employees’ salaries. Any social contributions paid ultimately reduce the amounts of social tax due (see under “Payroll tax,” above).

Obligatory social medical insurance contributions to the Social Medical Insurance Fund are also paid by the employer in the amount of 1.5% of an employee’s gross salary (taxable income is capped at KZT 424,260).

Stamp duty – No standalone stamp duty regime exists. However, the authorities may impose a levy on various legal actions, such as the issuance of documents by state bodies.

Transfer tax – No

Other – Corporate taxpayers undertaking licensed activity to extract mineral resources in Kazakhstan are subject to a specific subsurface user taxation regime, which includes the excess profit tax (see under “Surtax,” above), mineral extraction tax and rent tax on exports, in addition to bonuses payable upon signature of license agreements and upon confirmation of commercial discoveries. Starting from 1 January 2019, the bonus for commercial discovery bonus will be fully abolished.

Starting from 1 January 2018, certain oil and gas companies may choose to apply a newly introduced alternative tax on subsurface usage instead of certain taxes generally applicable to subsurface users.

Along with enactment of the New Code on Subsurface and Subsurface Usage on 1 July 2018, it is expected that the procedure for granting certain subsoil usage rights in the mining industry will be simplified.

Tax also is levied on transportation activities.

Anti-avoidance rules:

Transfer pricing – Kazakhstan’s transfer pricing legislation applies to all cross-border transactions and certain domestic transactions between related and

unrelated parties. The law adopts the arm's length concept, although the definition is somewhat different from that in the OECD transfer pricing guidelines. Kazakhstan has introduced the concept of three-tiered transfer pricing documentation, including country-by-country reporting requirement, which effective retroactively starting 1 January, 2016. A framework for advance pricing agreements is included in the domestic legislation.

Thin capitalization – The deduction of interest is generally limited by a specific debt-to-equity formula set by the tax legislation. Deductions of an interest accrued with respect to nonresident parties are additionally be limited by the applicable market rate. The amount of interest accrued with respect to nonresident related parties in excess of the applicable market level must be recognized as a deemed dividend.

Controlled foreign companies – CFC rules apply to residents with at least a 25% shareholding or control (as defined by IFRS) in a tax haven entity or entity, which is taxed at effective tax rate of less than 10%. The government has issued a list of tax haven jurisdictions. Kazakh residents holding shares or control in CFCs are required to include CFC profits proportionate to their shareholding or control in aggregate annual income.

Disclosure requirements – No

Compliance for corporations:

Tax year – Calendar year

Consolidated returns – Consolidated returns are not permitted; each company must file a tax separate return. However, nonresidents with several PEs in Kazakhstan may opt to file a consolidated tax return.

Filing requirements – The corporate income tax return is due by 31 March of the year following the reporting tax year. A one-month extension may be obtained for electronically filed tax returns.

Penalties – Penalties are assessed at 1.25 times the official refinancing rate established by the National Bank for each day of delay in paying the tax due.

Rulings – The tax authorities generally issue nonbinding rulings of an explanatory nature. However, rulings issued by the tax authorities individually to taxpayers shall be considered during the tax appeal process. Advance pricing agreements are also possible.

Personal taxation:

Basis – Resident individuals are taxed on worldwide income. Nonresidents are taxed only on their Kazakh-source income.

Residence – Tax residence is based on whether an individual is permanently residing in or has his/her center of vital interests in Kazakhstan. The permanent residence test is based on the number of days of presence in Kazakhstan: a foreign individual is deemed to be a resident if he/she is present in Kazakhstan no less than 183 days in any consecutive 12-month period ending in the reporting tax year. The center of vital interests test is based on whether an individual is a citizen or a holder of a Kazakh residence permit, has spouse and/or close relatives and a place of abode in Kazakhstan.

Filing status – Joint filing is not permitted; each individual must file his/her own return, if required.

Taxable income – Kazakh-source income includes income from employment and other activities in Kazakhstan and any other benefits received in this respect, regardless of where payment is made. Taxable income is comprised of employment income (including benefits in kind), income from a business and passive income.

Capital gains – Income derived from the sale of property is treated as capital gains subject to taxation unless the individual has held the property for more than one year. Subject to certain exceptions, income derived from the sale of shares of participations and securities is treated as capital gains subject to taxation. Income in the form of capital gains is taxed at the rate generally applicable to the individual.

Deductions and allowances – Standard monthly deductions are allowed for tax residents, such as a minimum monthly salary deduction (KZT 28,284 per month) and deductions for obligatory pension fund contributions, medical costs, etc., with certain limitations.

Rates – Employment income is taxed at a flat rate of 10% for both residents and nonresidents. Dividends are taxed at 5% for residents. Dividends and capital gains are taxed at 15% for nonresidents. Other income is taxed at 10% for residents and 20% for nonresidents.

Other taxes on individuals:

Capital duty – No

Stamp duty – See under “Other taxes on corporations,” above.

Capital acquisitions tax – No

Real property tax – Property tax is levied on immovable property located in Kazakhstan at progressive rates, depending on the value of the property. The applicable rate of taxation varies from 0.05% to KZT 2,946,600 + 2% of (property value minus KZT 450 million).

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – See under “Other taxes on corporations,” above.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Individual income tax on employment income is subject to withholding, payment and reporting by the employer. Payment is due by the 25th day of the month following the month in which the income was paid. Income and tax should be reported on a quarterly basis by the 15th day of the second month following the reporting quarter.

If an individual receives income not subject to taxation at source, or if a tax resident possesses foreign assets (overseas positive balance bank account, immovable property, foreign legal entity shares or equity capital interests), a tax return might be required to be filed by 31 March of the year following the reporting year, with the payment of final tax due by 10 April.

Penalties – Penalties apply for late payment of taxes, and administrative fines are imposed for noncompliance.

Value added tax:

Taxable transactions – VAT is levied on the supply of goods and services and on imports. A reverse charge applies in certain cases.

Rates – The standard rate is 12%. Exemptions apply certain transactions, such as exports and financial.

Registration – Registration is compulsory for companies whose turnover exceeds KZT 72,150,000 in a calendar-year period. Otherwise, registration is optional.

Filing and payment – Payment is due by the 25th day of the second month following the reporting quarter. VAT and related turnover should be reported on a quarterly basis, by the 15th day of the second month following the reporting quarter.

Source of tax law: Code of the Republic of Kazakhstan on taxes and other mandatory payments to the budget (Tax Code)

Tax treaties: Kazakhstan has concluded 52 international tax treaties on double taxation avoidance.

Tax authorities: State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan; state revenue departments at the regional level and for the cities of Almaty and Astana; state revenue agencies at the district and town levels.

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