

Tax guide 2009/2010  
Foreign nationals  
coming to *Azerbaijan*



# Content

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Deloitte would like to present you this brief overview of the Azerbaijan personal tax and compliance procedures. For your convenience this guide is presented in a Frequently Asked Questions format

Welcome to Azerbaijan!

Since the Azerbaijan tax system is developing at a rapid pace, we would recommend that you use this brochure for general guidance only. Azerbaijan currently has three taxation regimes — a statutory regime, a PSA regime, and a HGA regime. Since most PSAs in Azerbaijan are similar, we will be referring to the Azeri-Chirag-Guneshli PSA herein. Taxation of foreign employees under the two existing HGAs (“Main Export Pipeline HGA” and “South Caucasus Pipeline HGA”) is similar. In this brochure we will provide you with information on these three taxation regimes (the first part of the answers will be related to the statutory taxation regime, the second part to the PSA taxation regime, and the third part respectively to the HGA taxation regime). Please contact us to discuss your specific situation.

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# Abbreviations

PSA	Production Sharing Agreement
HGA	Host Government Agreement
AZN	Azerbaijan Manat
USD	US Dollar
PIT	Personal Income Tax
VAT	Value Added Tax
SIC	Social Insurance Contributions
SSPF	State Social Protection Fund
DTT	Double Tax Treaty

# Arrival, Registration and Work Permits

## Question

Do I have to notify the tax authorities of my arrival/ departure?

## Answer

1. No, there is no such requirement. However, if you are engaged in an entrepreneurial activity in Azerbaijan and are going to depart from Azerbaijan, you must file a final tax return in case of cessation of your activity within 30 days.
2. No, there are no such requirements with regard to PSAs.
3. No, there are no such requirements with regard to HGAs.

## Question

Do I need to register with the Azerbaijan state authorities upon arrival?

## Answer

1. Yes. The registration with an appropriate body of the Ministry of Internal Affairs, determined on the basis of place of accommodation, must be performed within 3 days (excluding weekends and holidays) after your arrival in Azerbaijan. This requirement is applicable only if you intend to stay more than 30 days in Azerbaijan.
2. Yes, the above rules also apply under PSAs.
3. Yes, the above rules also apply under HGAs.



### Question

Do I require a work permit to work in Azerbaijan? If yes, how do I obtain the permit, how long is its term, and what is the timeframe and cost of obtaining it?

### Answer

1. Yes, foreign individuals wishing to work in Azerbaijan must obtain a work permit from the Ministry of Labour and Social Protection of Population. An individual permit is issued for a term of one year and may be extended up to four times. An exemption clause applies if you have a domicile in Azerbaijan, you are engaged in an entrepreneurial activity, you hold a managerial position in an organization established under an international agreement, you work in a diplomatic representative office or an international organization, or you are on business trip in Azerbaijan for a period of not more than three months, etc. A work permit is issued upon your employer's application to local authorities. The timeframe for obtaining a work permit is 30 days. The state fee payable for a work permit as well as for any extension of the permit term is AZN 1,000 (approximately USD 1,244).

Starting from 1 July 2009 the process of issuance and extension of visas and work permits as well as registration of foreign individuals with the state authorities on the basis of accommodation is administered by the State Migration Service which was appointed as the "one window" state authority for carrying out the above duties. Visas will be issued by the State Migration Service within 20 days upon submission of the visa applications.

2. The same conditions apply with regard to PSAs.
3. The same conditions apply with regard to HGAs.

### Question

Do I need a local contract?

### Answer

1. Yes, if you are locally employed in an Azerbaijani entity or if you do not have a contract concluded overseas with a head office of a foreign entity having a branch or a representative office in Azerbaijan.
2. The same rules apply with regard to PSAs.
3. The same rules apply with regard to HGAs.

# Tax residency status, taxes and tax rates

## Question

What are the tax residency rules in Azerbaijan?

## Answer

1. You are considered an Azerbaijan tax resident if you were physically present in Azerbaijan for a period of more than 182 days cumulatively in a calendar year (regardless of nationality).
2. Under PSAs there are three tax residency rules for expatriate employees:
  - An expatriate employee spending more than 30 consecutive days in a calendar year in Azerbaijan for ordinary business purposes becomes a tax resident. Income earned after the 30th day is taxable in Azerbaijan.
  - Individuals spending less than 30 consecutive days but more than 90 cumulative days in Azerbaijan in a calendar year also become tax residents. Income earned after the 90th day becomes taxable.
  - Persons on rotation and expatriates who have their primary place of employment in Azerbaijan are also considered as tax residents if they spend more than 90 cumulative days in Azerbaijan in a calendar year. These persons are taxable from the first day of their presence in Azerbaijan.

In respect of rotators mentioned above, please note that the Clarifications on Protocols Concerning Taxation of Employees and Physical Persons (“Clarifications”) relating to the Azeri-Chirag-Guneshli, Shah Deniz, Alov and Inam Production Sharing Agreements and the Baku-Tbilisi-Ceyhan and South Caucasus Pipeline Host Government Agreements were adopted on 19 April 2006.

The Clarifications provide for clear criteria defining a rotator status which are as follows:

- work to a schedule based on a rotational cycle (i.e. a cycle of days on duty and days off) developed and approved prior to commencement of assignment and maintained on a periodical basis (as required) during the rotational cycle;
  - employer / customer approved the rotational cycle and the class of transportation for rotational travel;
  - return only to home country (i.e. country of residence) upon completion of days on duty.
3. If you are employed under HGAs, you are considered a tax resident when you are present in Azerbaijan for 183 or more days during the year. If you spend less than 183 days during the year, your income will not be subject to Azerbaijan PIT.

### Question

What taxes will my income be subject to? What rates will apply?

### Answer

1. Currently tax residents are generally taxed at the rates detailed in the table below. These rates are applied to their worldwide income paid in cash and / or in-kind:

Monthly Taxable Income	Tax Rates
Up to AZN 2,000	14%
over AZN 2,000	AZN 280 + 35% of the amount exceeding AZN 2,000

  

Annual Taxable Income	Tax Rates
Up to AZN 24,000	14%
Over AZN 24,000	AZN 3,360 + 35% of the amount exceeding AZN 24,000

Income of AZN 75 is tax exempt if a monthly income is up to AZN 200, and income of AZN 900 if an annual income is up to AZN 2,400.

#### ***Starting from 1 January 2010***

the upper limit of the PIT for individuals receiving income from employment will be reduced from 35% to 30%. At the same time, all individuals engaged in an entrepreneurial activity will be taxed at the fixed rate of 20%.

If you conduct business activity in Azerbaijan and if you are not a VAT payer and the volume of your taxable operations does not exceed AZN 22,500 (approximately USD 28,000) in any consecutive three months you have a right to register as a simplified tax payer. If your income exceeds the above noted threshold, you will be obliged to register for VAT purposes.

#### ***Starting from 1 January 2010***

the minimum amount of taxable operations allowing individual entrepreneurs to become simplified tax payers will be set as AZN 90,000 (approximately USD 112,000) in any consecutive 12 months.

Simplified tax is calculated from the revenue received from supply of goods, services and works at the rates of 4% and 2% for Baku and regions, respectively.

2. The same PIT rates apply under PSAs to Azerbaijan tax residents' income earned as a direct result of their employment in Azerbaijan.
3. The same PIT rates apply under HGAs after you become a tax resident.

# Filing requirements

## Question

Do I pay tax in Azerbaijan if I qualify as a non-resident for tax purposes?

## Answer

1. Yes. If you have been physically present in Azerbaijan for a period of less than 183 days in a calendar year you will qualify as a non-resident for tax purposes and will be taxed at the above rates on your Azerbaijan source employment income. Non-residents are taxed on their income obtained from other Azerbaijan sources as follows:

- dividends — 10%;
- interest, including loan interest paid in connection with financial leasing transactions — 10%;
- royalty & rent — 14%;
- international freight or communication — 6%;
- insurance & re-insurance fees — 4%;
- other Azerbaijan source income — 10%.

Azerbaijan source income includes income related to duties performed or services rendered in Azerbaijan and income from property located in Azerbaijan, irrespective of where it is paid.

2. No.
3. No.

## Question

Do I need to file a tax return in Azerbaijan?

## Answer

1. No, provided your only income is from employment, which is subject to withholding tax and is withheld by an entity or an individual from which you receive income.

However, if you are engaged in an entrepreneurial activity in Azerbaijan you have to file either a PIT return or a simplified tax return.

VAT payers must file VAT returns on a monthly basis.

2. No. However, an employer is responsible for filing a return to the tax authorities of all Azerbaijan PIT payments made during the calendar quarter in respect of tax resident foreign employees.
3. No. However, an employer is responsible for filing a return to the tax authorities of all Azerbaijan PIT payments made during the calendar quarter in respect of tax resident foreign employees.

## Question

What is the tax year in Azerbaijan?

## Answer

1. The tax year is a calendar year.
2. Under PSAs the tax year is also a calendar year.
3. Similarly, under HGAs the tax year is a calendar year.

## Question

When do I have to file a tax return?

## Answer

1. Your employer is responsible for filing a return to the tax authorities of PIT payments made during a calendar quarter in respect of its tax resident foreign employees by the 20th of the month following the end of the calendar quarter.

Individual entrepreneurs are obliged to file a PIT return through March 31st following the tax year at the place of tax registration (residence). This deadline can be extended up to three months upon filing of an application and provided that the amount of tax due is paid.

The deadline for filing of a simplified tax return is 20th of the month following the end of the calendar quarter.

If you cease your entrepreneurial activity during the tax year, you are required to file a tax return within 30 days.

VAT payers must file VAT returns no later than 20th of the month following the end of the calendar month.

2. Your employer is responsible for filing a return to the tax authorities of PIT payments made during the calendar quarter in respect of its tax resident foreign employees by the 20th of the month following the end of the calendar quarter. In addition, an employer must provide the Ministry of Taxes with a summary of all Azerbaijan PIT payments made during the calendar year in respect of its tax resident foreign employees before February 1st of the following calendar year.
3. Similarly, under HGAs, your employer is responsible for filing a return to the tax authorities of PIT payments made during the calendar quarter in respect of its tax resident foreign employees by the 20th of the month following the end of the calendar quarter. In addition, an employer must provide the Ministry of Taxes with a summary of all Azerbaijan PIT payments made during the calendar year in respect of its tax resident foreign employees before April 1 of the following calendar year.

# Tax Payments

## Question

Is there any requirement for filing advance tax returns in Azerbaijan?

## Answer

1. No.
2. No.
3. No.

## Question

Can joint returns be filed (taxpayer and spouse)?

## Answer

1. No.
2. No, PSAs do not contain such provisions.
3. No, HGAs do not contain such provisions.

## Question

In what currency should I report my taxable income?

## Answer

1. All amounts of income received should be reported in AZN.
2. Your employer should report your taxable income in AZN or USD.
3. Your employer should report your taxable income in AZN or USD.

## Question

Are there penalties for late filing of tax returns?

## Answer

1. Yes, penalties may be charged in the amount of up to AZN 40 (approximately USD 50).
2. The same penalty applies to taxpayers working under the PSA regime.
3. The same penalty applies to taxpayers working under the HGA regime.

## Question

How is tax paid in Azerbaijan?

## Answer

1. PIT can be paid either via withholding at source when the paying entity has such an obligation or personally by you if you have an obligation to file a tax return.

Payers of simplified tax and VAT are obliged to pay tax personally.

2. Under PSAs, PIT is paid via withholding at source by the employer.
3. Under HGAs, PIT is paid via withholding at source by the employer.

## Question

If I have to pay tax personally, how do I do this?

## Answer

1. If your only income is from employment in Azerbaijan, your employer is responsible for withholding income tax and remitting it to the State Budget.

However, if you receive income from an entrepreneurial activity and you are a PIT payer the income tax due for the current year should be paid in advance to the State Budget in cash or by a wire transfer from your personal bank account by the 15th of the month following each quarter. It should be noted that the amount of advance payments should not be less than 75% of the total income tax due for that specific tax year. The final payment should be made before filing the annual income tax return, i.e. before March 31st of the following year.

If you are a simplified tax payer you are obliged to make tax payment no later than 20th of the month following the end of the calendar quarter.

If you are a VAT payer you should make tax payment no later than the 20th of the month following the end of the calendar month.

2. No, you do not have to pay any PIT personally.
3. No, you do not have to pay any PIT personally.

### Question

In what currency do I pay tax?

### Answer

1. Azerbaijan PIT should be paid in AZN.
2. Under PSAs, an employer may pay the Azerbaijan PIT of its tax resident foreign employees in AZN or USD.
3. Under PSAs, an employer may pay the Azerbaijan PIT of its tax resident foreign employees in AZN or USD.

### Question

Can my employer make a tax payment on my behalf to the tax authorities?

### Answer

1. Yes, your employer must remit the taxes to the State Budget on your behalf.
2. Employers are required to make this payment on your behalf in accordance with PSAs.
3. Employers are required to make this payment on your behalf in accordance with HGAs.

### Question

Are there penalties for late payment of tax?

### Answer

1. Yes, late payment interest is charged at 0.1% of the tax payable for each day of delay.
2. Under PSAs, an employer should pay interest at a rate of LIBOR + 4% per annum for each day of delay of the tax payment.
3. Under HGAs, an employer should pay interest at a rate of LIBOR + 3.5% per annum for each day of delay of the tax payment.

# Taxable Income

## Question

What items of my remuneration are taxable?

## Answer

1. Employment income, including:

- Salary
- Bonuses
- Other in-kind benefits.

Income from investments, including:

- Dividends
- Interest
- Rent
- Royalty
- Capital gains

Miscellaneous:

- Inheritance
- Gifts

Income from entrepreneurial activity, including income from:

- Supply of goods
- Provision of services
- Performance of works.

2. Under PSAs, almost all income of foreign employees earned in Azerbaijan including wages, salaries, bonuses, personal travel costs, educational costs of family members, etc., is considered as taxable income.
3. Similarly, in accordance with HGAs, almost all income of foreign employees earned in Azerbaijan including wages, salaries, bonuses, personal travel costs, educational costs of family members, etc., is considered as taxable income.

## Question

What income can I exclude or deduct from taxable income?

## Answer

1. There are several types of income that are tax exempt in Azerbaijan. These include:
  - Gifts, financial aid and inheritance received from family members
  - Alimony
  - Sale of immovable property where a taxpayer has resided during at least three years
  - Compensation fees for damages
  - Lottery winnings
  - Certain business-related expenses
  - Other.

# Social Insurance Contributions

Deductions include all expenses incurred in the generation of income, except specific exclusions as provided for in the law

2. According to PSAs, such types of income as housing allowance, meal, transportation expenses are not taxable to employees provided that they are well supported (e.g. supported by rental agreement, checks, invoices, etc.).
3. Similarly, according to HGAs, in determining Azerbaijan taxable income, the foreign employees are entitled to the exemptions provided by the Tax Code as detailed in the answer above.

## Question

Do I pay SIC in Azerbaijan while I am on assignment or engaged in an entrepreneurial activity? How are the SIC paid?

## Answer

1. Yes. SIC at a rate of 3% of gross income from your Azerbaijani source income will apply. In addition, employers are required to make SIC of 22% of gross income of employees. Your employer is responsible for payment of 3% and 22% SIC at the day of salary payment but no later than 15th of the month following the calendar month.

Individual entrepreneurs carrying out operations in trade and construction are obliged to pay 50% of the official minimum monthly salary set in Azerbaijan, i.e. AZN 37.5 (approximately USD 47), in other fields 20% of the minimum monthly salary, i.e. AZN 15 (approximately USD 19).

2. Foreign employees of contractor parties and foreign subcontractors operating under the PSAs are exempt from SIC.
3. In respect of HGAs, the situation is similar as in Answer 2 above.



# Double Tax Treaties

## Question

Does my employer pay SIC? If yes, what is the rate of SIC?

## Answer

1. Yes. SIC at a rate of 22% of gross income will apply.
2. No.
3. In respect of HGAs, the situation is similar as in Answer 2 above.

## Question

Do I need to file a report to the SSPF in Azerbaijan? If yes, when do I have to file the report?

## Answer

1. If your only income is from employment, your employer is responsible for filing a report to the SSPF of SIC paid during a calendar quarter in respect of its foreign employees by the 20th of the month following the end of the calendar quarter.

If you are an entrepreneur it will be your responsibility to file a report to the SSPF by the 20th of the month following the end of the calendar quarter.

2. No.
3. No.

## Question

Is there a possibility for an expatriate to be exempt from Azerbaijan income taxes?

## Answer

1. You should consider the existence of a DTT which your home country may have with Azerbaijan. Certain types of income may not be subject to taxation in Azerbaijan under such tax treaties.
2. The same should be considered if you fall under the PSA taxation regime.
3. The same should be considered if you fall under the HGA taxation regime.

## Question

How can I claim a DTT exemption?

## Answer

1. In order to claim the exemption, you need to file a tax return and an application for the exemption. You should also be prepared to provide the Azerbaijan tax authorities with an official confirmation from the tax authorities of your country of residence that you were a tax resident there. Additionally, the Azerbaijan tax authorities may request confirmation of the taxes paid in the home country. Both documents must be issued by the tax authorities of the country of tax residence. Obtaining DTT relief in Azerbaijan has historically been a complicated and time-consuming process.
2. The same procedures apply if you fall under the PSA taxation regime.
3. The same procedures apply if you fall under the HGA taxation regime.

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We are happy to provide you with advice on personal and business taxation in Azerbaijan, to discuss your Azerbaijan tax status, and to advise you on the best way to deal with your personal tax situation



The information contained in this publication is accurate as at the date of its printing. This publication was prepared by the professional staff of Deloitte, and is designed to give you a reference material on the various tax and legislative issues. The legislative framework of Azerbaijan's tax system continues to transform itself. However, there are instances where unclear statutory language and explanatory instructions may allow more than one interpretation of the law. As a result, Deloitte accepts no responsibility for any errors this publication may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it.

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