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Tax Guide 2008

Foreign nationals
coming to Azerbaijan



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Welcome to Azerbaijan!

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.

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, Production Sharing Agreement (“PSA”) regime, and a Host Government Agreement (“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.

Contents

1. Arrival, registration and work permits	4
2. Tax residency status and tax rates	5
3. Filing requirements	7
4. Tax payments.....	9
5. Taxable income	11
6. Social insurance contributions.....	12
7. Double tax treaties.....	13

1. Arrival, registration and work permit

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 is 45 Azerbaijan Manats ("AZN"), (approximately US\$ 53), and

AZN 25 (approximately US\$ 30) for any extension of the permit term. (1 US dollar = AZN 0.8454 as at 28 January 2008).

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.

2. Tax residency status and tax rates

Question: What are the tax residency rules in Azerbaijan?

Answer:

1. You are considered an Azerbaijani 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:
 - 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. In accordance with HGAs, you are considered a tax resident when you are present in Azerbaijan for one hundred eighty-three (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 personal income tax.



Question: What tax rates will apply to my income?

Answer:

1. 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

Monthly 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 60 is tax exempt if a monthly income is up to AZN 200, and income of AZN 720 if an annual income is up to AZN 2,400.

2. The same rates apply under PSAs to Azerbaijan tax residents'

income earned as a direct result of their employment in Azerbaijan.

3. The same rates apply under HGAs after you become a tax resident.



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.

3. Filing requirements

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

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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.

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

Answer:

1. The tax return is due by March 31st (inclusively) 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. If you cease your entrepreneurial activity during the tax year, you are required to file a tax return within 30 days.
2. Your employer is responsible for filing a return to the tax authorities of personal income tax 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 personal income tax 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 personal income tax 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 personal income tax payments made during the calendar year in respect of its tax resident foreign employees before April 1 of the following calendar year.

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

Answer:

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

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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.

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

Answer:

1. All amounts of income received should be reported in local currency, i.e. Azerbaijan Manats.
2. Your employer should report your taxable income in Azerbaijan Manats or US Dollars.
3. Your employer should report your taxable income in Azerbaijan Manats or US Dollars.

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Question: Are there penalties for late filing of tax returns?

Answer:

1. Yes, penalties may be charged in the amount of up to AZN 66 (approximately US\$ 76).
2. The same penalty applies to companies working under the PSA regime.
3. The same penalty applies to companies working under the HGA regime.

4. Tax payments

Question: How is tax paid in Azerbaijan?

Answer:

1. Personal income tax 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.
2. Under PSAs, personal income tax is paid via withholding at source by the employer.
3. Under HGAs, personal income tax is paid via withholding at source by the employer.

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Question: If I have to pay income 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 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.
2. No, you do not have to pay any personal income tax personally.
3. No, you do not have to pay any personal income tax personally.



Question: In what currency do I pay tax?

Answer:

1. Azerbaijan personal income tax should be paid in AZN.
2. Under PSAs, an employer may pay the Azerbaijan personal income tax of its tax resident foreign employees in AZN or in US dollars.
3. Under HGAs, an employer may pay the Azerbaijan personal income tax of its tax resident foreign employees in AZN or in US dollars.



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.

5. Taxable income

Question: What items of my remuneration are taxable?

Answer:

1. Employment income, includes:

- Salary
- Bonuses
- Other in-kind benefits.

Income from investments, including:

- Dividends
- Interest
- Rent
- Royalty
- Capital gains

Miscellaneous:

- Inheritance
 - Gifts
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.

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

2. According to PSAs, in determining Azerbaijan taxable income, the foreign employees are entitled to the exemptions provided by the Tax Code as detailed in the answer above.
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.

6. Social insurance contributions

Question: Do I pay social insurance contributions in Azerbaijan while I am on assignment? If yes, what is the rate of social insurance contributions?

Answer:

1. Yes. Social insurance contributions at a rate of 3% of gross income from your Azerbaijani source income will apply. In addition, employers are required to make social insurance contributions of 22% of gross income of employees.
2. Foreign employees of contractor parties under most of the PSAs are exempt from social contributions in accordance with PSAs. Some PSAs provide for the same protection from the mandatory social insurance contributions for foreign subcontractors' expatriate employees. After amendments made to the Social Insurance Law of Azerbaijan, effective from 1 January 2007, expatriates employed with contractors and subcontractors working under the Azeri-Chirag-Guneshli ("ACG") and Shahdeniz Production Sharing Agreements ("PSA") are also exempt from the mandatory state social insurance in Azerbaijan.
3. In respect of HGAs, the situation is similar as in Answer 2 above.



Question: Does my employer pay social insurance? If yes, what is the rate of social insurance contributions?

Answer:

1. Yes. Social insurance contributions 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.

7. Double tax treaties

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

Answer:

1. You should consider the existence of a Double Tax Treaty 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 Double Tax Treaty 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 double tax treaty 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.

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.

Please do not hesitate to contact us.

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