



Tax Code 2009. General Survey.

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Wednesday, October 15, 2008

11:36:05 AM



Basic comparables

Current Tax Code

- 3 parts (General, Special and Tax Administration)
- 18 sections
- 101 chapters
- 568 articles

Draft Tax Code

- 3 parts (General, Special and Tax Administration)
- 18 sections
- 108 chapters
- 674 articles

Tax accounting

Article 53

- Taxpayer must independently develop and approve tax accounting policy
- Tax accounting policy – document defining procedure of maintaining tax accounting by taxpayer
- Tax accounting policy **can be** part of the accounting policy developed under Law on accounting and financial reporting.

I. Corporate Income Tax



CIT. General features

- The rate of CIT is not yet determined in draft new Tax Code
- Tax Code provisions adapted to IFRS
- Cancellation of CIT advance payments for small and medium businesses
 - The obligation to execute CIT advance payments is levied only on taxpayers subject to republican monitoring and subsoil users
- The loss carry forward period extended from 3 to 10 years

Gross Annual Income

The following is not considered as income for tax purposes:

1. Contributions to charter capital
2. Amount of money received by issuer upon placement of shares
3. Value of property transferred free-of-charge
4. Reduction in tax liability
5. Income from change in value of assets or liabilities
6. Increase from reduction in reserves as a result of assets revaluation

Capital gain

= Sale value of assets **not subject to depreciation** –
Initial value

Initial Value

of asset not subject to depreciation (except securities and participation interests =

aggregate expenses on purchase, production, construction, installation and other expenses increasing value of asset EXCEPT deductible expenses

Deduction of interest

For the deduction purposes **interest** includes:

Interest

Penalties (fines) under loan agreement between interconnected parties

Guarantee payment to interconnected party

Deduction is made pursuant to the FORMULA provided by Article 99 OF NEW TAX CODE

Deduction of repair expenses

Article 105-113

New TC eliminates limits of such deductions.

II. International taxation



Thin Capitalization Rule

Perfection of Thin Capitalization Rule application

Amount of deductible interest paid to connected persons is limited regardless of residence country of the interest recipient

Constructive dividends

Introduction of “constructive dividends” definition

Constructive dividends – amount paid by company to shareholder, founder, participant or their interrelated parties for commodities, works or services with a breach of the arm’s length principle

Permanent Establishment

Article 138

Introduction of definition of “connected projects”

Connected projects – projects, contracts on which are interconnected or interdependent.

Performing by NR of preparatory & auxiliary activity does not create PE if the activity lasts **for less than 3 years in KZ.**

Introduction of definition of “independent agent”

WHT rates. Non-residents income from KZ sources

Article 187

Transportation services in international freights – 5%

Insurance premiums under risk insurance contracts – 10%

Insurance premiums under risk re-insurance contracts – 15%

Other KZ-source income – 15%, except

Income of tax haven entity – 20%

Gross Annual Income of PEs

Article 191

- Income of PE from sources in other countries earned through staff or employees hired therein;
- Income of other structural subdivisions of non-resident performing activity in KZ which is similar to PE's activity;
- Income of PE from connected projects outside and onside KZ;
- Income of PE is determined based on transfer pricing law;

If NR has > 1 PE in KZ, it may pay the tax accrued on all its PEs through one of the PEs.

Beneficiary ownership

Article 205 (Simplified treaty clearance procedure)

Beneficiary owner – person entitled to independently determine ways of usage and disposal of income.

Agents, nominal holders and mediators are not BOs.

III. Tax administration



Optimization of tax report submission & payment deadlines

- The tax reports submission deadline is extended up to 45 calendar days by setting unified deadline
 - not later than 15th of the month following the reporting tax period
- Unified tax payment deadline is set - within 10 working days from the tax reports submission deadline

Formation of tax culture in Kazakhstan

Starting from 01 January 2015, data on tax dodgers will be annually published in mass media

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