



Customs Alert

Rules and deadlines for implementing a pilot project to issue waybills for goods (release 4)

Important customs and tax law changes that may impact your business

In this alert, we comment on issues arising around Minister of Finance issued Order No. 1104 on 16 November 2020 approving rules and deadlines for implementing a pilot project to issue waybills for goods and their work flow. ("Rules").

According to the Rules, waybills for goods ("Waybills") are issued by suppliers (for imports - by the recipient) using the form in Appendix 1 to the Rules, through the e-invoice information system "Virtual Warehouse Module", signed with a digital signature.

Waybills are issued electronically, except when taxpayers are entitled to issue them on paper for specific reasons.

1. Duration of the Waybill pilot project

The pilot project is being implemented throughout Kazakhstan:

- for excisable products imported into Kazakhstan from other Eurasian Economic Union ("EAEU") countries and exported from Kazakhstan to other EAEU countries **from 31 December 2020 - 1 October 2021;**
- for goods for which e-invoices are issued through the virtual warehouse, **from 31 December 2020 - 1 January 2022;**

- for goods in the WTO exemption list and goods subject to labelling, **from 1 October 2021 – 1 August 2022.**

2. Pilot Project participants include entities:

- producing and/or selling excisable goods;
- importing goods into Kazakhstan from other EAEU member countries;
- exporting goods from Kazakhstan to other EAEU member countries;
- importing excisable goods into Kazakhstan from EAEU non-member countries;
- exporting WTO exemption list goods and/or excisable goods and/or goods for which e-invoices are issued through the virtual warehouse, from Kazakhstan to EAEU non-member countries;
- selling WTO exemption list goods;
- selling goods for which e-invoices are issued through the virtual warehouse.

3. Waybills used in the following transactions are subject to registration:

1) when moving and/or selling excisable goods in Kazakhstan;

2) when selling WTO exemption list goods in Kazakhstan;

3) when importing goods into Kazakhstan from other EAEU member countries, except for those imported by passenger vehicle;

4) when exporting WTO exemption list goods and/or excisable goods and/or goods for which e-invoices are issued through the virtual warehouse, from Kazakhstan to non-EAEU countries;

5) when exporting goods from Kazakhstan to other EAEU member countries, except for those exported by passenger vehicles in Kazakhstan;

6) when selling property requisitioned by the State in Kazakhstan;

7) when selling goods for which e-invoices are issued through the virtual warehouse in Kazakhstan.

The exceptions in subpoints 3) and 5) above do not apply to products containing gold.

If entities taking part in the pilot project violate the procedure and deadlines for issuing Waybills established by the Rules, the State Revenue Committee will send notice of the same to the participant either electronically or by letter. Receipt of the notice and familiarisation with it does not exempt the recipient from registering, confirming or rejecting the receipt of Waybills.

4. Waybills used in the following transactions are not subject to registration:

- **when selling goods retail to end customers;**
- **when importing goods** into Kazakhstan from non-EAEU countries and from other EAEU member countries through major pipelines and/or power transmission lines;
- **when exporting** goods from Kazakhstan to non-EAEU countries and to other EAEU member countries through major pipelines and/or power transmission lines;
- **when moving** goods within one entity and/or between structural divisions of one entity in Kazakhstan, with the exception of alcoholic beverages;
- **when shipping** returnable packaging, except in cases where packaging is included in the WTO exemption list;
- **when importing** goods into Kazakhstan from other EAEU member countries, where the destination is a non-EAEU country;
- **when exporting** goods from Kazakhstan to other EAEU member countries, for which the destination country is a non-EAEU country, with the exception of WTO exclusion list goods and/or excisable goods and/or goods for which e-invoices are issued through the virtual warehouse.
- **when importing** goods from (into) Kazakhstan subject to export controls, according to a list approved by Kazakhstan Government Resolution No. 104 from 5 February 2008, for the news of the Kazakhstan armed forces, other Kazakhstan troops and military formations, in accordance with points 6, 7 and 7-1 of article 9 of the Kazakhstan export control law;
- **when the Kazakhstan National Bank transports and sells** gold-containing products.

5. Waybill registration deadlines

Waybill registration deadlines depend on the type of transportation:

- by air – by the working day following the aircraft arrival (departure) date;
- by rail or road (international) – before the Kazakhstan border is crossed;

For alcoholic products imported and cleared through customs into Kazakhstan from non-EAEU countries, the Waybill registration deadline is the date the goods begin circulating or are sold.

For the same goods imported from EAEU countries, Waybills should be registered before the goods cross the Kazakhstan border.

For goods being exported from Kazakhstan to other EAEU countries and non-EAEU countries, the deadline is the moment they begin circulating, are sold and/or shipped.

The registration deadline for **moving and shipping goods** within Kazakhstan is the moment they are moved or shipped.

Waybills for **goods sold** in Kazakhstan should be registered by the moment they are moved, shipped or sold, except when:

- goods are supplied by rail and a Waybill has been registered referring to the shipment by the day following the day shipping documents are drafted;
- goods are **supplied wholesale** (except for excisable goods) to a retail trade taxpayer, for which a Waybill is registered within the two working days following the sales date;
- fuelling stations **sell** gasoline and diesel through coupons and fuel cards, by the 20th of the month following the sales month, with a record of the sale for the month;
- a retail trade taxpayer **registers** a Waybill voluntarily for the sale of goods to an end customer, with 15 calendar days of the sale, with a record of the sale for the day.

If entities taking part in the pilot project violate the procedure and deadlines for issuing Waybills established by the Rules, the State Revenue Committee will send notice of the same to the participant either electronically or by letter. Receipt of the notice and familiarisation with it does not exempt the recipient from registering, confirming or rejecting the receipt of Waybills.

6. Registration, adjustment and revocation of Waybills

Waybills for goods are confirmed/rejected by recipients within 10 calendar days of their registration in the e-invoice information system, except for when goods are delivered (transported) by a mode of transport for which Waybills can be confirmed or rejected within 20 working days of their registration in the e-invoice information system.

If a Waybill has to be amended, additions made to it, or errors that do not entail a change in supplier and/or recipient of goods corrected, then a corrected Waybill is issued following the cancellation of the previously issued Waybill.

Goods supplied by any form of transport for which Waybills are incomplete and/or incorrect, and not approved or rejected by the customer, should be corrected or withdrawn by the supplier (for imports – by the customer) within 20 working days of the Waybill registration date in the e-invoice information system.

For all other goods the deadline is 10 calendar days of the Waybill registration date in the e-invoice information system.

7. Goods' recipients do not have to confirm Waybills when:

- 1) goods are sold for export;
- 2) airports sell fuel and lubricants to refuel aircraft belonging to foreign airlines operating international flights;
- 3) goods (except for excisable goods) are sold to retail trade recipients, provided they simultaneously:
 - apply the special simplified tax return system;
 - are not registered as a value added tax payer;
 - comply with the requirements of the general economic activity classifier for retail trade;
 - use a cash register with a data record and transfer function.

When registering a Waybill, any such taxpayer should automatically enter "small sales outlet" as the recipient category.

This point does not cover the sale of goods in special economic zones that are either fully or partially within the EAEU customs border;

4) goods are sold to end customers;

5) Waybills are issued to recipients registered in administrative and territorial regions of the country with no public telecommunications networks.

8. Return of goods

Products can be returned:

- 1. Based on a Waybill rejected by the recipient** - the supplier moves the goods to the shipment warehouse using a Waybill indicating "rejected";
- 2. If a Waybill is revoked before the recipient confirms or rejects it** - the supplier moves the goods to the shipment warehouse using a Waybill indicating "revoked";
- 3. According to a Waybill previously confirmed by the recipient** - the recipient issues a Waybill to return the goods, and enters the registration number of the previously issued Waybill in the e-invoice information system.

For goods sold to the taxpayer, when the recipient's category "small sales outlet" is marked in the Waybill, the supplier issues the Waybill for the return of the goods.

9. Currency on registration of Waybills for goods.

Waybills should be issued in tenge when moving goods in Kazakhstan and exporting them to outside of Kazakhstan, except for:

- sales transactions (operations) concluded according to a production sharing agreement (contract);
- transactions (operations) to sell goods for export, subject to VAT at 0%) in accordance with articles 386, 446 and 449 of the Tax Code;
- sales turnover taxable at 0% VAT, in accordance with point 3 of article 393 of the Tax Code;
- For goods imported into Kazakhstan, Waybills are issued in tenge or the invoice currency.

10. E-invoice statements based on Waybills

E-invoice statements for goods subject to the Waybill requirement are issued:

- based on a Waybill indicating its registration number in line 32 "Document confirming the delivery of goods, work or services". At the same time, the information in the Waybill and e-invoice must be identical;
- with no link to an electronic consignment note, indicating "NON SNT" in line 32 "Document confirming the delivery of goods, work or services", together with a quantity (volume) of goods not exceeding the quantity (volume) of goods in the virtual warehouse before the e-invoice was issued.

Invoices should refer to:

- a transaction agreement number and date;
- when goods imported from an EAEU member country are moved or sold, their origin is confirmed by the number of the Waybill issued when the goods were imported from the other EAEU member country, if it contains state revenue authority observations.

In the event of a technical failure, Waybill registration, confirmation or rejection deadlines; the deadline for issuing e-invoice statements linked to a Waybill, including for the voluntary procedure, are extended for the time it takes to correct technical errors and reboot the e-invoice information system and for three working days once technical errors have been corrected and the e-invoice information system has been rebooted.

If a recipient rejects a Waybill recorded in an e-invoice after the deadline and if its number and date have been entered in line 32 "Document confirming the delivery of goods, work or services", then the registration the supplier of Waybill, as well as an extract based on it e-invoice is carried out no later than three working days after the date of rejection of the Waybill.

In this case, the number of the rejected Waybill is indicated in the issued Waybill.

How Deloitte can help:

The Deloitte team can provide you with consulting services on issues of interest to you.

Due to constant changes in tax law and differences in its interpretation, we cannot guarantee that further reviews by the state authorities will not reveal additional errors and discrepancies. When considering issues that are not clearly regulated by law, we will use our judgement and interpret the issue based on our experience.

We will be pleased to discuss any questions you may have related to the issues highlighted in this Alert. The contact details of our key tax and legal team members are provided below.

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