



Tax Alert

Law No. 45-VIII from 12 December 2023 (the “Law”) introduces amendments and additions to the Kazakhstan Tax Code and the Law introducing the Tax Code

Dear friends,

The Law was introduced to stimulate investment and business development; simplify tax administration and expand tax bases.

In this issue we review the changes, some of which are retroactive, planned for the Tax Code.

Tax administration

Taxpayer obligations

The latest Tax Code amendments require taxpayers to store shift reports, cash logs and sales receipts for five years from the date they are printed or completed. This also applies to annulment and return receipts, and receipts from epy cash registers making those annulment and returns. Taxpayers using cash registers with a registration and/or data transfer function are not affected by the new conditions.

As taxpayers have the opportunity to submit originals they no longer have to submit notarised copies of documents confirming their location.

Obligations of commercial banks and organisations performing banking transactions

Commercial banks and organisations performing banking transactions should, within 10 working days of receiving a request from the tax authorities, provide details on bank accounts belonging to companies involved in organising and conducting gambling and/or betting, as well as any bank account numbers, balances and cash movements on the same.

Procedure and conditions for courts to defer the payment of state duties

Tax Code changes allow for the payment of state duties to be deferred if a court issues a ruling on the same.

State duty deferrals are granted for the reasons listed below, for up to a year from the day a court issues the relevant ruling.

Deferrals may be granted to individuals based on their status or companies, **except for large entities**, if their financial status means they are unable to pay state duties when filing a lawsuit, but if grounds exist to assume they will be able to do so during the deferral period, and if any of the following are true:

1. harm was caused by a natural or man-made disaster;
2. an individual's salary has been delayed;
3. an individual has been registered as unemployed;
4. an individual has a severe illness and been receiving treatment for over three months;
5. a company has not received payment for goods supplied, work or services provided;
6. company production and/or sales are seasonal;
7. individuals receive targeted social welfare.

After issuing a ruling to defer the payment of state duties, courts will send a copy of the same to the tax authorities in the location where the case is being considered.

Procedure for interacting with the tax authorities

Bookmakers and/or entities organising sweepstakes should integrate their hardware and software with tax authority information systems to ensure automatic data transfer.

The procedure and scope of data for transfer will be determined by a Ministry of Finance Order (authorised body)

Tax inspections

Taxpayers are now required, within 20 working days of the tax authorities sending notice to confirm their location, to present a written explanation in person of the reason for their absence at the moment of a tax inspection, together with copies of documents and an original (for comparison) or notarised copies of documents confirming their location.

In-house audits

Taxpayers no longer have to provide tax and/or statutory accounting register statements and/or explanatory documents in response to notice of an in-house audit related to medium-risk violations. At the same time, taxpayers retain the right to submit these documents together with explanations.

If taxpayers do not agree with high-risk violations listed in notice from the tax authorities, they can now provide explanations with supporting documents for the transactions (operations) in question.

Notice from the tax authorities to correct medium-risk violations discovered during an in-house audit is recognised as not having been executed if taxpayers (tax agents) if taxpayers have not followed the procedure or missed the deadline in point 2 of article 96 of the Tax Code. The tax authorities do not issue resolutions in these cases.

The tax authorities will continue to issue resolutions for notice of high-risk violations discovered during an in-house audit as not having been executed.

Suspension of debit transactions on taxpayer bank accounts

The tax authorities will suspend bank account debit transactions the day after the Tax Code deadline for executing notice to correct violations discovered in an in-house audit, if the taxpayers fail to do so.

Before these changes, bank account debit transactions were suspended within five working days from the deadline for executing notice from an in-house audit.

The above notice should be executed within 30 working days from the day after the day it is served.

The Tax Code states that recognising notice to correct violations discovered by the tax authorities in an in-house audit as not having been executed is no longer grounds for suspending bank account debit transactions.

Cancellation of instructions to suspend bank account debit transactions

Point 2 of article 2 of the Law states that if a taxpayer has executed notice from an in-house audit that was sent before 1 January 2024 suspending bank account debit transactions in

accordance with article 96 of the Tax Code valid from 1 January 2024, instructions to suspend debit transactions will be cancelled within one working day of the day following that on which the reasons for the suspension were cleared.

Methods for sending resolutions on restricting the ability to issue e-invoices

Amendments to article 120 of the Tax Code will take effect 60 calendar days after publication of the Law to give the tax authorities the option to send decisions outlining a restriction in a taxpayer's ability to issue e-invoices within one working day of the date the decision was made:

- by registered mail with notification;
- electronically to an application and/or user's personal "e-gov" account and/or e-invoice information system;
- to the taxpayer in return for a signature.

Tax audits

The changes introduce a new targeted audit concept of "identifying tax liabilities in settlements with taxpayers whose ability to issue e-invoices has been restricted under article 120-1 of the Tax Code".

In addition, the targeted audit concept of "taxpayer failure to execute an in-house audit notice" has been replaced by "confirmation of the existence of violations referred to in a notice of in-house audit".

Point 2 of article 2 of the Law states that a targeted audit to confirm violations listed in a notice of in-house audit does not extend to notices to correct violations discovered by the tax authorities in an in-house audit with respect to tax liabilities from tax periods prior to 1 January 2024, which have been recognised as executed in accordance with point 2 of article 96 of the Tax Code, except for notices to clear violations discovered by the tax authorities in an in-house audit, recognised as not having been executed by resolution in accordance with point 4 of article 96 of the Tax Code.

Methods used by taxpayers to appeal notification of tax audit results with the Ministry of Finance

The Tax Code has been amended to allow taxpayers to appeal tax audit results with the authorised body through the e-gov portal.

With this in mind, the deadlines for filing appeals against tax audit results with the Ministry of Finance, depending on the filing method, are:

- in person – the date an appeal is registered with the authorised body;

- by mail – the receipt date by a postal or other courier service;
- electronically – the dispatch date via the e-gov portal. This method is available for taxpayers (tax agents) interacting with the tax authorities electronically in accordance with electronic documentation and digital signature law.

Changes to microfinancing organisations

Between 1 January 2024 and 1 January 2027, the Tax Code provides a temporary exemption for international financial organisations generating income by reducing provisions after fully or partially writing off amounts due by individuals. To improve the measure's effectiveness, the coefficient for the maximum ratio of total bad debt on microloans forgiven for the tax period and related interest on principal at the start of the tax period was set at 0.2 (20%), i.e. income from loan forgiveness will be exempt from CIT, up to the coefficient amount of 0.2, provided claims on debtors are reduced.

Corporate income tax (CIT)

- from 1 March 2024, commercial banks will no longer be able to reduce taxable income by amounts generated on Kazakhstan National Bank equity securities.
- National Infrastructure Operator costs from providing mainline railway lines to rail carriers transporting passengers, baggage, cargo and mail free of charge, including using a temporary reduction factor of 0 against the tariff for regulated mainline passenger transportation services are deductible.
- cargo carriers are entitled to deduct the value of temporary balancing charges paid to passenger locomotive operators up to amounts set by the natural monopoly regulator.
- articles 264 (deductions) and 288 (taxable income reductions) have been reworded. The changes deal with deducting scientific research and technological expenses. Notification from the authorised body for science, scientific research, technological and experimental work is the basis for deducting these expenses and reducing taxable income.
- Costs to purchase management, consulting, audit, design, legal, accounting, lawyer, advertising, marketing, franchising, financial (except for interest expenses), engineering and agency services, royalties and rights to use intellectual property from a non-resident related party from a low-tax country are non-deductible. In the former version, deductions were restricted irrespective of the non-resident's country of registration. After discussions, the authorities agreed with the business community to relax the provision from 1 January 2023.

Personal income tax (PIT)

From 1 January 2024, the following will no longer be treated as income for individuals:

- professional payments made by employers to employees working under hazardous conditions;
- a debt forgiven by an individual by conceding his/her right to recourse;
- a borrower's income as a result of a bank or organisation making a payment on his/her behalf;
- special savings made in accordance with the Law *On Children's Rights in the Republic of Kazakhstan* as payments from the Integrated Savings Pension Fund, as well as savings paid to individual pension accounts to account for voluntary pension contributions.

PIT will be withheld and paid once from integrated pension payments for individuals receiving long-service pensions or insurance organisation payments.

PIT can be adjusted for socially vulnerable sections of the population when one-off pension payments are withdrawn from the integrated savings pension fund.

Material benefits from savings made on the cost of goods, work or services due to amounts accrued from earlier purchases are not treated as personal income (introduced from 1 January 2018).

Subsoil use

- A new article 564-1 establishes a procedure for calculating and paying subsoil plots in accordance with Kazakhstan subsoil use law on the basis of a mineral resource exploration or production license. Charges for land plots in temporary use (leased) and plots held on the basis of a license to explore or produce solid minerals are now separate.
- Subpoint 18) of point 2 of article 225 has been supplemented to bring it into line with article 772 of the Tax Code. A recipient's sale of mineral resources on behalf of the State will not be treated as taxable income, while the transfer of funds from this type of sale will be treated as the execution of a tax liability.
- Income from writing off a recipient's liability on behalf of the State that arose from the sale of mineral resources from subsoil use to execute a tax liability in kind by a recipient on behalf of the State or person authorised by the recipient on behalf of the State to make that sale is not subject to CIT.

Digital mining charge

The requirement to provide details to the authorised body on digital mining payers, objects of taxation, their location and amounts of electricity has been removed.

The procedure for calculating the digital mining charge has been clarified as follows:

- the digital mining charge is 2 tenge per kWh of electricity consumed during the reporting period.
- the digital mining charge is 1 tenge per kWh of electricity consumed generated from renewable sources at own power stations in Kazakhstan or from generating installations not connected to the country's integrated power system.

Data determined by the authorised body should be used to calculate income tax on digital assets by type received.

Asset and liability return filing deadlines

The deadline for filing asset and liability returns has been changed to 15 September (single deadline), while the filing location has also been changed. A general filing deadline for hardcopy and electronic returns has been set: for assets and liability $\Phi\text{HO } 250.00$, by 15 September of the current year; for income and property $\Phi\text{HO } 270.00$, by 15 September of the year following the reporting calendar year. Point 2 no longer requires individual entrepreneurs to file returns according to their location. A plan is in place for individual entrepreneurs to file returns according to their place of residence.

Special tax treatment

Changes to special tax treatment rules enter into force 60 calendar days after their official publication.

Companies whose founders or partners are also the founder or partner of another company applying special tax regulations (including simplified declaration rules) are not eligible for the retail tax special tax treatment.

The procedure for identifying objects of taxation has been changed and is now governed in accordance with article 681 of the Tax Code. Thus, the object of taxation for taxpayers applying retail tax special tax treatment is income received or due for receipt in Kazakhstan and overseas, and is determined as an aggregate for the tax period.

Please get in contact with Tax & Legal Department experts, whose details can be seen below, if you want to express an opinion or otherwise take an active role in the issues discussed in this document.

Get in contact with us:

Almaty

+7 (727) 258 13 40

Astana

+7 (717) 258 04 81/80



Andrey Zakharchuk

Partner

azakharchuk@deloitte.kz



Yeldos Syzdykov

Partner

ysyzdykov@deloitte.kz



Aidana Abdaliyeva

Partner

aabdaliyeva@deloitte.kz

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