



**Customs Alert**

on Kazakhstan Customs Code changes and amendments in 2021

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Dear Colleagues,

On 5 January 2021, the Kazakhstan President signed Law No. 407-VI amending and adding to a number of legislative acts regarding customs regulation and business activities.

For this reason, we have prepared this Customs Alert reviewing what we believe to be the main changes and amendments to the Kazakhstan Customs Code and general customs law.

We hope that you find the alert useful in learning about the latest legislative changes and amendments, but should you have any questions about it or the information included in it, please do not hesitate to get in contact with us!

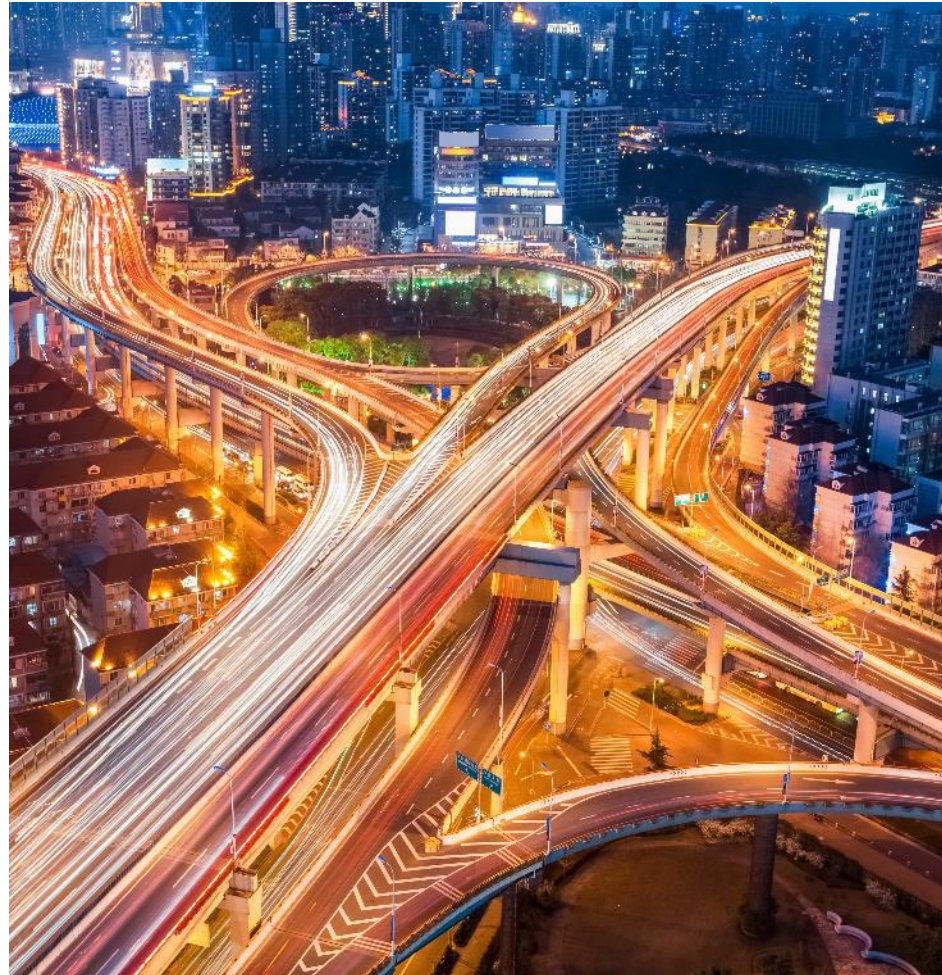
Best regards,

**Deloitte Customs team.**



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# Arrival of goods. Classification of goods. Customs declarants



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## Arrival of goods. Classification of goods

### Customs operations related to the arrival of goods in the Eurasian Economic Union (“EAEU”) customs area

The customs operation period has been increased for goods transported by rail from the moment of notification that they have arrived in the EAEU customs area and are in temporary storage, until customs declaration or other customs operations have been performed.

The new rule establishes that the above customs operations apply to goods transported by rail within the timeframe established by the railway station process agreed with the customs authorities responsible for customs control at their place of arrival. Formerly, the customs operation deadline for goods transported by rail was three hours.

### Additional power of the customs authorities to classify goods

The customs authorities are now entitled to classify goods in those cases stipulated by law (previously, the customs authorities were entitled to classify goods only if they were transported across the EAEU customs border).

This new rule should allow taxpayers importing goods from EAEU countries to request EAEU FEA CN codes for goods involved in mutual trade with EAEU countries or in domestic circulation from the customs authorities.

### Electronic applications for a preliminary classification of goods

Applications can now be made for a preliminary electronic classification of goods from the State Revenue Committee. Electronic applications should include electronic or scan copies of documents confirming the required details and information.

The review period for the classification of goods has been reduced from 20 to 10 working days, while the review period for classifying goods supplied unassembled (such as factory or plant equipment) has been reduced from 30 to 20 business days.

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## Customs declarants

### Customs declarant exemption from administrative liability

The number of cases when customs declarants are not accountable under the Administrative Violations Code has been increased to include:

- when a requirement and/or decision to amend (supplement) a customs declaration, and/or the customs value of goods previously confirmed by the customs authorities during the declaration process and document verification started before goods were issued, have been revised, provided it has been confirmed that the customs authority official had used the wrong customs value;
- the independent elimination of violations within the deadline given in audit results or notification of overdue customs duties, taxes, special anti-dumping and compensation duties and interest, in those cases when the payer agrees with the notification;
- errors in the electronic customs declaration system confirmed by the authorised body, which made it impossible to complete electronic customs declaration operations, within the deadline and in accordance with the procedure established by Kazakhstan law.

- In this respect, the authorised body should confirm information system errors within five working days of the day a customs declarant reports errors.

### Extension to the categories of entities eligible for administrative liability exemption

**Customs representatives and authorised economic operators** are now also exempt from administrative accountability for the same reasons as customs declarants.

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# General provisions on customs audits



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## Customs audits

### Liquidation customs audits

As with tax audits, audit targets should submit the details of a decision taken to liquidate it with local customs authorities within three working days of the decision, along with a liquidation customs audit application.

In this respect, customs audits should start within 10 working days of the audit target's local customs authorities receiving an application to conduct a liquidation customs audit.

### Serving customs audit documentation

The customs authorities may serve notice to take corrective action, notification of desktop customs audit results, preliminary desktop customs audit reports, desktop customs audit reports, on-site customs audit reports, audit result notifications and other documents:

1. by registered mail – on the official delivery date;
2. electronically – from the document delivery date in a web app.

This method is applicable for payers:

- registered as customs authority data system users in accordance with the procedure determined by the authorised body;
- registered as electronic taxpayers in accordance with the procedure established by Kazakhstan tax law;
- from the date the document is delivered to an “e-gov” user account.

This method is used by taxpayers registered on the “e-gov” website.

### Customs representative notification

The customs authority that conducted a customs audit should draft excerpts from notifications of audit results and customs audit reports to be sent to customs representatives if the latter are jointly responsible for paying customs duties and taxes; special, anti-dumping and compensation duties; and interest.



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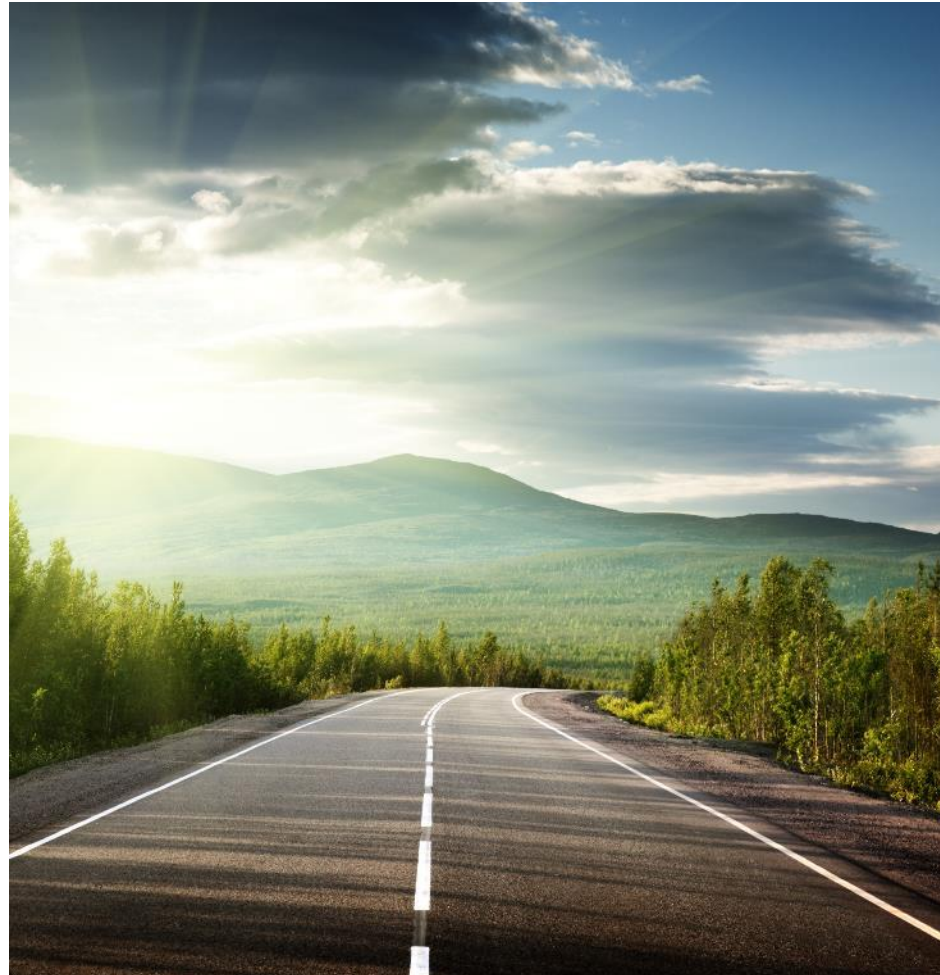
## Invalid customs audits

### Customs audits invalidated due to a gross violation of the requirements for organising and conducting customs audits

A customs audit can now be recognised as invalid if the customs authorities:

- violated the duration of customs audits established by the Kazakhstan Customs Code;
- failed to send a preliminary customs audit report to the audit target;
- conducted a desktop customs audit that highlighted a violation of EAEU and/or Kazakhstan customs law relating to missing documents and/or details and/or an official's failure to provide them, before the corresponding filing deadline expired.

A customs audit recognised as invalid is grounds for the authorised body and/or a court to cancel it and notification of audit results.



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# Desktop customs audits



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## Customs audits

### Desktop customs audits based on risk management system findings (to be introduced from 1 March 2021)

The approach to conducting a desktop customs audit has been revised. It should be taken into account that desktop customs audit are divided into two types:

- Desktop customs audit conducted based on the results of the application of the risk management system;
- Desktop customs audit appointed on other grounds, except for risk management system.

The approach for conducting desktop customs audits has been revised to include **results from the application of risk management systems**.

For a desktop customs audit based on **risk management system findings**, notification of the start of the audit and a demand to submit documents and/or information are not sent to the audit target.

The customs authorities provide the audit target with **notice to take corrective action** together with a description of the violations discovered, in the format established by the authorised body.

**Notice to take corrective action** is sent or served to the audit

target so it can correct violations itself by amending and/or adding to a customs declaration and/or making customs payments or paying taxes; special, anti-dumping and compensation duties; or interest.

The deadline for executing notice to take corrective action is 20 working days from the day following the day the audit target receives it.

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## Customs audits

### Desktop customs audits based on risk management system findings (continued)

Notice to take corrective action is recognised as executed if:

1. the target agrees with it and amends a customs declaration and/or makes customs payments or pays taxes; special, anti-dumping or compensation duties; or interest;
2. the target does not agree with it and provides an explanation of the violations together with supporting documents, including the details in a customs declaration.

If it agrees with an explanation provided by an audit target, the customs authorities should notify it of the same within 10 working days.

If it recognises notice to take corrective action as not having been executed, the customs authorities will issue a conclusion on the same and send it to the target:

- within 10 working days of the day the target provides explanations and documents;
- within 2 working days of the deadline for executing notice to take corrective action, when the target has not provided an explanation or documentation.

The target should dispute a decision to recognise notice to take corrective action as not having been executed with the authorised body or in court within five working days of the day it is served together with a copy of an appeal (application) to the customs authorities that issued the decision to recognise notice to take corrective action as not having been executed.

A failure to execute notice to take corrective action within the established deadline will result in the suspension of expense operations on the payer's bank account, except for when the decision is being disputed with the authorities or in court.



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### Desktop customs audits (assigned for other reasons, except for the risk management system)

The desktop customs audit period has been reduced from 6 months to up to 60 calendar days from the date the audit target is notified of the start of the audit.

Likewise, the customs authorities may extend the filing deadline for various documents and/or information to 20 calendar days, but to no later than 2 months from the deadline set by the customs authorities for filing documents and/or information.

As with on-site customs audits, the customs authorities should provide the target with a preliminary desktop customs audit report before drafting an a desktop customs audit report.

In this respect, the audit target is entitled to appeal a preliminary desktop customs audit report in writing.

The authorities present desktop customs audit results in the form of act. In the event of violations of EAEU and/or Kazakhstan

customs law, they issue *notice about the result of audit*.

A desktop customs audit report should include document copies, customs authority calculations and other materials received during the customs audit.

Desktop customs audit reports are registered in a special log, numbered, bound and stamped.

### Transition desktop customs audit provisions

Transition provisions are in place for relations arising around notices to take corrective action after desktop customs audits conducted before the new desktop customs audit provisions come into force.

The Kazakhstan Customs Code states that relations arising around notices to take correction action on desktop customs audit results issued before 1 March 2021 are covered by provisions applicable to audit result notifications issued for desktop customs audits.



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# Comprehensive on-site customs audits (to be introduced from 1 March 2021)



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## Customs audits

### Comprehensive on-site customs audits (to be introduced from 1 March 2021)

A new risk management system-based **comprehensive on-site customer audit** has been introduced.

The authorised body uses the risk management system to select audit targets for a comprehensive on-site customs audit.

Comprehensive on-site customs audit are conducted based on six-month schedules developed by the authorised body, which may not be changed.

Audit targets may not undergo risk management system-based comprehensive on-site customs audits more often than once a year.

The authorised body will place schedules for comprehensive on-site customs audits on its website:

- for the first half of the year – by 25 December of the year preceding the audit year;
- for the second half of the year – by 25 May of the current calendar year.

The customs authorities will send the audit target standard notification of a comprehensive on-site customs audit at least 30 calendar days before the audit is due to start.



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## Risk management systems

### Customs authority risk management process management

The term “risk level criteria” has been redefined as the aggregate of characteristics used to evaluate entities concluding customs operations, for the purpose of applying forms of customs control and/or measures facilitating customs control.

At the same time, information used in risk management systems cannot be made public.

The Customs Code establishes risk level criteria and confidential information to which access is restricted by law.

Risk level criteria determined by the authorised body has been identified as not confidential.

Information contained in risk profiles and indicators is now recognised as confidential, with the exception of information on:

1. criminal and/or administrative liability for violations of Kazakhstan customs law;
2. overdue customs payments and taxes; special, anti-dumping and compensation duties; and interest;
3. risk cost indicators generated to control the customs value of goods, approved by the authorised body;
4. pricing information generated and used to monitor the customs value of goods, approved by the authorised body.

To differentiate risk mitigation measures, the customs authorities may categorise entities concluding customs operations as low, medium or high risk.

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