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## LEGAL ALERT

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JANUARY 2021

Dear colleagues,

In this legal alert we will be talking about the most important, in our view, amendments and additions to non-tax legislation of Kazakhstan.

Should you have any additional questions, please contact us at any time convenient for you.

### I. MCI and other calculated values

1) *The Law On the Republican Budget for 2021-2023 was adopted.*

From January 1, 2021:

- ❖ minimum wage – 42,500 tenge;
- ❖ minimum size of the state basic pension payment – 18,524 tenge;
- ❖ minimum pension – 43,272 tenge;
- ❖ monthly calculation index – 2,917 tenge;
- ❖ the size of the subsistence minimum for calculating the size of basic social payments – 34,302 tenge.

2) *The term of "base rate" was enshrined in law.*

According to the Law On Amendments to Certain Legislative Acts of the Republic of Kazakhstan on the Recovery of Economic Growth dated January 2, 2021, the term "base rate" is legislatively enshrined. The term "official refinancing rate" has been excluded from the legislation.

Thus, from January 1, 2021, in civil and administrative legal relations, when calculating penalties in taxation and customs regulation, as well as in case of delayed payments, penalties for unlawful use of other people's money and overdue amounts, indexation of awarded monetary amounts, interest for deferral or payment by instalments of customs duties will apply the base rate.

3) Beginning in 2021, the text of the draft law on the Republican budget for the next fiscal year should contain the amount of state contributions for compulsory social health insurance.

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## II. Changes to the Labor Code

### 1) Remote work

Considering the existing gaps in the labor legislation of the Republic of Kazakhstan in the field of remote work, it is proposed to make the following additions to the Labor Code:

- ❖ introduction of the concepts of temporary and combined remote work;
- ❖ in connection with the specifics of remote work, keep records of working hours as the fulfillment of the established amount of work and being in the availability mode;
- ❖ grounds for establishing a temporary remote work regime;
- ❖ regulation of the number of wages, the period for which the employee is transferred to temporary remote work.

The adoption of the bill will improve the legal regulation of labor relations between an employee and an employer during the period of remote work.

### 2) Outstaffing

Changes and additions have been made to several regulations on the regulation of outstaffing services.

Chapter 33 "Services" of the Civil Code is supplemented by article 687-1 on outstaffing services.

The Labor Code is amended to include the provisions about outstaffing such as:

- ❖ workers of the Sending Party are employees who are employed under an employment contract with the sending Party under a staff service contract;
- ❖ the Receiving Party is an individual or legal entity, an individual entrepreneur, including a peasant or farm, which attracts the workers of the Sending Party to work in accordance with the contract for the provision of personnel services.

Amendments have been made prohibiting discrimination against the workers of the Sending Party.

## III. Early withdrawal of pension savings

According to the Law On Amendments to Certain Legislative Acts of the Republic of Kazakhstan on the Recovery of Economic Growth, from January 1, 2021, citizens are entitled to use part of their pension savings to improve housing conditions, treatment that is not included in the guaranteed amount of free medical care and compulsory social health insurance, as well as to transfer to private management companies for managing investments.

Pension savings can be used by citizens an unlimited number of times within the amount of pension savings in the ENPF (Unified Pension Savings Fund), available for withdrawal for housing, treatment or transfer to management companies.

#### **IV. Consumer rights protection**

On June 25, 2020 and July 3, 2020, the Law On Protection of Consumer Rights has undergone quite serious changes. Some of the changes entered into force on January 1, 2021.

According to the amendments, the Unified Information System for the Protection of Consumer Rights will start working. A consumer whose rights have been violated can contact the seller (manufacturer, contractor) or the subject of pre-trial settlement of a consumer dispute via such System. Also, state control over compliance with consumer protection legislation and the so-called "public control" were introduced.

#### **V. Administrative proceedings**

1) From July 1, 2021, the Administrative Procedural Code dated June 29, 2020 No. 350-VI ("APC") comes into force.

The APC regulates relations on implementation of administrative procedures, in the part not regulated by the laws of the Republic of Kazakhstan.

So, from July 1, 2021, the current Law On Administrative Procedures and Law On the Procedure for Considering Applications of Individuals and Legal Entities will cease to be in force.

It is planned to increase the staff of judges of administrative courts, where disputes in this sphere of legal relations will be considered, as well as in the appellate board for civil cases. A new specialized cassation board of the Supreme Court will appear.

Currently, the person does not take part in the administrative procedure and therefore cannot state his position before the adoption of the act. The Code eliminates this legal gap and imposes the duty of the state body to notify the person about the beginning of the administrative procedure, to find out his opinion on the circumstances of the case.

2) Bodies authorized to initiate or consider cases of administrative offenses will run the Unified Register of Administrative Proceedings. It contains information about administrative offenses, the persons who committed them, decisions made on them, and a platform for conducting cases of administrative offenses in electronic form.

#### **VI. Changes in civil procedural legislation**

Several amendments have been adopted, which will enter into force on July 1, 2021, together with the APC, aimed at delimiting and regulating the administrative procedural and civil procedural legislation of the Republic of Kazakhstan.

#### **VII. Foreign labor**

The rates of fees for the issuance and (or) extension of a permit to attract foreign labor in the Republic of Kazakhstan for seasonal workers have been changed. In addition, a list of professions for seasonal foreign workers has been approved.

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### **VIII. Protection of Environment**

From July 1, 2021, a new Environmental Code will come into force. The Environmental Code has been prepared taking into account the experience of the countries of the Organization for Economic Cooperation and Development (OECD) and of the European Union countries.

The Environmental Code is aimed at reducing emissions from industrial enterprises into the atmosphere and discharges into water and soil. Instead of paying for pollution, measures of a technical, financial, technological nature will be applied to reduce and eliminate such pollution. At the same time it is planned to abandon payments for emissions from 2025 already.

### **IX. Pharmaceuticals**

Starting from 2021, the requirements of good manufacturing practice (GMP) and good distribution practice (GDP) in the production and wholesale of pharmaceuticals have been introduced with respect to drug manufacturing organizations and pharmacy warehouses.

### **X. Licensing of microfinance activities**

From January 1, 2021, the activities of microfinance organizations, credit partnerships and pawnshops that were subject to registration, are now subject to licensing in accordance with the new rules. The corresponding service appeared on the e-government web portal [www.egov.kz](http://www.egov.kz) and [www.elicense.kz](http://www.elicense.kz).