
REVIEW OF MAIN CHANGES OF THE TAX LEGISLATION OF KAZAKHSTAN

MARCH 2021

Dear Colleagues,

On December 10, 2020, the Law of the Republic of Kazakhstan "On Amendments to the Code of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the Budget" (Tax Code) and the Law of the Republic of Kazakhstan "On the Enactment of the Code of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the budget" (Tax Code)" were adopted. This Law entered into force from January 1, 2021, except for some provisions.

We call your attention to an overview, which outlines the main, in our opinion, amendments to the Tax Code of Kazakhstan.

If you have any additional questions, please contact us any time*.

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CORPORATE INCOME TAX (CIT)

Amendments Enacted Retrospectively from January 1, 2018

The volume of process fuel provided by the customer and consumed by the oil refinery to obtain heat energy and other technological processes to produce oil products, due to the operating mode and technological characteristics of the equipment, is not considered as income. This rule was valid until January 1, 2021.

The following clarifying norms have been introduced:

- deduction of the amounts of VAT adjustment or VAT reduction attributable to offset, as part of the cost of purchased goods, works, services is performed in the tax period when the adjustment or reduction was made;
- if a subsoil user receives funds from a liquidation fund from another subsoil user, this amount is not included in the aggregate income, provided they are placed for 30 calendar days, and not just one year;
- regarding the conditions under which an organization can be recognized as carrying out activities in the social sphere in cases of establishing a new organization or carrying out activities under a long-term contract.

The list of types of contracts under which the taxpayer is entitled to deduct the costs of activities aimed at maintaining and (or) increasing in sales of goods under the brand name has been expanded.

When a subsoil user applies a double depreciation rate with respect to assets put into operation for the first time, as well as when applying investment tax preferences, it should be noted that a subsoil use contract does not include a contract for the production of groundwater, provided that the subsoil user producing groundwater is a subsoil user solely because of the possession of such a right to extract groundwater and uses the extracted groundwater for the production of soft drinks.

If a foreign subsidiary has a loss in the relevant tax period, then such entity is not recognized as a controlled foreign company or its permanent establishment.

Amendments Enacted Retrospectively from January 1, 2019

Dividends received by a permanent establishment of a non-resident legal entity in Kazakhstan which do not meet the exemption conditions are not excluded from the total annual income.



Amendments Enacted Retrospectively from January 1, 2020

In order to eliminate ambiguity, a clarifying amendment has been introduced according to which income of controlled foreign companies is an independent object of CIT taxation reported separately from taxable income.

The following types of income are not considered as income:

- received by purchase and sale of participation interests and securities between persons, 99% of which directly or indirectly belong to one individual;
- forfeits (fines, penalties) awarded to the bank, which was restructured by a court decision, subject to certain conditions. This provision is in force until January 1, 2027.
- reduction of the number of provisions by the bank in respect of which the restructuring was carried out by a court decision, subject to certain conditions. This provision is in force until January 1, 2027.

Income from write-off of liabilities is not a decrease in the amount of liabilities on debt written off by an organization specializing in improving the quality of loan portfolios of second-tier banks, the sole shareholder of which is the Government of Kazakhstan.

Dividends paid by closed risk investment mutual funds and joint stock risk investment funds can be excluded from total annual income without compliance with the previously established conditions.

Membership fees are deductible, including those paid in the current tax period for previous tax periods.

Taxpayer's expenses that reduce the amount of taxable income may include expenses on training an individual who is not employed by the taxpayer, as well medical insurance of the student during the training period abroad.

A clarifying norm has been introduced, according to which the amount of non-taxable capital gains must be reduced by the number of losses from the sale of similar assets (shares, interests in legal entities or consortium).

Taxpayers engaged in electronic trade of goods and entitled to a 100% CIT reduction are exempted from the obligation to pay CIT by advance payments. This provision is valid until January 1, 2023.

Also, when determining the limit of 325,000 MCI, taxpayers operating in an SEZ or implementing investment projects may exclude income from priority activities from the total annual income.

Amendments Enacted from January 1, 2021

Clarifications have been made regarding the definitions:

- the initial cost of assets with a service life of more than one year, not used in the activity aimed at generating income, as well as non-current assets held for sale. If such assets are excluded from fixed assets, the initial cost is book value at the date of disposal, excluding revaluation;
- determining the value of the contribution to the authorized capital, which also considers additional contributions in assets and money.

The norm has been added according to which the income from the assignment of the right of claim to a taxpayer acquiring the right to claim loans (loans, microcredits) from an organization specializing in improving the quality of loan portfolios of second-tier banks, the sole shareholder of which is the Government of Kazakhstan, is a positive difference between the amount, in fact paid by the debtor, and the cost of acquiring the right to claim. Such income is recognized in the tax period in which the positive difference arises (increases). Wherein it does not consider any positive difference previously recognized in previous tax periods.

The clarifying norm has been introduced regarding income received from the operation of social facilities. In particular, if the conditions established in Article 239 are not met, tax accounting of income and expenses from the operation of social facilities is carried out in accordance with the generally established order.

To be excluded from gross annual income:

- investment income received by investment funds registered in accordance with acting laws of the Astana International Financial Center and accounted by the custodian or management company of the investment fund;
- income generated upon termination of obligations in accordance with the civil laws of Kazakhstan on a loan (loan, microcredit) issued by a bank (microfinance organization), in the form of:
 - principal debt forgiveness;
 - forgiveness of indebtedness for remuneration, commission, forfeit (interest, fine);
 - income received by the borrower as a result of payment for such person by bank, an organization engaged in certain types of banking operations, as well as state fee for a collector agency charged on a statement of claim filed to the court.

The list of deductible expenses includes mandatory pension contributions of the employer paid by the taxpayer for the employee, within the limits established by the legislation of Kazakhstan on pension provision.

The clarifying norm has been introduced, according to which at calculating the deductible interest amount, the maximum coefficient applicable to microfinance organizations is 4.

Employers are entitled to deduct the amount of voluntary pension contributions paid by the tax agent to the employee.

Sulfuric acid for oxidation is included in the list of depreciable assets created during the preparatory work for uranium mining by in situ leaching.

Amendments Enacting from April 1, 2021

The requirement has been included that expenses more than 1,000 MCI can be deducted only if an electronic VAT invoice is received from the supplier in cases where the issuance of such an electronic VAT invoice was mandatory. In this case, the date of issue of the electronic invoice does not affect the date of the recognition of expenses.

VALUE ADDED TAX (VAT)

Amendments Enacted Retrospectively from January 1, 2018

The following is not considered as taxable turnover (valid until January 1, 2021):

- transfer of the volumes of process fuel provided by the customer to the oil refinery for obtaining heat energy and for other technological processes for the production of petroleum products, due to the operating mode and technological characteristics of the equipment;
- receipt of money on the current account of a private bailiff, intended to store the collected amounts in favor of the claimants.

The amount of offsetable VAT is recognized as the amount of VAT indicated in the document confirming the fact of travel by air, issued by the supplier who is the VAT payer on the date of issuance of such documents.

By issuing invoices under contracts, which terms match the terms of the commission agreement, the invoice will be issued by the commission agent considering, among other documents, the data of the declaration for goods drawn up in accordance with the customs legislation of the Eurasian Economic Union and (or) the customs legislation of Kazakhstan or in the statement for the import of goods and payment of indirect taxes - in the case of import of goods.

Amendments Enacted Retrospectively from January 1, 2020

The clarifying amendment has been introduced, according to which the turnover exempted from VAT is not borrowed operations, but the provision of a loan (loan, microcredit) in cash on the terms of payment, maturity, and repayment.

The VAT-exempt turnover includes sales of:

- components of agricultural machinery, subject to certain conditions;
- goods produced and sold in the implementation of priority activities on the territory of the SEZ, subject to certain conditions;
- vehicles and (or) agricultural machinery by an authorized representative of the manufacturer included in a special register, subject to certain conditions.

The list of activities related to the processing of agricultural products and fish farming products qualifying for an additional amount of input VAT was extended. This change is valid until January 1, 2023.

Amendments Enacted from January 1, 2021

The clarifying rule has been introduced according to which by issuing a corrected invoice, previously issued invoice and additional invoices are cancelled, if any. In order to recover cancelled additional invoices, additional invoices are issued to the corrected invoice.

The number of taxable imports subject to VAT also includes the amounts of special, anti-dumping and countervailing duties.

Amendments Enacting from April 1, 2021

The list of entities obliged to issue invoices, including in electronic form, has been expanded. These include:

- entity that sells goods previously received by them through the “Virtual warehouse” module, regardless of whether VAT payer or not;
- entity executing a transaction in the amount of more than 1,000 MCI, regardless of whether VAT payer or not;
- entity providing international transport services.

It should be noted that some of the retrospectively enacted norms worsen the position of taxpayers and/or tax agents, as well as reduce pre-existing benefits. This is contrary to Article 3 Paragraphs 2 and 5 of the Tax Code. Accordingly, in our opinion, there are legal grounds for invalidating these rules. We are ready to provide you legal support in the event of additional accrual of tax liabilities in such cases.

TAXATION OF SUBSOIL USERS

Amendments Enacted Retrospectively from January 1, 2018

Mineral Extraction Tax (MET) on Groundwater

According to the amendments, MET is not paid:

- by re-injecting underground waters, including in the form of steam generated from it, into the subsoil (pumping out technogenic water) to maintain reservoir pressure;
- at utilizing groundwater produced along the way with hydrocarbons and posing a threat to public health and the environment, in accordance with the water legislation of Kazakhstan.

Also, the rates of MET for groundwater were changed. Thus, the MET rates for 1 cubic meter of groundwater produced and/or used by a subsoil user is set at 0.001 MCI to 0.025 MCI. And for actual losses of underground water, the rates are set at 0.005 MCI and 1 MCI per 1 cubic meter.

Amendments Enacted Retrospectively from January 1, 2020

Mineral Extraction Tax (MET)

The amendments have been made to the Tax Code to set the procedure for recalculating prices expressed in foreign currency in tenge for the purpose of calculating the MET. Thus, if the selling price of a mineral is set in foreign currency, then such price is recalculated in KZT using the market exchange rate determined on the date of transfer of ownership of the mineral raw materials sold, including those that have undergone only primary processing (enrichment), according to agreement. This provision applies to sales transactions made after January 1, 2020.

Rent Tax on Coal Exports

The rent tax on coal exports is abolished. This change was made in accordance with the decision of the Eurasian Economic Commission.

At the same time, the rate of the mineral extraction tax ("MET") on coal was increased and set at 2.7%. However, for certain cases (for example, for sale to a natural monopoly entity, etc.), a coefficient of 0.01 is provided for the MET rate for coal.

Changing the Subsoil Use Right to a License Mode

Due to a transition to license mode of subsoil use, the Tax Code was supplemented with transitional provisions for cases of changing a subsoil use contract.

Thus, a changed subsoil use contract and its replacement license for subsoil use are considered as a single contract in aggregate for the purpose of maintaining separate tax accounting in the tax period in which the change of the contract took place. And the activities of the subsoil user under the changed contract and the obtained license are considered as a single contractual activity, for which a single separate tax accounting is kept.

Besides, transitional provisions cover the distribution of income, losses, value balance, liquidation fund.

Signature Bonus

The rates for calculating the amount of the signature bonus under the subsoil use license have been changed. For example, the rate for a production license is 200 MCI, for a license for geological exploration of subsoil is 50 MCI, for a license to use of subsoil space is 400 MCI.

Historical Cost Recovery Payment

Regarding the procedure and terms of payment for reimbursement of historical costs, editorial amendments were made to the Tax Code due to the exclusion of the concept of commercial discovery in the Subsoil Use Code.

Thus, the payment for reimbursement of historical costs is provided by the subsoil user from the start of production in the contract territory (area) and the earliest of the following dates:

- commercial discovery announcement;
- transition to the production period (stage) in accordance with the Subsoil Use Code;
- issuance of a license for the extraction of minerals;
- conclusion of a contract for the extraction of minerals.

Mineral Extraction Tax (MET)

MET rates changed:

- for hard coal, brown coal, oil shale - 2.7%;
- for other non-metallic mineral raw materials that are not common minerals - 4.7%, but not less than 0.02 MCI per unit volume.

CONTROLLED FOREIGN COMPANIES (CFCs)

Amendments Enacted Retrospectively from January 1, 2020

Residents of states with which double taxation treaties have been concluded and where the effective tax rate for which is more than 15% are not regarded as controlled foreign companies (CFCs) entities. A list of such states will be approved by the tax authorities. The clarification has been made according to which the terms of ownership of 25% or more of the share of participation or control are determined as of December 31 of the reporting period.

The conditions according to which CFCs and their permanent establishments (PEs) are determined if they are not registered in a state with preferential taxation and the total income of the CFC and PE does not exceed 150,495 MCI established as of January 1 of the tax period. Also, for calculation of the income of a CFC (or its PE), in the absence of an official currency rate set by the National Bank the cross rate against the euro is applied.

Additional concepts have been introduced specifically for the CFC provisions:

- audited financial statements;
- approved financial statements;
- total income;
- the nominal income tax rate;
- passive income;
- share of passive income;
- foreign company;
- unified organizational structure of the consolidated group.

The list of documents and the requirements for them have been changed, based on which the income of a CFC can be exempted from taxation in Kazakhstan.

The procedure for calculating the total profit of a CFC has been changed, the calculation considers, inter alia, the share of passive income.

The unified deadline for filing an application for participation (control) in a CFC is March 31 of the year following the reporting year. The application is submitted as of December 31 of the reporting year.

The taxable income of CFCs and their PEs may be reduced by the number of losses from entrepreneurial activity in Kazakhstan over the past three years, subject to restrictions. This provision does not apply to CFCs and their PEs registered in countries with preferential taxation.

Restrictions have been introduced regarding the offsetting of foreign tax paid on CFC income under certain conditions.

Amendments Enacted from January 1, 2021

Financial profit of CFCs and PEs of investment residents of the Astana International Financial Center (AIFC) are exempt from taxation in Kazakhstan.

TAXATION OF NON-RESIDENTS

Amendments Enacted Retrospectively from January 1, 2018

Permanent Establishment

According to the amendments into the Tax Code, the date of commencement of activities of a non-resident in Kazakhstan is the earliest of the following dates:

- the date of the conclusion of an agreement for the provision of works, services in Kazakhstan, procurement of goods in Kazakhstan for the purposes of sale, etc.;
- the date of the first employment agreement for the purposes of carrying out activities in Kazakhstan;
- the date of arrival to Kazakhstan of personnel for fulfilment of a contract; or
- the date of entering into force of the document entitling the non-resident for carrying out activities related to exploration and production of minerals and pipelines.

In accordance with the amendments to the Tax Code, for the purposes of calculation of the terms of creation of a permanent establishment, the date of commencement of the business activities of the non-resident in Kazakhstan is the earliest date, regardless of conclusion of the first employment agreement or arrival of personnel to Kazakhstan.

Amendments Enacted Retrospectively from January 1, 2019

Taxation of Dividends

It is known that in Kazakhstan dividends are not taxable subject to conditions where one of them is the three-year holding period. This three-period includes the acquisition of shares through the re-organization of the previous shareholders.

Under the new amendment, the three-year holding period would also include the transfer of shares within a corporate group.

Tax Exemption of Non-Residents' Income

According to the amendments to the Tax Code, income of a non-resident from sources in Kazakhstan does not include income of a non-resident legal entity received from autonomous education institutions, non-commercial organizations established by autonomous education institutions, as well as the bodies and/or organizations of bodies of the AIFC. This amendment entered into force from 1 January 2019.

Amendments Enacted from January 1, 2021

Taxation of Dividends

According to the amendments, the exemption from taxation of dividends after three years applies only to income previously taxed with CIT. In other words, dividends paid by a company reporting loss on a CIT return do not qualify for the exemption.

Multilateral Convention (MLI)

On 1 January 2021, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“Multilateral Instrument” or “MLI”) came into effect in Kazakhstan. Kazakhstan included 54 bilateral double tax treaties into the Covered Tax Agreements.

Inter alia, the MLI makes amendments on permanent establishment, payment of dividends, mutual agreement procedure. The MLI also introduces the principal purpose test for prevention of double tax treaty abuse and tax avoidance. The Law dated 10 December 2020 amended the Tax Code correspondingly.

AIFC Investment Resident

The other significant novelty is the introduction of investment residency in the AIFC. The purpose of the program is promoting new investment flows that will enhance the activities on the AIFC platform. Investment resident can be only a natural person – foreigner or stateless person that is not a resident of Kazakhstan during the last 20 years, as well as not a person whose citizenship was terminated within the last 20 years.

For the purposes of becoming an AIFC investment resident in the current tax period the minimum length of stay is 90 days (including arrival and departure days) in any 12-months period.

The fee for obtaining the document confirming the AIFC investment residency of a foreigner or a stateless person is 7,000 MCI (approx. EUR 40,000 or USD 50,000). The other conditions for obtaining the AIFC investment residency status, including the volumes and instruments of investment are defined by the tax residency program.

Mutual Agreement Procedure

According to the Tax Code amendments, not only a resident or a citizen of Kazakhstan is entitled to apply to the competent authority for conducting mutual agreement procedure, but any other person within the framework of double tax treaties. This amendment is conditioned upon entry into force of the Multilateral Instrument in Kazakhstan for the effective dispute resolution purposes.

Application of the Term “Beneficial Owner” to Active (Earned) Income

One of the significant amendments in part of international taxation is the cancellation of application of the term “beneficial owner” to active (earned) income of a non-resident – non-related party starting from 1 January 2018. Earlier, under the Tax Code of 2008, this term was applicable only to passive income (dividends, interest, royalty). However, in the Tax Code of 2017, the term “beneficial owner” was applied to active (earned) income of a non-resident sourcing from Kazakhstan. According to the Tax Code amendments, now with respect to active (earned) income this term is applicable only to a non-resident related party.

Moreover, from 1 January 2021, for the purposes of applying a double tax treaty to a non-resident related party – resident of a state having a double tax treaty with Kazakhstan which was amended by the Multilateral Instrument, the following conditions should be met:

1. income sourcing from Kazakhstan is subject to including into the taxable income of a non-resident in foreign state and is taxable without any exemptions;
2. the nominal tax rate for taxing such income in the foreign state is not less than 15%.

In case of illegal application of double tax treaty provisions leading to non-payment or underpayment of taxes to the state budget, the tax agent is liable under the laws of Kazakhstan.

Certificate of Tax Residence

If a certificate of tax residence confirms the residence on a given date, then the non-resident is considered as a resident of such foreign state only for the period from 1 January until that date. In this regard, it is necessary to be careful with requesting a certificate of residence from non-residents.

PERSONAL INCOME TAX (PIT)

Amendments Enacted Retrospectively from January 1, 2018

Expenses of an employer related to transportation of employees from their place of stay in Kazakhstan to the workplace and round is not considered as income of the employee – without a need to conclude an agreement on transportation with contractors.

Amendments Enacted Retrospectively from January 1, 2020

Dividends occurring in results of acquisition of securities or participation interest from a non-resident legal entity by a resident legal entity are not considered as income of an individual if at least 99% of participation interest/securities or other forms of participation in the transferer or the transferee of assets belongs to the same individual directly or indirectly.

An individual is entitled to deduct the contributions to the compulsory social medical insurance. Such tax deductions are applied at the source of income by a tax agent.

Amendments Enacted from January 1, 2021

Exemptions from Income of an Individual

According to the amendments the following income are not considered as income of an individual:

- cost of provided uniform – if the laws of Kazakhstan envisage obligatory wearing of uniform and/or provision of such;
- voluntary pension contributions transferred by a tax agent to the Unified Pension Savings Fund, voluntary pension funds in the benefit of an employee.

Income of an Individual

Taxable income of an individual also includes income received (receivable) by a member of a board of directors or other managerial body of a taxpayer that is not the highest managerial body.

Mutual Investment Fund

The legislator brought back the tax incentives for capital gains at the sale of open-end and interval equity units of mutual investment funds.

It is presumed that the introduction of tax incentives for mutual investment funds will inspire the individuals to invest into mutual investment funds as an alternative to bank deposits. Mutual investment funds are the instrument of collective investing that is capable of non-debt financing of real sector of economy with long-term money.

Insurance Payments

The following are excluded from the income of an individual:

- insurance payments made by insurance companies under endowment insurance agreements, insurance premiums on which were paid by an individual in its own favor and/or in favor of close relatives, spouse and/or by an employer in its own favor. This amendment was made since in practice agreements are often concluded in favor of children with the purpose of saving money for their education or other needs.
- Cash surrender value paid by insurance companies under endowment insurance agreements in accordance with the insurance laws of Kazakhstan.
- Insurance premiums – within the limit of 320-folded MCI paid within a calendar year by a resident individual under endowment insurance agreement concluded for a period of three years and longer. This amendment is aimed at inspiring people to conclude long-term endowment life insurance agreements that will afford the people to make provisions for the future.

These amendments were made for the purposes of avoiding double taxation, as the individuals' means paid for the insurance agreement are already levied by PIT.

Payment of PIT from the Lump-Sum Pension Payments

The tax system of Kazakhstan is designed so that a part of an individual's income paid to pensions funds are taxed not at the moment of transfer to the fund, but at the payment from the fund. Thus, the lump-sum payments from the Unified Pension Savings Fund coming into effect from 1 January 2021, for housing improvements or for medical care have to be levied by PIT at the rate of 10%.

Therefore, the additional provisions were made providing the PIT payment procedure. Withholding and payment to the budget of PIT amounts is carried out by a tax agent (the Unified Pension Savings Fund) under one of the following conditions:

1. Withholding of the whole amount of PIT at payment of the lump-sum to the individual;
2. Monthly payment of equal parts within 16 months in accordance with pension payment schedule established by the Unified Pension Savings Fund, i.e. upon retirement.

TAX ADMINISTRATION*Amendments Enacted Retrospectively from January 1, 2018***IFRS and Tax Code**

To comply with the principle of certainty throughout the text of the Tax Code, the following were included «in accordance with international financial reporting standards and (OR) the requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting».

Thus, the editorial discrepancy has been eliminated in terms of the legislation on accounting and financial reporting, the applicability of certain standards for different categories of business entities.

*Amendments Enacted Retrospectively from January 1, 2020***Statute of Limitations in connection with a CFC**

Residents controlling CFCs are subject to a 5-year statute of limitations period.

*Amendments Enacted from January 1, 2021***Procedure for the Adoption of New Tax Legislation**

Previously, amendments to tax legislation could be adopted no more than once a year. In accordance with the amendments, such restrictions have been removed.

At the same time, if amendments to the Tax Code are made as a legislative initiative of the Government of the Republic of Kazakhstan («RK»), a draft of such a law is developed not by tax authorities, but by the Ministry of National Economy of the Republic of Kazakhstan as an authorized body in the field of tax policy.

Tax Authorities will Receive More Information for Tax Purposes

From 2021 tax authorities have access to information from:

- Notaries that are obliged to provide individuals information on transactions and agreements on the property subject to state or other registration; issued certificates of the right to inheritance; other transactions and agreements, if the price stipulated by the transaction (agreement) exceeds 2,000-fold MCI; loan agreements between individuals; other agreements on the transfer of property that are not subject to state or other registration;
- The organization that maintains a system of registers of securities holders, which is obliged to provide information about individuals - holders of securities, as well as transactions of individuals with securities;
- The authorized body in the field of regulation of trading activities, which is obliged to provide information on transactions of individuals with exchange commodities;
- The legal entity ensuring the accounting of pension contributions, social contributions and social benefits, contributions and payments for compulsory social health insurance, which is obliged to provide information about individuals;
- The authorized body in the field of equity participation in housing construction, which is obliged to provide information about individuals who have entered into an agreement on shared participation in housing construction, as well as about individuals who have entered into an agreement on the assignment of rights of claim thereon;
- The authorized body for labor, which is obliged to provide information on individuals who are unemployed, issued permits to attract foreign labor;
- The authorized body for public service affairs, which is obliged to provide information on political and administrative public servants from a single automated database (information system) on public service personnel;
- The authorized body in the field of culture, which is obliged to provide information on individuals who own material cultural values that are of particular importance for the history and culture of the country and are included in the State Register of Objects of National Cultural Heritage;
- The authorized body in the field of state statistics, which is obliged to submit administrative data recorded in the housekeeping book;
- The central executive body in charge, as well as, within the limits stipulated by the legislation of Kazakhstan, cross-sectoral coordination in the field of social protection of the population, which is obliged to provide information on persons receiving social benefits and on the amount of such benefits, on persons receiving pension payments and their sizes;
- The state body authorized by the Government of the Republic of Kazakhstan to conclude an investment agreement, which is obliged to submit to the authorized body information on concluded investment agreements and termination of such agreements, as well as other information.

New Information Service

In order to execute instructions of the Head of state on the implementation of the «principle due diligence» and the creation of an integrated database on businesses for self-checking their counterparties, taxpayers have the right to receive information on reliability and integrity of the counterparties from the information system.

Such verification will be carried out based on indices approved by the methodology approved by the Ministry of Finance of Kazakhstan and consent of the National Chamber of Entrepreneurs.

Tax Secrecy and Litigation

If earlier the tax authorities had the right to provide the court with information containing tax secrets without the permission of the taxpayer in cases related to the calculation, withholding and transfer of taxes in the manner determined by this Code, then with the change the category of cases has significantly expanded, and the tax authorities are required to submit information about the taxpayer in all cases where the taxpayer is a party to the case under consideration.

Investment Tax Credit

The Tax Code introduced the concept of «investment tax credit». An investment tax credit is a change in the due date for the payment of tax when taxpayers are given the opportunity within a certain period to reduce tax payments by 100% followed by a phased payment of the loan amount.

Such a loan can be provided for corporate income tax («CIT») and (or) property tax for up to three years.

The decision to grant an investment tax credit is made on the basis of a taxpayer's application and is formalized by an investment tax credit agreement between the taxpayer and the Ministry of Investment and Development as the competent investment body.

Registration

1. Registration of Foreigners

Amendments have been made in accordance with registration of non-resident individuals as taxpayers, including the function of assigning and issuing a document with an individual identification number (IIN) to foreign individuals (including non-residents, i.e. foreigners temporarily staying in Kazakhstan) is transferred to the competence of the internal affairs bodies.

Until January 1, 2021, foreigners received IIN from the tax authorities by submitting a tax application.

After the transfer of the function of assignment and issuance of a document with IIN to the internal authorities, the tax authorities will receive information on the registration of such person in an automatic mode based on the information of the authorized body.

2. Registration of Non-Resident Legal Entities

Now a non-resident legal entity registering as a taxpayer is required to submit documents containing information about the beneficial owner.

Changes of Procedural Deadlines

1. The term for appealing the decision on recognizing the notification on the results of documentary control as not fulfilled is extended from 5 working days to 10 working days.
2. The term for offsetting and refunding the overpaid (collected) amount of taxes, payments to the budget, penalties has been reduced from 10 working days to 5 working days.
3. The deadline for tax authorities to provide information on the absence (presence) of debt has been reduced from 5 working days to 3 working days so the justice authorities could comply with the deadline (5 working days) to liquidate a legal entity or terminate the activities of a branch (representative office) of a foreign legal entity.
4. The deadline for publishing information on revocation of tax reports on the information resource of the tax authority has been reduced from 5 working days to 1 working day.
5. The period during which tax authorities will be obliged to suspend (extend, resume) the submission of tax returns or refuse to suspend the submission of tax returns has been reduced to 1 business day.

Tax Audit

1. Participants of Tax Audits

According to the amendments, taxpayers, including member states of the Eurasian Economic Union and states that are not members of the Eurasian Economic Union, are recognized as participants in the tax audit in the territory specified in the prescription.

The earlier edition did not allow audits of entity who were not registered as taxpayers. Such a change will cover the transit movements of freight vehicles moving through the territory of Kazakhstan to prevent “false transit”.

2. Thematic Tax Audit

According to the amendments it is assumed that by appointing a tax audit by order of the criminal prosecution body in a criminal case, in relation to the supplier issuing fictitious invoices, not a complete (complex) audit of all activities of his counterparties is carried out, but a thematic audit by definition tax liability upon the fact issuing an invoice without actually performing work, rendering services, shipment of goods.

3. Thematic Tax Audit to Confirm the Accuracy of the Excess VAT

According to the amendments, it is assumed that the audited period will be limited to the period for which a claim for refund of the excess VAT has been submitted.

So, earlier, in practice, the tax authorities carried out inspections for a period for which the refund of excess VAT was not requested or a repeated inspection of the same period was carried out.

Tax Forms and Reporting

In order to optimize tax reporting, the submission of a declaration on indirect taxes on imported goods by the form 320.00 is excluded, which is replaced by a declaration on the import of goods and payment of indirect taxes.

Amendments Enacting from January 1, 2022

The Limitation Period for Large Business Entities

All large business entities classified in this category in accordance with the Entrepreneurial Code of the Republic of Kazakhstan will be subject to a 5-year limitation period.

VAT Registration

The threshold value of the turnover for the purposes of VAT registration will be 20,000 MCI (previously 30,000 MCI).

At the same time, the minimum turnover does not include the turnover of a taxpayer applying a special tax regime for the retail tax, as well as the turnover of an individual entrepreneur applying a special tax regime based on a simplified declaration within 124,184 MCI established by the law on the republican budget and effective as of January 1 of the corresponding financial year, made in non-cash form of settlements with the obligatory use of a three-component integrated system.

Registration of Taxpayers Practicing Certain Types of Activities

Taxpayers who manufacture or wholesale and (or) retail gasohol, benzanol, nefras, a mixture of light carbohydrates, and ecological fuel will be subject to registration.