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**GUIDE TO TAXATION
IN KAZAKHSTAN**

Updated for Tax Code as of January 2005

Audit . Tax . Consulting . Financial Advisory .

This publication has been prepared for general guidance only. Legislation and the interpretation of legislation change frequently in Kazakhstan and you should seek professional advice relating to your specific circumstances before taking business decisions. Deloitte cannot be held responsible for the consequences of acting on the basis of this guide without taking such advice.

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BUSINESS AND INVESTMENT ENVIRONMENT

1. Deloitte in Kazakhstan

As Kazakhstan continues to move toward a free market economy, it faces numerous difficulties. However, Kazakhstan offers ample investment opportunities as a result of its plentiful natural resources, growing consumer demand for goods and services, and its skilled workforce.

Deloitte provides services to Kazakhstan clients and investors in Kazakhstan from its offices in Almaty, Atyrau and Astana. The firm offers a wide range of accounting, statutory and international auditing, tax consulting and legal services, transfer pricing, as well as strategic analysis and risk management, and payroll and bookkeeping services.

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2. Forms of Business Organization

The main types of business organizations in Kazakhstan are: joint stock companies, limited liability partnerships, full partnerships, additional liability partnerships, special partnerships, sole proprietorships, branches and representative offices of foreign companies. All partnerships and joint stock companies constitute separate legal entities.

3. Foreign Participation

Foreign investors may own shares of Kazakhstan enterprises.

The rules of co-ordination of acquisition by individuals and legal entities of stock and shares in telecommunication entities with the authorized state body are stipulated from October 2004. The rules are effective for individuals and Kazakh legal entities, expatriates, persons without citizenship and foreign legal entities intending solely or jointly or within a group to acquire or otherwise purchase more than 10 percent of the voting stock or shares of the intercity and/or international communication operator.

4. Work Permits

Expatriates who have signed a contract with a Kazakhstan entity (including a branch or a representative office of a foreign enterprise) need to obtain a work permit from the local executive authorities. In their turn the local executive authorities issue a permit in case of vacant jobs and if it is impossible to meet the demand for labor from the domestic labor market within the established quota. This is necessary even for temporary work in Kazakhstan. Foreign citizens and persons without citizenship working as executives of foreign legal entities, their branches or representative offices do need to obtain a work permit from

regional Departments of labor, employment and social protection.

5. Exchange Controls

5.1 General Information

Tenge (KZT), the Kazakhstan legal instrument of payment, has a limited convertibility. Residents and nonresidents may hold both hard currency and Tenge accounts in authorized banks and may import and exchange currency in accordance with the procedures of the National Bank of Kazakhstan.

Generally, Kazakhstan currency is the only permitted instrument for settlements between residents within the territory of Kazakhstan. However, there are certain exceptions.

Any currency is a permitted means of payment between residents and nonresidents involved in international transactions relating to trade and investment activities.

5.2 Definition of Residency

For the purposes of currency regulations and control requirements, a resident of Kazakhstan is defined as:

any individual permanently residing in RK, including those temporarily abroad or in public service of RK outside its borders;

legal entities established in accordance with Kazakhstan legislation, located in the territory of Kazakhstan, including their branches within and outside Kazakhstan.

Any other person or structural subdivision thereof, not being a resident of Kazakhstan, is treated as a non-resident for purposes of currency control regulations.

5.3 Conversion Requirements

Currently there are no mandatory requirements to convert foreign-currency proceeds into Tenge in Kazakhstan.

5.4 Licensing Requirements

The following types of exchange operations are carried out on the basis of a license from the National Bank of RK:

- 1) retail trade and performance of services for foreign currency;
- 2) opening of bank accounts in foreign banks by residents;
- 3) overseas investments by residents;
- 4) residents' transfers in favor of non-residents for payment

- of transactions providing for transfer of title to real estate;
- 5) residents' transfers in favor of non-residents to carry out settlements on import transactions providing for an advance payment for goods (works, services) for the period of over 180 days;
 - 6) residents' receipt from non-residents of payments on export of certain goods if the period between the date of export of goods and receipt of export proceeds exceeds 365 days, and
 - 7) residents' issue of loans to non-residents for a period of 180 days;

Resident individuals can export from Kazakhstan foreign currency in the amount not exceeding an equivalent of USD 10,000, and non-resident individuals can export from Kazakhstan foreign currency in the amount not exceeding USD 3,000 without producing documents supporting the origin of exported foreign currency cash.

6. Investment Incentives

6.1 Priority Economy Sectors

In order to attract foreign and domestic investments, the Kazakhstan government established priority types of activity for which investment preferences are provided. The basic ones are:

- agriculture;
- production of foodstuffs;
- textile industry;
- oil products industry;
- chemical industry;
- metallurgy;
- machine building industry, and
- construction.



6.2 Types of investment preferences

The following investment preferences are available for investment projects in priority types of activity:

- investment tax preferences for land tax, property tax and corporate income tax;
- exemption from customs duties, and
- State in-kind grants.

Legal entities are required to report certain statistical data to the government on a regular basis.

7. Statistical Reporting

For branches of foreign legal entities there is a general requirement for submission of two reports – (1) report on joint venture and foreign enterprise activity; (2) report on labor plus reports required for submission in accordance with the type of business activity. In addition to these reports, a branch of foreign legal entity, which is the only representative of a company in Kazakhstan, is required to submit a report on results of business activity of a small enterprise.

8. Accounting Standards

At the moment Kazakhstan is in the process of transition to the International Accounting Standards (“IAS”). IAS were in force for certain organizations determined by the Government of Kazakhstan starting January 1, 2003. Joint stock companies must apply IAS starting from January 1, 2005, and other organizations from January 1, 2006.

Foreigners are sometimes surprised by the requirement in Kazakhstan to maintain extensive formal records locally for accounting and tax purposes. Some of these requirements include:

9. Record Keeping Obligations

- Transactions should be reflected in the accounting system in accordance with the following rules:
 - all primary documents (e.g., invoices) should be attached to the accounting records;
 - all transactions must be shown in the accounting documentation;
 - records must be kept in chronological order, and
 - the double entry concept must be applied.
- Primary documents, both on paper and in electronic form, should be prepared by a legal entity itself, and must have the following features:
 - name of a document;
 - date of a document;
 - name of a relevant organization or entrepreneur;

- context of a transaction;
 - units of measurement, and
 - positions, names, initials and signatures of persons responsible for a transaction and accuracy of its recording.
- Forms of certain primary documents are approved by the order of the Ministry of Finance of the Republic of Kazakhstan.
 - Primary documents should be prepared at the moment of a transaction or right after its completion.
 - Corrections in accounting documents may be made only with consent of the parties involved in the transaction and should be approved by the signatures of the same persons who signed the document initially.
 - Persons entitled to sign accounting documents are determined by the management.

General Chart of Accounts

Kazakhstan accounting standards establish general rules of record keeping and financial reporting. The General Chart of Accounts is a systematic list of accounts used in record keeping.

Delivery/Acceptance Act

Upon the issuance of an invoice, a legal entity is normally expected to prepare an Act of Acceptance. There are no set standards or standard forms for this Act of Acceptance. It represents an acknowledgement that both parties properly performed their contractual obligations and each party accepted the performance of the obligations by other party.

TAXATION IN KAZAKHSTAN

1. Taxation System

1.1 Constitutional Principles

As required by the Constitution of Kazakhstan, within the tax system of Kazakhstan, any taxes, levies, and other obligatory payments may be established only by laws enacted by the Parliament of the Republic of Kazakhstan.

Parliament may not delegate its constitutional powers to establish the tax system, taxes or levies, and sanctions for tax violations to the government or any other authorities.

Under the Constitution, laws in general, and tax laws in particular, enter into effect only after the President signs them.

1.2 Tax System

Tax legislation of the Republic of Kazakhstan consists of the Tax Code and certain normative legal acts provided for by the Tax Code.

Ratified International Agreements take precedence over the Tax Code.

The Tax Code governs power relationships on establishment, introduction and procedure of calculation and payment of taxes and other obligatory payments to the budget and relationships between the state and taxpayer relating to fulfillment of tax obligations.

Corporate income tax, value added tax, personal income tax, and subsurface users taxes account for the major part of the budget revenues.

The table below represents a summary of tax rates for the main taxes.

Tax	Tax Rate as of Jan. 1, 2005
Corporate Income Tax	30%
Income Tax Withholding	5-20%
Value Added Tax	15%
Personal Income Tax	5-20%
Social Tax	20%-7%, ¹ 11%-5% ²
Pension Fund Contribution	10%
Social insurance fund contribution	1.5%

¹ Regressive rate for local employees.

² Regressive rate for foreign employees

1.3 Taxation Year

The tax period for legal entities and individuals is the calendar year.

1.4 Filing Deadlines

Legal entities should file corporate income tax returns by March 31 of the year following the reporting period.

Individuals should file individual income tax returns by March 31 of the year following the reporting year.

Under the Tax Code, legal entities and individuals can apply for an extension for filing returns to the tax authorities (in practice this is complicated). However, the tax payment deadline cannot be extended – all outstanding taxes must be paid within ten days from the official filing deadline.

1.5 Advance Payments of Taxes

Various rules are in place for both legal entities and individuals on remitting of tax advance payments.

1.6 Interest and Penalties

Interest is assessed for each day a tax is unpaid. It is charged at 2.5 times the refinancing rate set by the National Bank of the Republic of Kazakhstan (equivalent to 18.75% at the current rate).

Penalties of up to 150% of underpaid taxes and other obligatory payments to the budget may be applied.

2. Corporate Income Tax

2.1 Tax Jurisdiction

Legal entities incorporated in Kazakhstan are normally treated as tax residents taxable on their worldwide income. Legal entities incorporated abroad are normally treated as nonresidents and are taxable on income from Kazakhstan sources or income derived from carrying on business in Kazakhstan.

2.2 Taxation of Resident Entities

(1) Taxable Income

Resident entities are taxed on their worldwide income accrued within a reporting period (calendar year) at the rate of 30%. The amount of taxable income is determined by subtracting all deductions provided by the Tax Code from gross income.

(2) Gross Income

Gross income of a resident legal entity is defined as income receivable in and outside of Kazakhstan within the tax period. Gross income includes (among others):

- income from the sale of goods or services;
- income from the sale of buildings and other assets which are not subjects to depreciation;
- income from doubtful liabilities;
- income from rent;
- income of banks from reduced provisions against bad debts;
- income from assignment of debts;
- income received for consent to limit or cease entrepreneurial activity;
- income representing the excess of proceeds on the disposed fixed assets over the balance value of the relevant asset subgroup;
- income representing the excess of amounts received on closing operations over the actual expenses of closure;
- compensation received for deductions taken previously;
- property, performed works, or rendered services provided on a free-of-charge basis;
- dividends;
- interest income;
- excess of foreign exchange gain over foreign exchange loss;
- winnings, and
- royalties.

The following items are excluded from gross income:

- dividends received from resident companies taxed at the source of payment;
- any premium received by the issuer on the issuance of shares;
- gain from the sale of stocks and obligations, which are listed on the A or B lists of the Kazakhstan Stock Exchange at the date of sale;
- profits from transactions with state securities and agency bonds;
- value of property received as humanitarian aid in case of an emergency;
- value of fixed assets received by a state enterprise from a state institution;
- investment income received in accordance with pension legislation and allocated to personal pension accounts;
- investment income received in accordance with the laws on mandatory social insurance and directed at increasing the State social insurance fund's assets, and
- contributions to charter capital.

(3) Deductible Expenses

All business - related expenses are deductible unless such deduction

is restricted or disallowed by the Tax Code.

The following items are included in deductible expenses:

- expenses incurred by a taxpayer for goods, works or services used for receipt of aggregate annual income;
- any current expenses relating to scientific, project and other researches, and
- foreign exchange losses.

Deduction of the following expenses is disallowed:

- current and capital expenses not related to generating of aggregate annual income;
- penalties and interest payable to the state budget;
- expenses related to generating of an aggregate annual income exceeding the limits allowed for deduction by the Tax Code;
- other obligatory payments to the budget payable in amounts exceeding the set norms;
- expenses on construction, use and maintenance of assets not used in business activity;
- value of property transferred, work performed, and services rendered by a taxpayer on free-of-charge, and
- amount of additional payment of a subsurface user operating under a product sharing agreement.

(4) Deductions on Fixed Assets

Expenses incurred for the acquisition, production, construction, assembly and installment of fixed assets, which are subsequently used to generate aggregate annual income, may not be deducted for corporate income tax purposes immediately, but instead should be capitalized and depreciated over time.

Normally, a depreciation allowance is permitted for all fixed assets, including fixed assets and intangible assets, except for land, productive livestock, certain artworks, roads, pavements, capital construction in progress, goodwill and non-business capital assets.

(5) Tax Accounting Rules

Tax accounting is based on the accruals concept. Under this method, income and expenses are recognized in the reporting period when incurred.

The tax year corresponds to the calendar year. Corporate Income Tax (CIT) returns are filed annually and tax is payable on a monthly basis. An annual tax return must be filed by March 31 of the year following the tax year.

(6) Loss Carry-Forward

Business losses, including losses arising from disposals of buildings, structures or constructions used in the business of a taxpayer may be carried forward for up to three years and utilized against future taxable income.

In the case of activity carried out under subsurface use contracts (i.e., mineral extraction), losses may be carried forward for up to seven years.

Losses arising from the sale of securities (other than the stock of public companies) may be carried forward up to three years.

2.3 Taxation of Nonresident Entities

(1) Tax Jurisdiction of Nonresidents

Nonresident entities are taxed on income received from Kazakhstan sources and on income derived from carrying out business in Kazakhstan.

(2) Taxation of Income from Kazakhstan Sources

Income received by a nonresident entity from Kazakhstan sources is subject to income tax withholding in Kazakhstan, when such income is not associated with a permanent establishment (i.e. taxable presence) of such non-resident in Kazakhstan.

The following types of income are treated as non-residents' income from Kazakh sources:

- income received from the sale of goods, work performed, and services rendered in the territory of the Republic of Kazakhstan;
- income received from managerial, financial, consulting, auditing, and legal services, software maintenance and support services rendered to residents or a permanent establishment of nonresidents regardless of where the services are actually rendered;
- income from dividends received from a resident legal entity, and otherwise derived from equity shares in such a legal entity;
- income in the form of interest, except for interests on debt securities received from a resident or non-resident having a permanent establishment or property in the Republic of Kazakhstan;
- income in the form of royalty from sale, exercise or transfer of the right to use rights or property in the Republic of Kazakhstan;
- income received from leasing property located in

- Kazakhstan;
- income in the form of insurance premiums paid under insurance or reinsurance agreements against risks in Kazakhstan;
 - income from transport services in international transportation between Kazakhstan and other countries;
 - income from activities in the Republic of Kazakhstan under individual employment contracts;
 - income from independent personal (professional) services, and
 - some other income.

Income Tax Rates

The following income tax rates apply to income from Kazakhstan sources payable to nonresidents where such income is not attributable to a nonresident's permanent establishment in Kazakhstan:

Item of Income from Kazakhstan Sources	Tax Rate
Dividends, income from equity shares and interest	15%
Insurance premiums paid under risk insurance contracts	10%
Insurance premiums paid under risk re-insurance contracts	5%
Income from international transport services	5%
Other items of income from Kazakhstan sources	20%

These rates may be reduced if the recipient of income is a resident of a country which has a double tax treaty with Kazakhstan.

(3) Taxation of income from activities through a permanent establishment in Kazakhstan

Income of nonresidents derived from carrying out business in Kazakhstan through a permanent establishment is subject to tax under the same rules as income of Kazakhstan residents.

The rate of corporate income tax applicable to profits of a permanent establishment is 30%. Branch profits tax is applicable to the after tax profit at a rate of 15%, resulting in an aggregate rate of 40.5%. Branch profits tax may be reduced under an applicable double tax treaty to 5%, resulting in an aggregate rate of 33.5%.

Permanent Establishment

The term "permanent establishment" is defined in the Tax Code as a permanent place of a taxpayer's activities through which it conducts fully or partially business activities, including activities performed through an authorized person.

Under the tax legislation, entrepreneurial activities carried out by a non-resident in Kazakhstan through authorized agents instructed from the head offices and remunerated for their work, lead to the creation of a permanent establishment. The use of an independent agent does not create a permanent establishment.

Starting January 2004, the definition of a permanent establishment (PE) specifically provides that the provision of secondment services (i.e., provision of personnel) will not result in the creation of PE in Kazakhstan, provided that such services meet all of the following three criteria:

- seconded individuals act exclusively on behalf and in the interests of the entity to which they are seconded;
- the seconding entity is not responsible for the results of work done by secondees, and
- the profit margin of the seconding entity does not exceed 10% of the cost of secondment services.

If these criteria are met and if the personnel is made available outside of Kazakhstan, the service is considered to be performed outside of Kazakhstan.

2.4 Transfer Pricing Rules

The tax treatment of transaction between related parties is subject to special rules. These rules are established by the law “On State Control of Transfer Pricing.” The rules apply in general to cross-border transactions.

The term “related party” includes any person who controls the taxpayer, controlled by the taxpayer or under common control with the taxpayer. One person is treated as controlling the other entity if that person has a share in the other entity, which is not less than 10% of the equity of that entity.

Other cross border and related transactions may also be subject to the transfer pricing rules. These transactions include: barter transactions, transactions concluded with entities in preferential tax regimes, transactions with companies with tax losses, and transactions with a price deviation of more than 10% from market prices.

Penalties and interest may be applied where prices charged in such transactions are found to differ from an arm’s-length value.

Currently, a working group from Parliament together with the foreign investors and independent experts are considering the need to introduce amendments to the law on transfer pricing. The consideration of such amendments could eventually result in either improving the existing law with the preservation of the main base

principles used as a foundation or adopting a new law under which only transactions between related parties should be subject to state control.



2.5 Taxation of Cross-Border Transactions

(1) Outbound Transactions

Since resident entities of the Republic of Kazakhstan are taxable on their worldwide income in Kazakhstan and may also be taxable by foreign states on income derived from sources in such states, the same income is potentially subject to double taxation.

In order to avoid such double taxation, Kazakhstan, through its double tax treaties and domestic tax legislation, uses a foreign tax credit method. Under this method, foreign taxes paid by a resident taxpayer on foreign source income may be credited against Kazakhstan income tax liabilities on the foreign source income.

The amount of tax credit shall not exceed the amount which would be accrued for the associated income in Kazakhstan.

(2) Inbound Transactions

Double Tax Treaties

Kazakhstan has double tax treaties with more than 30 countries, which generally follow the OECD Model Income Tax Convention. Generally, treaty relief is not automatic in Kazakhstan and may only be applied:

1. On completion of the application procedure (in the case of most types of active business income); or
2. On presentation to the payer of evidence of tax residence in a treaty jurisdiction (in the case of “passive” incomes such as dividends, interest, royalties; and in case if such services as managerial, financial (except for insurance and/or reinsurance),

consulting, auditing, legal (except for advocate services), software maintenance and support rendered to Kazakh residents or PEs of non-residents exclusively outside of Kazakhstan).

Below is a list of countries with which Kazakhstan has concluded Double Tax Treaties

Income Tax Withholding Rates for Treaty Countries ³					
Country of Recipient	Dividends		Rate for Other Holdings (%)	Interest (%)	Royalties (%)
	Major Holding (%)				
	Definition	Applicable Rate (%)			
Azerbaijan	-	-	10	10	10
Belarus	-	-	15	10	15
Belgium	10	5	15	10	10
Bulgaria	-	-	10	10	10
Canada	10	5	15	10	10
China	-	-	10	10	10
Czech Republic	-	-	10	10	10
Estonia	25	5	15	10	15
France	10	5	15	10	10
Georgia	-	-	15	10	10
Germany	25	5	15	10	10
Hungary	25	5	15	10	10
India	-	-	10	10	10
Iran	20	5	15	10	10
Italy	10	5	15	10	10
Korea	10	5	15	10	10
Kyrgyzstan		-	10	10	10
Lithuania	25	5	15	10	10
Mongolia	-	-	10	10	10
Netherlands	10	5	15	10	10
Pakistan	10	12.5	15	12.5	15
Poland	20	10	15	10	10
Romania	-	-	10	10	10
Russia	-	-	10	10	10
Sweden	10	5	15	10	10
Switzerland	10	5	15	10	10
Tajikistan	30	10	15	10	10
Turkey	-	-	10	10	10
Turkmenistan	-	-	10	10	10
Ukraine	25	5	15	10	10
United Kingdom	10	5	15	10	10
United States	10	5	15	10	10
Uzbekistan	-	-	10	10	10
Moldova	25	10	15	10	10
Latvia	25	5	15	10	10

³ As of January 1, 2005



3. Personal Income Tax 3.1 Tax Jurisdiction

According to Kazakh legislation, taxation of foreign individuals depends on their residence status. Residents in Kazakhstan are subject to personal income taxation on their worldwide income. Nonresident individuals are subject to taxation only on income from Kazakhstan sources.

An individual is considered to be a resident of Kazakhstan for personal income tax purposes if he or she permanently resides or has his or her center of vital interests in Kazakhstan.

An individual is considered to reside permanently in Kazakhstan:

- if he or she is present in Kazakhstan for no less than 183 days during any consecutive 12-month period ending in current tax period, or
- if days of presence in Kazakhstan during the current and two preceding tax periods equal no less than 183 calendar days. Days of presence are calculated using the following coefficients:

- days present in the current period x 1; add
- days present in the last preceding period x 1/3; add
- days present in the penultimate preceding period x 1/6.

An individual is not considered a resident if he or she is present in Kazakhstan for less than 30 days in a given tax period.

An individual may consider that his or her center of vital interests is Kazakhstan under the simultaneous compliance to the following conditions:

- Kazakhstani citizenship or residency permit;
- family or close relatives living in Kazakhstan, and
- ownership of immovable property by the individual or his/her family members.

The definition of residency may be affected by a double tax treaty.

3.2 Taxation of Resident Individuals

(1) Personal Income Tax Rates

Rates of personal income tax are shown in the table below.

2005 Personal Income Tax Rates

Taxable income (in Tenge)	Rates
0 – 174,780	5%
174,780 - 466,080	8,739 + 8%
466,080 – 2,330,400	32,043 + 13%
2,330,400 - 6, 991,200	274,405 + 15%
Over 6,991,200	973,525 + 20%

(2) Taxable Income

Resident income is taxable irrespective of whether it is received in cash or in-kind. If a resident individual receives benefits in-kind, the amount of taxable income is determined on the basis of the fair market value of the property, services or other benefits received.

Exclusion from Taxable Income.

The following benefits received by an individual are specifically excluded from personal income taxation:

- any social assistance, alimony payments, pension payments;
- income from transactions with state securities, gains from sale of stocks and obligations listed on the official A and B lists of the stock exchange at the date of sale;
- gifts and inheritance income, except for assets received by entrepreneurs, private notaries, or advocates for use in their business, property received as humanitarian aid, charity and sponsorship;
- income of public servants of a foreign state, income of diplomatic or consular officers who are not citizens of the Republic of Kazakhstan;
- expenses of employers related to professional development of their employees, remuneration to an employee in case of harm to health caused at the working place, compensation of certain business trip expenses, value of special clothes and footwear;
- reimbursement of travel, property transportation and accommodation expenses incurred for the transportation of an employee to another location together with a company, and
- insurance payments by an employer in respect of obligatory insurance of employees, insurance of employers' responsibility for life and health of employees.



(3) Returns

The following individuals – residents shall file personal income tax (PIT) return:

- those who has income that was not taxed at the source of payment;
- those who receives income from Kazakhstan sources;
- those who has cash in foreign bank accounts;
- certain government officials.

PIT return shall be filed to the local tax authority at the place of the taxpayer's registration by 31 March of the year following the reporting period.

In situation where individual income tax is paid on the same income in another jurisdiction, foreign taxes paid can be credited against the amount of Kazakhstan tax. The amount of foreign tax credit is limited to the amount that would have been accrued in Kazakhstan with respect to this income.

3.3 Taxation of Nonresident Individuals

(1) Non-resident individuals are taxable only on income received from Kazakhstan sources irrespective of where the income was paid: in or outside Kazakhstan.

Normally, any income received by nonresident individuals from Kazakhstan residents would be treated as Kazakhstan source income.

(2) Income Tax Assessments and Payments

In accordance with Kazakhstan tax legislation there are the

following methods of assessment and payment of individual income tax of nonresident individuals:

The tax agent (Kazakhstan company paying income) employing a nonresident individual may:

- withhold tax at the source of payment in the same manner as for local personnel. In this case the employer files quarterly reports on income tax withheld at the source of payment; or
- pay tax to the budget by monthly advance payments and file reports on advance payments by 20 January and 20 April of the reporting year. The final report shall be submitted by 31 March of the year following the reporting year.

Method of assessment and payment of income tax of nonresident individual selected by the taxpayer shall remain the same during next tax year.

Nonresident individuals receiving income from individual entrepreneurship through the permanent establishment in Kazakhstan, as well as income from Kazakh source which was not taxed at the source of payment, are obliged to assess and pay individual income tax by advance tax payment. Such nonresident individuals shall file individual income tax returns by March 31 of the following year.

4. Value Added Tax

4.1 Taxable Turnover

Value added tax (“VAT”) is imposed (a) on the supply of goods or services, if the place of supply is regarded as Kazakhstan, and (b) on the import of goods.

Starting January 1, 2004 VAT is levied at a 15 percent rate on the taxable amount for domestic and import transactions, and at zero rate for exported supplies; documentation is necessary to confirm export.

4.2 Exempt Turnover

Some turnover, including the following is exempt from VAT (subject to conditions established by the Tax Code):

- certain sales turnover, namely the sale of state postage stamps, excise marks, activities of advocates and notaries, funeral agencies activities, etc;
- certain turnover connected with land and housing;
- certain banking, insurance/reinsurance and other financial services;

- the interest element of payments under a financial lease;
- services rendered by non-profit organizations;
- geological exploration works;
- services in the sphere of culture, science and education;
- goods and services in the sphere of medical and veterinary activity, and
- sale by one VAT payer of an enterprise or an independently functioning part of an enterprise to another VAT payer.

4.3 VAT Payers

Any legal entity or an individual, which has turnover exceeding 12,000 times the monthly calculation index at the end of any year (not more than twelve months period), is required to register as a VAT payer (MCI is 971 Tenge for 2005 which is about 7.5 US dollars as of January 1).

Persons who import goods into the territory of Kazakhstan are also VAT payers.

4.4 Amount Subject to Tax

(1) Taxable Supply

For any taxable transaction, VAT is chargeable on the basis of value of goods and services that are being sold, based on prices and tariffs applied during the transaction.

Normally, the tax base for VAT is a selling price. However, it may be adjusted based on transfer pricing legislation.

(2) Imports

In case of import of goods, the taxable turnover includes the customs value of goods imported, determined in accordance with the customs legislation of Kazakhstan, including the amount of taxes and other obligatory budget payments due upon import of goods to RK, except for import VAT.



4.5 Place of Supply of Goods (Works, Services)

The place of supply for goods is:

- the place where transportation of goods starts in case of shipment by a supplier, recipient or their party;
- or in all other cases:
- the place where goods are transferred to a purchaser.

Place of supply of services and works is:

- the place where immovable property is located, if the works, services are directly related to this property;
- an actual place of rendering of works and services when such are connected with movable property;
- an actual place of rendering of services when services are connected with the sphere of art, culture and sport, and
- the place of entrepreneurship of the purchaser of the works and services. This applies to the following works and services:
 - transfer of rights to intellectual property;
 - consulting, audit, legal and advocate, accounting, engineering, advertisement services, as well as information processing services;
 - supply of personnel;
 - agency services;
 - leasing of movable property, and
 - communication and tourism services.

4.6 VAT Administration

(1) Remittance

VAT on domestic supplies is administered by the tax authorities, while VAT is administered by the customs authorities.

The amount of VAT payable to the budget on taxable turnover is

determined as the difference between output VAT accrued on taxable turnover upon issuance of an invoice and amount of input VAT paid to a supplier.

For example, entity A manufactured and sold product X to entity B for 115 Tenge. It paid 15 Tenge (100x15%) of VAT to the budget. Entity B packaged the product and sold it on the territory of Kazakhstan for 160 Tenge (excluding VAT). As entity B paid to entity A for the product 115 Tenge which included VAT, its liability to the budget is calculated to be 9 Tenge (it offsets 24 Tenge of its own output VAT (160x15%) with the input VAT of 15 paid to A).

Import VAT is payable by an importer prior or at the date of customs declaration registration. A taxpayer responsible for paying import VAT may defer such payment for three months in case these goods are water, gas and electric power, or in the case of goods imported for further industrial processing.

(2) VAT Credit

Upon determination of amount of tax payable to the budget the recipient of goods (works, services) has a right to credit VAT payable for received goods including property, plant and equipment, works and services if they are used or will be used for the purposes of the taxable turnover.

VAT shall not be credited if payable in connection with the following:

- acquisition of goods (works, services) which are not related to commercial activities of VAT payer;
- residential buildings, other than buildings used for hotel;
- passenger cars purchased as a property, plant and equipment;
- goods (works and services) used for repair of leased residential buildings, except when repair expenses are reimbursed by the lessor;
- value of property (goods, works, services) received free of charge except when such property is supplied outside Kazakhstan and the recipient of this property already paid import VAT.

(3) Zero Rate Transactions

Export of goods and certain exports of services under international transportations are VAT taxed at zero rate. During such transactions input VAT may exceed output VAT. In such events the taxpayers have a right for VAT refund from the state budget (subject to some limitations).

4.7 Tax Accounting Rules

For VAT accounting purposes, the accrual method is normally used. Under this method, VAT liabilities normally arise in the reporting period when the sale took place or the tax invoice for such sale is issued.

For VAT purposes, depending on the volume of taxable turnover, the tax period is either the calendar month or the calendar quarter. For VAT payers who operate using the special tax regime for the agricultural producers, the tax period is a tax year. VAT payers therefore must submit VAT returns and remit VAT either yearly, quarterly or monthly.

4.8 Reverse Charge VAT

When nonresidents provide certain services to resident legal entities being VAT payers in Kazakhstan, the services are deemed to be provided in Kazakhstan according to the place-of-supply rule. In this situation Kazakhstan VAT is levied through the application of the reverse charge VAT mechanism by the purchaser of these services. For this purpose the taxable turnover is determined on the basis of the amount that is paid to the provider of the services. Thus the VAT payer must self-charge VAT and remit it to the budget. Such VAT is due by the deadline of filing VAT returns. VAT paid for the non-resident becomes an offsetable input VAT for the buyer of services.

5. Payroll Taxes

5.1 Tax Base / Rates

Salary or similar compensation which Kazakh entities or branches located in Kazakhstan pay to their employees as consideration for their work are subject to social tax, pension and social contributions:

Payroll Tax	Tax Rate (%) starting from January 2005	
	Employer's contribution (to be accrued by the employer on the amount of compensation paid)	Employee's contribution (to be withheld by the employer from the amount of compensation paid)
Social tax	20%-7% ⁴ 11% - 5% ⁵	-
Pension contribution	- 1.5%	10%
Social tax at a rate of 11% - 5% is applicable to salaries payable to foreign specialists ⁶ . Expatriate employees are not subject to pension fund contributions.		

⁴ Regressive rate for local employees

⁵ Regressive rate for foreign specialists

⁶ Foreign specialists are defined as foreign citizens working in Kazakhstan based on work permits as well as heads of branches, representative offices, entities operating under investment contracts and managers of financial organizations.

The following rates of social tax are applicable to payroll of local employees:

	Annual Taxable Income (KZT)	Rates
1 .	0 – 174,780	20%
2 .	174,780 – 466,080	34,956 + 15%
3 .	466,080 – 2,330,400	78,651 + 12%
4 .	2,330,400 – 6,991,200	302,369 + 9%
5 .	Over 6,991,200	721,841 + 7%

In relation to payroll of foreign specialists:

	Annual Taxable Income (KZT)	Rates
1 .	0 - 466,080	11%
2 .	466,080 - 2,330,400	51,269 + 9%
3 .	2,330,400 – 6,991,200	219,058 + 7%
4 .	Over 6,991,200	545,314 + 5%

After introduction of the Law on obligatory social insurance from January 1, 2005, employers should calculate obligatory social contributions in the amount of 1.5% of income accrued to employees and transfer them to the state fund of obligatory social insurance with attachment of lists of such employees.

The amount of social tax payable to the budget should be decreased by the amount of accrued obligatory social contributions.

5.2 Tax Administration

An employer is normally responsible for assessing, withholding and paying employees' payroll tax contribution.

6. Excise Duty

6.1 General Rules

Excise duty is imposed on taxable items produced in, or imported into, Kazakhstan, as well as on certain types of activities.

Excise duty is imposed on all types of spirit, alcohol and tobacco products, petrol (except for aviation one), diesel, motor vehicles, crude oil and gas condensate. Excise duty is also imposed on gambling businesses and lottery organization and conduct.

6.2 Taxable Products

(1) Alcohol

Excise duty is imposed on alcohol products including vodka, cognac, wine, beer and other strong and light alcoholic beverages. Excise duty is imposed on alcohol products at various rates in KZT per liter for products made in RK and in EURO per liter for imported products.

(2) Tobacco

Excise duty is imposed on tobacco products including any product containing tobacco, except for pharmaceuticals containing nicotine. Excise duty is imposed on tobacco products at various rates in KZT per 1000 items and EURO per 1000 items for imported products.

(3) Petrol, diesel fuel

Excise duty is imposed on petrol (except for aviation one), diesel fuel. Excise duty is imposed on petrol and diesel fuel at various rates in EURO per 1 KZT for imported goods and in KZT per 1 ton for products produced in RK.

(4) Motor Vehicles

Excise duty is imposed on motor vehicles with the engine capacity of over 3000 cubic centimeters. Excise duty is imposed on motor vehicles at various rates normally in EURO based on the vehicle's engine capacity or in percentage from the customs value.

7. Customs Duties

7.1 Taxable Goods / Tax Rates

Customs duties are imposed on most goods imported into Kazakhstan. Customs duties are normally levied on the customs value of taxable goods under the Customs Code of Kazakhstan.

Under the Customs Code, goods are classified by the Unified System, which is similar to the Unified Customs Classification of the foreign trade activity the Commonwealth of Independent States.

7.2 Most Favored Nations

Imported goods originating from countries, with which

Kazakhstan has entered into special customs unions or has treaties granting most-favored-nation treatment, are exempt from customs duties. These countries include:

- Azerbaijan
- Byelorussia
- Georgia

8. Vehicle tax

Vehicle tax is imposed on vehicle owners, individuals and legal entities. This tax is paid on a yearly basis. The amount of tax payable depends on a vehicle's engine capacity.

9. Property Tax

Property tax is paid by both legal entities and individuals. Legal entities pay property tax at the rate of 1% of the average annual residual value of fixed and intangible assets. Individuals who own residence (e.g. an apartment, a cottage, etc.) pay the tax at rates ranging from 0.1% to 1% depending on the value of taxable property

10. Land Tax

Land tax is collected annually from legal entities and individuals who own land. The amount of tax payable substantially varies depending on the area of a land plot, its quality and the purpose the plot is used for.



11. Taxation of Mineral Extraction Activities

11.1 Background

Kazakhstan is rich in natural resources. Not only oil and gas, but also coal and metal ores are found here in abundance. A special system of taxation of mineral extraction activities has been developed to enable the Republic to capture the economic rent arising from mining and hydrocarbon production. In Kazakhstan legislation, exploration and extraction activities are referred to collectively as “subsurface use.”

Subsurface users usually carry out their activities under a contract with the Republic. These contracts generally include provisions regarding the taxation of the activities.

Taxation of subsurface users is subdivided into two models:

- 1) the first one provides for payment by subsurface users of taxes and other obligatory payments established by this Code, except for the product share of the Republic of Kazakhstan;
- 2) the second one provides for payment (transfer) by the subsurface user of the product share of the Republic of Kazakhstan (PSA) and payment of all types of taxes and other obligatory payments to the budget established by the present Code, except for:
 - rent tax on exported crude oil, gas condensate;
 - royalty;
 - excise duty on crude oil, gas condensate;
 - excess profit tax;
 - land tax;
 - property tax.

There is also a separate regime of taxation for each contract so that the contract was subject to tax separately from other contracts of the same subsurface user and from other activity.

11.2 Rent Tax on Exported Crude Oil, Gas Condensate

Individuals and legal entities exporting crude oil, gas condensate (except PSAs) are subject to rent tax on exported crude oil and gas condensate.

The tax base shall depend on the amount of crude oil exported and the market price of this crude oil, subject to adjustments for transportation expenses and quality.

Tax rates range from 0% at the market value of \$19 per barrel to 33% at \$40 per barrel or greater.

The discount on the quality of crude oil, gas condensate is provided if the indexes of crude oil, gas condensate below the indexes of the crude oil mix, gas condensate, which is transported through the main pipeline.

11.3 Abandonment of Tax Stability

Starting from 2004, taxpayers signing new contracts are taxed based on current tax legislation. This means that subsurface use contracts will not include tax sections. This change does not apply to PSAs.

This does not impact existing contracts entered into prior to 1

January, 2004. These will remain valid and enforceable. However, even existing contracts could be adjusted to take account of changes in tax legislation if the taxpayer and the government both consent.

The tax regime established in new PSA contracts should be consistent with the tax legislation effective at the date of signing. The regime may be changed subsequently to comply with later changes in legislation, but such changes may only be made by mutual consent of both the taxpayer and the Republic.

11.4 Bonuses

The Tax Code currently envisages two types of bonus payments:

Signature Bonus: one-time bonus paid shortly after the signing of the contracts. The amount is calculated based on the anticipated volume and value of mineral resources in the contractual area.

Commercial Discovery Bonus: If a commercial discovery is made in the area covered by the contract, a further bonus is provided for by the Tax Code. The amount of the bonuses to be paid amounts to 0.1% of the volume of approved extractable mineral reserves.

Contracts concluded prior to 1 July 1998 may also include production bonuses linked to amounts produced. These were abolished at that date for new contracts, as it was considered that they fulfilled the same economic function as royalties.

11.5 Royalties

The Tax Code provides for royalties either in cash or in kind on the value of minerals produced. It is not necessary for production to be sold for a royalty liability to arise.

The reporting period for royalties is normally a calendar month. Royalties are payable by the 15th of the following month.

As of 1 January 2005 royalties are paid on oil, including gas condensate, on a sliding scale as a percentage depending on volume of accumulated oil production (including gas condensate) for each calendar year of activity at the following rates:

Less than 500,000 tons:	2%;
500,000 to 1,000,000 tons:	2.5%
1,000,000 to 1,500,000 tons:	3%
1,500,000 to 2,000,000 tons:	3.5%
2,000,000 to 2,500,000 tons:	4%
2,500,000 to 3,500,000 tons:	4.5%
3,500,000 to 4,500,000 tons:	5%
4,500,000 to 5,000,000 tons:	5.5%
More than 5,000,000 tons:	6%

Amounts subject to tax:

Volume of crude oil produced, or
Volume of “first production” extracted from crude oil produced.

Royalty base:

Value of natural resources:

- Weighted average price of “first production” sold during current tax period, or
- Weighted average price of “first production” sold during last preceding tax period, or
- If no “first production” sale took place: actual cost of production of natural resources.

11.6 Excess Profits Tax

Concession agreements that do not provide for production sharing normally include excess profits tax. Starting 1 January 2005 the rate of this tax depends on the ratio of accrued income to accrued expenses.⁷

“Net income” appears to mean the profit less corporate income tax. The “tax period” for both excess profits tax is a calendar year.

The base may be reduced by expenditure on training Kazakhstan nationals and/or “growth of fixed assets” provided that the reduction does not exceed 10% of the unadjusted EPT base. Once the adjusted base has been calculated the tax rate is set by determining by what amount the ratio of net income to deductions (expressed as a percentage) exceeds a 20% floor.

The Tax Code specifies the following rates:

Ratio of accrued income to accrued expenses:	Tax Rate
Less than 1.2	0%
1.2 to 1.3	10%
1.3 to 1.4	20%
1.4 to 1.5	30%
1.5 to 1.6	40%
1.6 to 1.7	50%
1.7 and more	60%

The resulting percentage is then applied to the tax base.

Excess profits tax should be paid by 15 April of the year following

⁷ Corporate income tax deductions

the end of the relevant tax year.



11.7 Production Sharing Agreements

Where minerals are extracted under production sharing terms, the Tax Code provides for exemptions from the following taxes and duties:

- Rent tax on exported crude oil, gas condensate;
- Royalty;
- Excise duty on crude oil and gas condensate;
- Excess profits tax;
- Land tax, and
- Property tax

Kazakhstan's share of production is determined as follows:

Total production	100
Less cost recovery	<u>(70)</u>
Equals profit oil	30
Less contractor's share	<u>(20)</u>
State's share of production	10

The subsurface user's profit share is to be determined based on the following factors:

- Revenue-factor (R-factor)
- IRR-factor, or
- Price-factor (P-factor).

The subsurface user's share in profit production should be the lowest percentage value generated using the 3 factors:

R-factor	Subsurface user's share
Less or equals 1.2	70%
More or equals 1.5	10%

Internal Rate of Return factor	Subsurface user's share
Less or equals 12%	70%
More or equals 20%*	10%

P-factor	Subsurface user's share
Less or equals US\$12 per barrel	70%
More or equals US\$27 US per barrel*	10%

In case of intermediate values of these factors, the subsurface user's share is determined based on formulas.

In addition, starting 1 January 2004 prior to pay-back, the Government's share in total production (including profit oil and all other taxes, etc.) should not be less than 10% and once the investor's costs are recovered – should not be less than 40% of total production. Any difference should be paid as additional profit oil share to the government.

* The new legislation also provides for formulas to calculate the subsurface user's share falling between the above factor thresholds.

Any difference should be paid to the state as an additional share in profit oil.

Justified and documented costs of the subsurface user, actually incurred by it in performance of works within the signed production sharing agreement according to the work program and budgets, are relating to reimbursable costs.

Reimbursable costs includes:

1. Costs incurred by the subsurface user before the contract comes into effect, including
 - for preparation and development of the feasibility study;
 - for assessment and exploration.
 -
2. Costs actually incurred from the date the contract comes into effect and during its effective period, except for non-reimbursable costs.

As of 1 January 2005 the following expenses are non-reimbursable:

- payment for the participation in a tender for subsurface use rights;
- costs of purchasing geological information;
- excess of expenses capped by the contract, including

- administrative expenses;
- selling expenses of cost and profit oil;
- expenses for the audit of the financial statements and operations carried out at the request of shareholders;
- losses caused by non-compliance with safety rules;
- expenses for “social” projects;
- costs incurred in connection with court proceedings;
- fines and penalties levied by state authorities;
- signature and commercial discovery bonuses;
- taxes and obligatory payments to the budget, and
- other costs which are not directly associated with the activities under the contract.

11.8 Other issues

In addition to the specific taxes applicable to sub-surface use, the general tax system of Kazakhstan includes some provisions which have an impact on companies engaged in exploration and production of mineral resources. The main areas to be aware of are as follows:

VAT

- Geological exploration and prospecting services are exempt from VAT. This means that providers of these services do not charge VAT to customers engaged in these activities, but are unable to recover any applicable input VAT.
- Some existing mineral extraction contracts contain specific VAT rules.
- Tax stability may require the sub-surface user to charge VAT on domestic sales of minerals at the old rates (20% or 16%). In this case the purchaser will only be entitled to credit 15% for offset against input VAT (i.e. the VAT rate as of 1 January 2005).

Customs Duties

- Customs legislation in effect before 1 May 2003 provided an exemption from customs duties for goods imported for use in operations under sub-surface use contracts. Such a provision does not exist in the customs legislation effect since 1 May 2003. Thus, subsurface use contracts signed after 1 May 2003 would be subject to such duties.

Excise Duties

- Sales of crude oil and gas condensate are subject to excise duties under the Tax Code, but the current rate is zero.

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