Tax and legal alert / Issue №9 / December 2014

Amendments to the tax legislation p. 1 / Amendments on the subsurface use rights p. 3 / Treaty on Eurasian Economic Union p. 3 / Introduction of GAAR p. 3 / Foreign labor p. 3 / Initiatives of the National Chamber of Entrepreneurs p. 3 / Bar-code for foreign tourists p. 4

Amendments to the tax legislation

This issue covers changes to tax legislation and the subsurface use law as well as other tax and legal issues.

Amendments to the tax legislation were approved by the President

On 28 November 2014, the President approved (signed) amendments to the tax law.

The amendments are the following:

1. Penalties and fines write-off

Fines and penalties outstanding as of 1 January 2014 and not paid as of 1 October 2014 should be allowed for write-off.

Penalties paid during the period of 1 January 2014 till 1 October 2014 should be used against penalties assessed before 1 January 2014.

This write-off is not applicable to the following types of taxpayers:

1) large taxpayers subject to monitoring;
2) taxpayers participating in international arbitration with respect to fulfilment of tax obligations;
3) taxpayers involved in:
    - subsurface use;
    - gambling;
    - production of excise goods.

2. Cancellation of tax benefits, including:
    - tax benefits on dividends payable by legal entities that are exempt from corporate income tax;
    - corporate income tax benefits on interest on financial leasing, except for agricultural machinery and equipment and biological assets as well as leasing requiring transfer of the leased asset to the lessee;
3. Depreciation rates for entities involved in activities for which CIT reduction is allowed:
    - for organization implementing a prioritized investment project and not using a special tax regime, the depreciation rate must be at least 50% of the maximum rate;
    - for other taxpayers – maximum rates of depreciation.
4. Amendments on registration requirements for resident legal entities and non-resident legal entities operating in Kazakhstan through branches, representative offices:
    - requirement for obtaining of identification number for foreign heads of entities;
    - rejection of application for VAT registration if head of an entity did not obtain an identification number;
    - termination of VAT registration of an entity if its head has not applied for tax registration before 1 January 2015 as well as additional conditions for de-registration for VAT purposes.
5. Clarification of VATable turnover of Kazakhstan branches, representative offices of foreign entities: VAT turnover should be recognized if the branch/ representative office is involved in contracting, invoicing or payment for goods or services or the branch/ representative office is mentioned in contract or in the act of acceptance for the goods or services.
6. Other amendments include:
    - cancellation of loss carry forward for legal entities involved in activities for which CIT reduction is allowed;
    - exemption from land and property tax until 2017 for taxable property transferred for rent to entities involved in organization and hosting of EXPO;
    - postponement of VAT refund (except for VAT on supplies associated with zero-rate VAT turnover and reverse-charge VAT) until 1 January 2017;
    - VAT exemption for medical services which are not subject to licensing;
    - clarification of rent tax calculation within the Customs Union.[1]

Majilis approved amendments on subsurface use rights

On 19 November 2014 a draft law on amendments to various pieces of legislation on subsurface use was approved by the Majilis (Lower House of the Parliament).

The draft law aims to simplify procedures for granting rights to subsurface users and move the focus from administration and control to encouraging subsurface users.

The draft law provides for:

- decrease of obligatory expertise for subsurface use contract;
- granting subsurface use rights on a simplified procedure through auction;
- amendments to procedures for granting subsurface use rights to those undertaking innovative industrial activity based on direct negotiations;
- regulations to prevent oil pollution of the marine environment;
- modification of rules strengthening the Government's pre-emptive rights in subsurface areas.

The draft law also amends the Land and Ecology Codes.[2]

Treaty on Eurasian Economic Union

On 14 October 2014, the President signed the law ratifying the treaty on Eurasian Economic Union.

The treaty will come into force on 1 January 2015.[3]

Introduction of General Tax Anti-Avoidance Legislation

During a tax conference in September, the tax authorities announced their plans to introduce general tax anti-avoidance rules. The State Revenue Committee (SRC) will create a working group to develop these rules.

Foreign labor

A draft law on amendments to employment and migration issues is being developed. The amendments are likely to include:

1. self-employment of foreign professionals

Foreign specialists may be self-employed in priority sectors. The professions will be specified by the Government.

2. work permits for foreign labor

Quotas for work permits will be based on industries and will depend on the number of workers in the industry.[4]

Initiatives of National Chamber of Entrepreneurs

The Chamber of Entrepreneurs is considering a number of initiatives:

- pre-trial appeal on tax and customs disputes

Implementation of a pre-trial appeal mechanism for tax disputes was discussed by the Chamber of Entrepreneurs and the SRC. The issue was raised following the merger of tax and customs authorities.

The objective is greater tax specialization and ultimately better decision-making. The Chairman of the Chamber Mr. T.Kulibayev instructed the Board to discuss the proposal of the SRC with the Supreme Court.

- corporate social responsibility (CSR)

According to the Chamber, the concept of CSR will be adopted by the end of 2014. The idea is to develop a consistent approach to promote CSR.

The concept will include mandatory signing of collective agreements both at large and medium enterprises.[5]

Bar-code for foreign tourists

Kazakhstan plans to introduce electronic visas for tourists, cancelling the requirement to register at migration service centers. Bar-codes issued at the border will be used to keep track of foreigners.

The requirement for citizens of the ten countries for whom the visa regime was abolished to register at migration service centers will also be cancelled.[6]

References

1. The Law of the Republic of Kazakhstan “On amendments and changes to some legislative acts of the Republic of Kazakhstan on tax issues” № 257-V ЗРК dated 28 November 2014
2. Draft law “On amendments and changes to some legislative acts of the Republic of Kazakhstan on subsurface use issues”
3. Law of the Republic of Kazakhstan №240-V dated 14 October 2014 “On ratification of the Treaty on Eurasian Economic Union”
4. Draft law of the Republic of Kazakhstan “On amendments and changes to some legislative acts on issues of migration and employment”
5. http://pravo.zakon.kz/4655415-nacpalata-i-komitet-gosdokhodov-mf-rk.html
6. http://www.palata.kz/ru/news/10101

Let's talk

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