

April 2012

Tax and Legal Alert

Issue №4

Overview of the latest legislative changes

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- Codes of tax bodies in Kazakhstan
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- Regulation of production and distribution of oil products; List of socially sensitive fuels; Fuel price ceiling rules
- Annual rates of fees for the provision of communication services; Rules of provision of communication services
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Changes to the Labour Code

On 1 March 2012 a law whereby changes were made to the Labour Code of Kazakhstan was published.

The amendment introduced the national qualification system (a national qualification framework, occupational qualification frameworks and professional standards) and established the requirement that professional preparedness and qualification of specialists is assessed and certified by accredited organisations.

The amendment addressed specific aspects of regulation of labour of employees engaged in distant work. Distant work means work done away from the employer's premises using means of communication. The cost of communications (including related installation and maintenance costs) will be the employer's responsibility, not the employee's.

The amendment introduced the notion of a specialised organisation for the attestation of industrial sites.

Industrial facilities will be required to be attested by such specialised organisations at least once every five years; however, unscheduled reviews may be taken at request of the authorised body. The requirement that industrial premises be attested after each renovation, modernisation or implementation of new equipment or technologies was cancelled.

Where an employment agreement is being extended in connection with the same labour functions as the employee had performed before, such agreement will be treated as concluded for an indefinite period of time. This provision will not apply to persons who are working under a permit to employ expatriate workers.

An article relating to multiple job-holding and the replacement of an employee temporarily absent from work was added.

The amendment obliged employees to inform the employer about any changes in one's personal data within 10 working days.

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The list of documents which can be used to confirm one's length of service was expanded by including an extract from a cumulative pension fund as to the amount of pension contributions accumulated and a certificate from the state social insurance fund as to the amount of social contributions made.

Changes were made to definitions of certain terms. A leave entitlement, i.e. holidays from work, does not mean an uninterrupted rest period any longer; paid annual leaves were divided into basic and additional annual vacations.

The amendment obliged an employee which has taken a child care leave without pay to provide notice about such employee's intention to come back to work one month prior to the commencement of work. This provision enables the employer to inform a temporary employee beforehand that his/her employment agreement will be terminated due to a permanent employee's return.

The length of a shift was decreased from 30 to 15 calendar days; however, this period can be changed in certain circumstances depending on an employer's needs. For sailors, the length of a duty shift was increased to 120 days.

The procedures for considering collective labour disputes, including employee strikes, were further detailed. The period for an employer's responding to employees' claims was reduced from 10 to 3 working days, and the period for employees' notifying an employer about one's intention to go on strike was shortened from 15 to 5 days. Also, an employer may terminate an employment agreement with an employee which continues to participate in a strike which has been declared by a court as illegal.

The amendment legally obliged employers to provide their employees with means of personal and collective protection.

An occupational safety and health service, which used to be at the same level as major production departments, will now be subordinated directly

to the chief executive officer. The scope of powers and responsibilities of the occupational safety and health service was revised.

In addition to the occupational safety and health service, an occupational safety and health committee (commission) may be formed at request of an employer or employees to organise joint efforts to ensure compliance with occupational safety and health requirements and prevent occupational accidents and diseases.

The amendment took effect on 11 March 2012.¹

Codes of tax bodies in Kazakhstan

For the purposes of the Tax Code, the Government of Kazakhstan approved a list of codes of tax bodies in Kazakhstan which are supposed to be specified in tax reporting forms filed to tax bodies.

The resolution will become effective 10 calendar days after the date of its first official publication.²

Contract for state geological survey

Under the Subsoil and Subsoil Use Law, the Government of Kazakhstan approved rules of conclusion of a state geological survey agreement between the authorised body and an individual or a legal entity financed out of public funds.

The resolution will become effective 10 calendar days after the date of its first official publication.³

Register of SEZ occupants

In accordance with the Treaty concerning free (special) economic zones (SEZ) in the Customs Union and the customs procedure for a free customs zone of 18 June 2010 and the Law on special economic zones in Kazakhstan, the Deputy Prime-Minister and the Minister of Industry and New Technologies of Kazakhstan in his order approved procedures for maintaining a single register of SEZ occupants and issuing a certificate of registration to a person which is being registered as a SEZ participant. Enclosed to the order are templates for the single register and the certificate of registration.

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The order took effect on 27 December 2011.⁴

Regulation of production and distribution of oil products

Under the Law on state regulation of production and circulation of certain sorts of oil products, the Government of Kazakhstan approved forms and rules of preparation and filing of declarations on turnovers of oil products (gasoline, aviation kerosene, diesel and mazut) by individuals and legal entities engaged in production and wholesale or retail trade in oil products.

Also, the Government of Kazakhstan approved rules of monitoring of production and marketing of oil products.

Both resolutions will become effective 10 calendar days after the date of their first official publication.⁵

List of socially sensitive fuels

Under paragraph 6 of article 6 of the Law on state regulation of production and circulation of certain sorts of oil products, the Government of Kazakhstan approved a list of oil products retail sale of which will be subject to government price regulation. The list includes gasoline (АИ-80, АИ-92 and АИ-93) and diesel.

The resolution took effect on 14 March 2012.⁶

Fuel price ceiling rules

Under the Law on state regulation of production and circulation of certain sorts of oil products, the Government of Kazakhstan approved rules of determination of a maximum retail sale price of oil products which are subject to government price control. The retail price ceiling will be calculated from a chart of maximum price values with reference to world oil prices using a special formula.

The resolution took effect on 25 March 2012.⁷

Annual rates of fees for the provision of communication services

Under article 520 of the Tax Code, the Government of Kazakhstan decreased the annual rates of fees for the provision of inter-city and international telephone communication services and mobile telephone services from 1.24557% to 0.9816%.

The resolution took effect on 3 March 2012.⁸

Rules of provision of communication services

Under the Law on communication, the Government of Kazakhstan approved rules of provision of telephone communication services, mobile telephone services and Internet access services.

The resolution took effect on 1 January 2012.⁹

Refinancing rate

Effective 2 April 2012 the National Bank of Kazakhstan set the official refinancing rate at 6.5%.

The refinancing rate had stood at 7% since 14 February 2012.¹⁰

Listed below for your information are references to legal and regulatory documents based on which this issue has been drawn up.

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Reference

1. Law of the Republic of Kazakhstan of 17 February 2012 No.566, Amendments to the Labour Code of the Republic of Kazakhstan
2. Resolution of the Government of the Republic of Kazakhstan of 30 December 2011 No.1716, Approval of codes of tax authorities in the Republic of Kazakhstan
3. Resolution of the Government of the Republic of Kazakhstan of 18 January 2012 No.99, Approval of rules of conclusion of a contract (agreement) for state geological survey of subsoil sites
4. Order of the Deputy Prime-Minister of the Republic of Kazakhstan and the Minister of Industry and New technologies of the Republic of Kazakhstan of 12 December 2011 No.454, Approval of guidelines on the maintenance of a single register of participants of special economic zones
5. Resolution of the Government of the Republic of Kazakhstan of 3 February 2012 No.197, Approval of forms, rules of filing and preparing of declarations on turnovers of oil products; Resolution of the Government of the Republic of Kazakhstan of 19 January 2012 No.137, Approval of rules of monitoring of production and marketing of oil products
6. Resolution of the Government of the Republic of Kazakhstan of 2 March 2012 No.286, Approval of a list of oil products which are subject to government price regulation
7. Resolution of the Government of the Republic of Kazakhstan of 2 March 2012 No.287, Approval of rules of determination of a price ceiling for retail trade in oil products which are subject to government price regulation
8. Resolution of the Government of the Republic of Kazakhstan of 22 February 2012 No.253, Amendments to the resolution of the Republic of Kazakhstan of 10 July 2009 No.1055, Approval of annual rates of fees for the provision of inter-city and/or international telephone communication services and mobile telephone services
9. Resolution of the Government of the Republic of Kazakhstan of 30 December 2011 No.1718, Approval of rules of provision of communication services
10. Press release of the National Bank of the Republic of Kazakhstan of 29 March 2012 No.12