

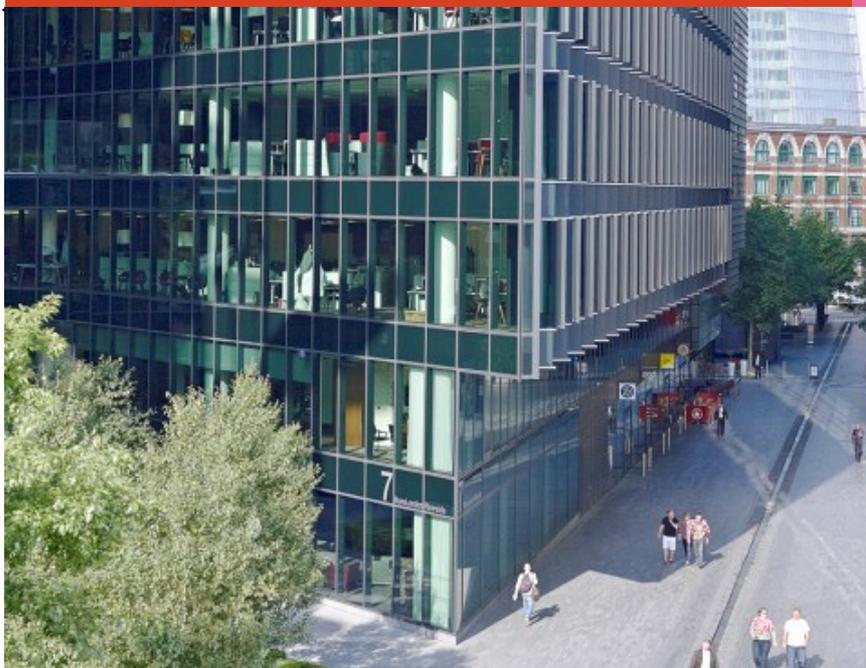
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Tax and Legal Alert

Issue №9

Overview of the latest legislative changes

- National Bank's refinancing rate
- Rules on determination of the price of unstripped and commercial gas, purchased by the national operator in the exercise of state's pre-emptive right
- A maximum permissible wholesale price of liquefied petroleum gas in the domestic market
- Guidelines for calculation of emissions resulting from drilling wells
- Singapore was excluded from black-listed jurisdictions
- Forms and rules on declaration of oil products turnover
- Adjustment of basic land tax rates in Shymkent
- Launch of automatic cameral control of VAT for the 4th quarter 2011
- Rules of registration of immigrants' passports, immigrants' internal migration and entrance to certain sights closed for visiting by foreigners
- Rules of acceptance, registration and review of an application on investment preferences provision



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General information

National Bank's refinancing rate

The Governing Board of the National Bank of the Republic of Kazakhstan (NBRK) decreased the official refinancing rate to 5.5% effective 6 August 2012. Between 4 July and 5 August, the rate was 6.0%.¹

Oil and gas

Rules on determination of the price of unstripped and commercial gas, purchased by the national operator in the exercise of state's pre-emptive right

Rules on determination of the price of unstripped and commercial gas, purchased by the national operator in the exercise of state's pre-emptive right were established in accordance with the Law of RK dated 9 January 2012 "On gas and gas supply".

The Rules stipulate how a subsurface user should determine the price of unstripped and commercial gas,

purchased by the national operator in the exercise of state's pre-emptive right.²

The Rules came into force on 6 August 2012.

A maximum permissible wholesale price of liquefied petroleum gas in the domestic market

In accordance with subparagraph 6 of Article 5 of the Law of the RK dated 9 January 2012 "On gas and gas supply" a maximum permissible wholesale price of liquefied petroleum gas was set at KZT 35,805 per tone excl. VAT in the domestic market up to 30 September 2012.³

This Decree came into force on 12 August 2012.

Guidelines for calculation of emissions resulting from drilling wells

Guidelines for calculation of emissions (with regard to waste products and waste water) during

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well-drilling were established.

The Guidelines were developed to create a unified approach for calculation of emissions and subsequent establishment of the emission standards.⁴

The Decree came into force on 5 August 2012.

Tax legislation

Singapore was excluded from black-listed jurisdictions

There was a change in the list of black-listed jurisdictions, in accordance with which the Republic of Singapore was excluded.

This Decree is effective from 1 January 2012.⁵

Forms and rules for declaration of oil products turnover

Forms and rules on completion and submission of declarations on oil products turnover were introduced in accordance with the Law of the RK "On state regulation of production and turnover of separate types of oil products".⁶

The Decree came into force on 5 August 2012.

Adjustment of basic land tax rates in Shymkent

Based on land zoning scheme of Shymkent, approved by Decree of the city maslikhat dated 21 December 2011, the basic land tax rates (established in Articles 378, 379, 381 and 383 of the Tax Code) are increased for lands located in:⁷

Zones	Tax rate increase
Zone 1, 2, 3, 4, excluding lands assigned for car parking (lots), gas stations	50%
Zone 5, excluding lands assigned for car parking (lots), gas stations	40%

Launch of automatic cameral control of VAT for the 4th quarter 2011

The Tax Committee of the Ministry of Finance of the RK launched the procedure of automatic cameral control of VAT declarations for the 4th quarter 2011, filed as of 4 August 2012.

Those taxpayers who concluded an agreement with the tax authorities on usage of electronic digital signature (electronic key) to interchange electronic documents will receive notifications of cameral control in electronic way in taxpayers' cabinet.

Proportion of notifications sent in taxpayers' cabinet is 95,5% from total number of notifications.

The Tax Committee would like to remind that in accordance with Article 608 of the Tax Code the notifications sent in electronic way should be regarded as delivered from the date of delivery of notification by the tax authorities in web-based application. This rule is effective from 1 January 2012.

A number of identified violations is showed in the table below⁸:

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Name of identified error	A proportion of errors to the total number, %
Overstatement of VAT offset, identified by reconciliation of suppliers' data	62,5%
Concealment of VAT on sold goods, works and services, identified by reconciliation of buyers' information	21%
Invalid offset of VAT from suppliers, who are not VAT payers	12,4%
Overstating of VAT offset, paid for non-residents	2,2%
Offset of VAT on invoices issued to itself or it's branches	1,9%
Offset of VAT from taxpayers who are recognized as fraudulent enterprises	0,01%

Migration regulation issues

Rules of registration of immigrants' passports, immigrants' internal migration and entrance to certain sights closed for visiting by foreigners

The rules are elaborated by the Ministry of Internal Affairs jointly with the Ministry of Foreign Affairs in accordance with the state Laws on Migration and on Legal status of foreigners in the Republic of Kazakhstan.

Under the regulation, the registration of immigrants' passports is carried out in 5 calendar days after crossing the State border provided with keeping the registration account in the united information system by the bodies of internal affairs. The term of registration can't exceed the term of immigrants' passports validity. The rules also prescribe mandatory re-registration in 3 day term in the event of change of the temporary residence by an immigrant. The

regulations also specify the entry procedure to the territories, closed for visiting by foreigners. In order to enter these territories, either the hosting legal entity or a foreign citizen is to give a written notice to the internal affairs body and obtain a pass card, which is issued for one individual and a certain territory only. In respect to transit travelling, the maximum term for staying on the territory of the Republic of Kazakhstan is 5 days.

The decree became effective as of 12 August 2012.⁹

Investments regulation

Rules of acceptance, registration and review of an application on investment preferences provision approved

The rules are drawn up by the Ministry of Industry and New Technologies of the Republic of Kazakhstan in accordance with the Law on Investments and specify the procedure of filing and registration of an application as well as define the terms for conduction of the review.

An applicant, which is a legal entity, registered under the legislation of the Republic and implementing an investment project or strategic investment project in priority sectors of economy, files an application with the set of corresponding documents to the secretariat of the Investment Committee of the Ministry of Industry and New Technologies. The review procedure is performed in a 20 working day term and includes: review of existence of required documents, sources of project financing, business-plan analysis as well as the analysis of the tax and other delinquencies absence. The final decision is made upon the results of review and sent to the applicant in the form of substantiated response.

The Regulations took effect as of 15 August, 2012.¹⁰

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References to legal and regulatory documents cited in this issue

1. Decree of the Government of the Republic of Kazakhstan dated 27 July 2012 N^o 232 “On establishing of National Bank’s refinancing rate”.
2. Decree of the Government of the Republic of Kazakhstan dated 19 July 2012 N^o 948 «Rules on determination of the price of unstripped and tank gas, purchased by national operator in network of state’s primary right”.
3. Decree of the Government of the Republic of Kazakhstan dated 27 July 2012 N^o 980 “On statement of a limit price on distribution of dry oil gas in internal market”.
4. Regulation of Ministry of Environment of the Republic of Kazakhstan dated 3 May 2012 the Government of the Republic of Kazakhstan dated 27 July 2012 N^o 129-II “On a methodology on calculation of volume of created emission (in part of waste products and waste water) during well-drilling”.
5. Decree of the Government of the Republic of Kazakhstan dated 23 July 2012 N^o 960 “On making changes to the Decree of the Government of the Republic of Kazakhstan dated 31 December 2008 N^o 1318 “About list of black-listed countries”.
6. Decree of the Government of the Republic of Kazakhstan dated 3 February 2012 N^o 197 “On establishing forms and rules on completion and submission of declarations on oil products turnover».
7. Decision of Shymkent maslikhat “On correction of basic land tax rates” dated 13 August 2012.
8. <http://www.salyk.kz/ru/Lists/ListNews/DispForm.aspx?ID=490>
9. Joint Decree of the Ministry of Internal Affairs and the Ministry of Foreign Affairs dated 23 February, 2012 No. 7698 “On approval the rules of registration of immigrants’ passports, immigrants internal migration and entrance to certain sights (territories) closed for visiting by foreigners, transit travelling of foreigners and individuals with no nationality on the territory of the Republic of Kazakhstan”.
10. The Decree of the Minister of Industry and New Technologies of the Republic of Kazakhstan dated 1 June 2012 No. 183 “On approval the rules of application on investment preferences provision acceptance, registration and review”.