

# DEVELOPMENT OF KAZAKHSTAN-CHINA COOPERATION: VISA ISSUES





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> 22

countries of presence



> 31

years of experience



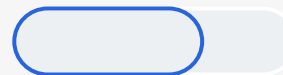
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professionals



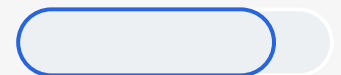
> 15

practice areas



7 700+

clients



15 000+

projects

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## THE 30-DAYS VISA-FREE REGIME BETWEEN KAZAKHSTAN AND CHINA

As part of the state visit of the President of the Republic of Kazakhstan Kassym-Jomart Tokayev to the People's Republic of China in May 2023, issues of development of comprehensive cooperation in trade, economic, oil and gas, petrochemical, energy, financial, transport and transit, education and science were discussed. During the visit, a number of agreements were signed, including the agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on mutual exemption from visa requirements.

According to the Decree of the Government of the Republic of Kazakhstan "On the signing of the Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on mutual exemption from visa requirements" No. 365 dated May 15, 2023, citizens of both countries with international passports, when entering a neighboring country, are exempt from visa requirements for the implementation of private affairs, tourism, treatment, international transportation, transit, as well as business purposes for entry, exit, transit through the territory of a neighboring state for a period not exceeding 30 (thirty) calendar days from the moment of crossing the state

border, in total 90 (ninety) calendar days within 180 (one hundred and eighty) calendar days.

Thus, it is expected that the signing of the Agreement will give impetus to strengthening close cooperation between the Republic of Kazakhstan and the People's Republic of China.

At the same time, it is important to note that the Ministry of Foreign Affairs of the Republic of Kazakhstan has provided the clarification that the visa-free regime between Kazakhstan and China does not give citizens of the countries the right to work abroad. The visa-free regime applies only to tourist and business trips: the conclusion of contracts, negotiations, the provision of consulting services and other business purposes. It does not provide for the right to work in the territory of the Republic of Kazakhstan.

Therefore, the visa-free regime does not give the right to a foreign citizen to register companies and carry out entrepreneurial activities on the territory of the Republic of Kazakhstan.

As such, to register a legal entity, a foreign citizen must obtain a C5 visa, often referred to as a "business immigrant visa" (hereinafter – the "C5 visa").

## BUSINESS IMMIGRANT VISA (C5 VISA)

By virtue of the Law of the Republic of Kazakhstan “On Population Migration” No. 477-IV dated 22.07.2011 (hereinafter - the “Migration Law”), foreign citizens arriving for the purpose of carrying out entrepreneurial activities are recognized as business immigrants.

*A business immigrant, within a two-month period from the date of entry into the territory of the Republic of Kazakhstan, is obliged to:*

**1** Register a commercial organization in the Republic of Kazakhstan or join the membership (shareholders) of commercial organizations operating in the territory of the Republic of Kazakhstan in accordance with the civil legislation of the Republic of Kazakhstan;

**2** Contribute in a second-tier bank of the Republic of Kazakhstan an amount of money not less than the minimum amount established by the legislation of the Republic of Kazakhstan, upon registration of a legal entity for the formation of its charter capital.

The C5 visa can be for single and multiple entry. A single-entry C5 visa is issued for up to 90 (ninety) days, and a multiple-entry C5 visa is issued for up to 2 (two) years (there are exceptions, such as for ethnic Kazakhs the C5 visa is issued for up to 3 (three) years). The C5 visa is issued by foreign institutions and the Ministry of Foreign Affairs of the Republic of Kazakhstan. Thus, a foreign citizen, having decided to register a company in the Republic of Kazakhstan, submits a list of necessary documents to a foreign institution, after which he arrives to the Republic of Kazakhstan as a business immigrant.

There are indeed cases when the requirement for obtainment of the C5 visa for performance

of entrepreneurial activities is ignored, and foreign citizens register a limited liability partnership in the Republic of Kazakhstan without obtaining the C5 visa.

Therefore, it is important to note that in such cases, there is always a risk of liquidation of a limited liability partnership due to the fact that a foreign citizen had not have the C5 visa at the time of registration.

## THE DIFFERENCE BETWEEN THE WORK VISA (C3 VISA) AND THE C5 VISA

A business immigrant is a person who starts a business, while a labour immigrant is an employee. A work visa of category C3 is issued to persons arriving to the Republic of Kazakhstan for the purpose of carrying out labour activities (e.g. for employment in a company as a head (director of a company, head of a division), specialists (engineers, managers, IT-specialists), etc.). The documents for the C3 visa are submitted by an employer (company) planning to attract a foreign worker, whereas the documents for obtaining the C5 visa are submitted by the applicant himself.

In practice, the difference between two different visa categories might not be usually understood, and, as a result, companies are registered in the Republic of Kazakhstan in which a foreign participant has a C3 visa obtained from a completely different company for the purposes of entering the territory of the Republic of Kazakhstan. It is important to note that if the same foreigner (participant) is the head of a registered legal entity, he does not need a work C3 visa, and the presence of the C5 visa will be sufficient.

We hope that the information above will be useful to clarify the issues raised by Chinese entrepreneurs in relation the newly entered into force 30-days visa-free regime between the Republic of Kazakhstan and the People's Republic of China, as well as the difference between the performance of entrepreneurial and labour activities by Chinese and foreign citizens in the territory of the Republic of Kazakhstan.