ALERT

Amendments to the Tax Code of the Republic of Kazakhstan

On 12 July 2022 a number of amendments to the Tax Code of the Republic of Kazakhstan (the '**Tax Code**') was introduced[1]. Below you may find the most significant of them, which with certain exceptions come into effect on 1 January 2023.

1. Changes in the dividends tax exemption applicable by the resident legal entities (Article 241 of the Tax Code)

- The dividends paid by the resident legal entities, which are entitled to corporate income tax ('**CIT**') exemption, can now be adjusted even if the amount of such dividends exceeds 50% in the total amount of CIT of such entity;
- The adjustment is applicable to the dividends on securities included in the official list of the Kazakh stock exchange (KASE) providing that these securities were traded within the reporting year.

2. Limitation of expenses in respect of the services purchased from the non-resident affiliates (Articles 264 and 288 of the Tax Code)

The expenses on purchase of the following services from the non-resident affiliate:

managerial	advertisement
consulting	marketing
advisory	franchising
auditor	financial (except for interest)
designer	engineering
legal	agency
accounting	royalty
attorney	rights to use intellectual property objects

may reduce the taxable income in the total amount of 3% from the taxable income.

3. Changes in the dividends tax exemption applicable by the resident individuals (Articles 320 and 341 of the Tax Code)

- Due to the annulment of 5% withholding tax on dividends paid to the resident individuals the dividends received by such individuals are now subject to withholding tax at the rate of 10%;
- The adjustment is applicable to:
  - the dividends paid by the resident legal entities in the amount of 30 000 monthly calculated indexes for the reporting year;
  - the dividends on the securities included in the official list of the Kazakh stock exchange (KASE) providing that these securities were traded within the reporting year.

4. Re-introduction of the requirement to report foreign bank accounts of the resident individuals (Article 363 of the Tax Code)

The resident individuals are obliged to report the money on their foreign bank accounts once more in case the amount of such money exceeds 2 000 monthly calculated indexes for the reporting year.

[1] The Law of the Republic of Kazakhstan dated 11 July 2022 No. 135-VII 'On amendments to the Code of the Republic of Kazakhstan 'On taxes and other obligatory payments to the budget' (Tax Code) and the Law of the Republic of Kazakhstan 'On taxes and other obligatory payments to the budget' (Tax Code)'.

5. Expansion of the list of goods in which respect value added tax can be paid via offset method (Articles 427 and 428 of the Tax Code)

- The list is supplemented by pesticides, live cattle, breeding animals and artificial insemination equipment[2];
- The importer shall comply with the conditions for application of such incentive for 5 years[3].

6. Increase of the excise tax rates (Article 463 of the Tax Code)

HS Code	Excisable good	Excise tax rate prior to 1 January 2023	Excise tax rate from 1 January 2023 to 1 January 2024	Excise tax rate from 1 January 2024
from 2402	Filter cigarettes	KZT 12 300/1 000 pieces	KZT 14 100/1 000 pieces	KZT 15 900/1 000 pieces
from 2402	Unfiltered cigarettes	KZT 12 300/1 000 pieces	KZT 14 100/1 000 pieces	KZT 15 900/1 000 pieces
from 2402	Cigarillos	KZT 6 225/1 000 pieces	KZT 14 100/1 000 pieces	KZT 15 900/1 000 pieces
from 2403	Pipe tobacco, smoking tobacco, chewing tobacco, sucking tobacco, snuff tobacco, hookah tobacco and other in consumer packaging except for nicotine containing pharmaceutical products	KZT 10 560/kilogram	KZT 12 950 /kilogram	KZT 14 150/kilogram
from 2403, 2404	Heated tobacco products (heated tobacco stick, heated tobacco capsule etc.)	KZT 11 750/1 kilogram of tobacco blend	KZT 9 870/1 000 pieces	KZT 11 130/1 000 pieces
from 2404	Nicotine liquid in cartridges, reservoirs and other containers for electronic cigarettes use	KZT 8/milliliter of liquid	KZT 53/milliliter of liquid	KZT 55/milliliter of liquid

7. Increase of the digital mining fee rates (Article 606-3 of the Tax Code)

Price per 1 kilowatt-hour of electric energy (in KZT)	Rate per 1 kilowatt-hour of electric energy (in KZT)	Price per 1 kilowatt-hour of electric energy (in KZT)	Rate per 1 kilowatt-hour of electric energy (in KZT)
until 1 inclusive	25	more than 13 to 14 inclusive	12
more than 1 to 2 inclusive	24	more than 14 to 15 inclusive	11
more than 2 to 3 inclusive	23	more than 15 to 16 inclusive	10
more than 3 to 4 inclusive	22	more than 16 to 17 inclusive	9
more than 4 to 5 inclusive	21	more than 17 to 18 inclusive	8
more than 5 to 6 inclusive	20	more than 18 to 19 inclusive	7

[2] Enacted retrospectively from 1 January 2022.
[3] Enacted retrospectively from 1 July 2022.

more than 6 to 7 inclusive	19	more than 19 to 20 inclusive	6
more than 7 to 8 inclusive	18	more than 20 to 21 inclusive	5
more than 8 to 9 inclusive	17	more than 21 to 22 inclusive	4
more than 9 to 10 inclusive	16	more than 22 to 23 inclusive	3
more than 10 to 11 inclusive	15	more than 23 to 24 inclusive	2
more than 11 to 12 inclusive	14	more than 24	1
more than 12 to 13 inclusive	13		

8. Changes in the dividends tax exemption applicable by the non-residents (Articles 645, 646 and 654 of the Tax Code)

Full tax exemption

The dividends on securities included in the official list of the Kazakh stock exchange (KASE) can be fully exempted from withholding tax providing that they were traded within the reporting year.

Reduced tax rate (10%)

General rule

The dividends are subject to withholding tax at the rate of 10% upon compliance with all following conditions:

- the distributed income was earlier levied with CIT;
- the recipient of dividends is not registered in the offshore;
- the shares/participant interest are owned for at least 3 years;
- the entity paying the dividends is not a subsoil user;
- the subsoil user's property does not exceed 50% in the value of assets of the entity paying the dividends.

Mining and metallurgical sector

The dividends paid by the subsoil users are subject to withholding tax at the rate of 10% upon compliance with all following conditions:

- the distributed income was earlier levied with CIT;
- the recipient of dividends is not registered in the offshore;
- the shares/participant interest are owned for at least 3 years;
- at least 70% of the minerals, including coal, extracted in the respective period were further processed (after primary processing).

Investment contracts, special economic zones, digital trade etc.

The dividends paid by the legal entities applying CIT exemption are subject to withholding tax at the rate of 10% upon compliance with all following conditions:

- the recipient of dividends is not registered in the offshore;
- the shares/participant interest are owned for at least 3 years;
- the amount of exempted CIT in the aggregate amount of due CIT is less than 50%.

9. Mineral extraction tax: mining and metallurgical sector (Articles 745 and 746 of the Tax Code)

- The procedure on calculation of mineral extraction tax ('**MET**') in case of absence of uranium sale was determined;
- MET rates in respect of the following minerals were changed:

Name	MET rate prior to 1 January 2023	MET rate from 1 January 2023
Chrome ore (concentrate)	16,2%	21,06%
Manganese, iron-manganese ore (concentrate)	2,5%	3,25%

Iron ore (concentrate)	2,8%	3,64%
Uranium (extracted from productive solutions, mine method)	18,5%	6%
Copper	5,7%	8,55%
Zinc	7,0%	10,5%
Lead	8,0%	10,4%
Gold, silver	5,0%	7,5%
Platinum, palladium	5,0%	6,5%
Aluminum	0,25%	0,38%
Tin	3,0%	3,9%
Nickel	6,0%	7,8%
Vanadium	4,0%	5,2%
Chromium, titanium, magnesium, cobalt, tungsten, bismuth, antimony, mercury, arsenic and others	6,0%	7,8%
Coking coal, anthracite	2,7%	4,05%
Hard coal (except for coking and anthracite), brown coal, oil shale	2,7%	2,7%

- Current (previous) MET rates will be applied in case the profitability level of the field (its part, group of fields under one contract) is 5% or less;
- MET in respect of one field is calculated at the rate of “0”% within 60 months (5 years) from the industrial extraction upon compliance with all following conditions:
  - industrial extraction started after 31 December 2022;
  - the level of the internal standard of profitability in respect of the field (its part, group of fields under one contract) does not exceed 15%;
  - the subsoil use right in respect of the field subject to MET at the rate of “0”% is not sold within the period of this rate application except for the sale in address of the affiliate.

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