



GRATA
INTERNATIONAL

**OVERVIEW
OF PLANNED AMENDMENTS TO
THE RULES FOR REFUNDING
EXCESS VAT**



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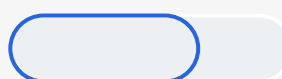
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professionals



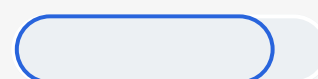
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15 000+

projects

GRATA law firm presents to your attention an overview of the main amendments and additions to the draft order of the Minister of Finance of the Republic of Kazakhstan dated March 19, 2018, № 391 «On Approving the Rules for Refunding Excess Value Added Tax and Applying a Risk Management System to Confirm the Accuracy of the Amount of Excess Value Added Tax, as well as Risk Degree Criteria» (hereinafter – the «Rules»).

The draft order addresses the following issues:

◆ **The determination of the data relevance date in VAT declarations and information systems when generating the «Pyramid» report**

Tax authorities, when generating the «Pyramid» report, will use information with data relevance as of the 20th day of the third month of the quarter in which the request for the refund of excess VAT is submitted.

The collection of such data will be carried out no later than the 10th day of the month following the quarter in which the request for the refund of excess VAT was submitted.

◆ **Reducing the period for the generation of the «Pyramid» report**

Proposed for taxpayers:

- *applying a simplified refund procedure;*
- *implementing an investment project with a value exceeding 150,000,000 MRP;*
- *engaged in activities under a subsurface use contract with a tax burden coefficient of no less than 20% over the last 5 years;*
- *engaged in exploration and/or extraction of hydrocarbons at sea under a PSA (Production Sharing Agreement);*

For the above-mentioned taxpayers, the deadline for the 'Pyramid' report formation shall be no more than 10 business days from the expiration date of the data collection deadline.

For all other taxpayers, the deadline shall be no later than 30 business days from the expiration date of the data collection deadline.

◆ **Establishment of restrictions on the formation of the «Pyramid» report**

It is proposed to amend the Rules with a new provision that establishes limitations on the formation of the 'Pyramid' report.

The proposed addition obligates tax authorities not to generate the 'Pyramid' report in the following cases:

1

when the amount of violations exceeds the amount of VAT credited to the supplier directly or through intermediaries (agents, commission agents, or representatives) who supplied goods, performed work, or provided services to the audited service recipient;

2

as provided in paragraphs 46 and 47 of the Rules.

◆ **Increasing categories of suppliers for whom further 'Pyramid' report generation ceases**

There are plans to expand the list of suppliers at risk of non-compliance with tax obligations, upon the identification of which the tax authority will cease further generation of the «Pyramid» report. Specifically, the further generation of the «Pyramid» report will be discontinued when the service recipient is identified as the supplier. This provision is introduced to prevent tax authorities from attributing repeated violations at different stages of the supply of goods, works, or services.

Additionally, there are plans to prohibit further generation of the «Pyramid» report if the service recipient is interrelated with the suppliers listed in paragraph 46 of the Rules.

Furthermore, there are additional plans to broaden the list of suppliers whose activities are deemed risky, and upon identification of whom the tax authority must also cease further «Pyramid» report generation. Such suppliers include:

- 1. those providing services related to the mainline railway network and railway tracks with railway transport facilities;*
- 2. those who have filed a VAT refund claim and/or a tax return, i.e., service recipients.*

◆ **Changes to the deadlines for sending requests for rectifying violations identified in the «Pyramid» report**

It is proposed to amend the deadlines for sending requests to the territorial tax authorities for taking measures to rectify violations identified in the «Pyramid» report.

Tax authorities will be required to send requests for rectifying identified violations no later than 5 business days from the completion of the «Pyramid» report generation.

Additionally, there is a proposal to grant the service provider the authority to send requests to the law enforcement agency to obtain information about the status of criminal cases against the leaders (founders) of the service recipient's suppliers.

◆ **Clarifications to the procedure for calculating the amount of excess VAT to be refunded**

Proposes amendments to the procedure for calculating the amount of excess VAT subject to refund. In particular, where violations are repeated at different stages of the supply of goods, work and services, it is proposed that the amount of VAT deducted from the amount of VAT to be refunded should be taken into account only once.

◆ **Clarifications on the confirmation of elimination of violations by the service recipient's suppliers on the "Pyramid" report**

It is proposed to establish that the fact that suppliers have eliminated violations is determined on the basis of:

- responses of territorial tax authorities to requests for measures to eliminate violations;
- information of the service recipient on elimination of violations, received by the service provider before the completion of the thematic tax audit.

◆ **Updating of samples of schemes of mutual settlements in annexes to the Rules**

Annexes №4, №5 and №6 to the Rules provide updated samples of settlement schemes for determining the amount of excess VAT to be refunded.

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