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BUSINESS RELOCATION TO KYRGYZSTAN

Benefits of relocation of business to Kyrgyzstan:

- Strategic geographical location;
- Friendly relations with all great powers (Kyrgyzstan is a member-state of the Russian-led EAEU, Commonwealth of Independent States, Shanghai Cooperation Organization, World Trade Organization, and cooperates actively with UN, OSCE, WIPO, ADB, IDB, World Bank, IMF and other international organizations);
- Russian language has official status and is considered a lingua franca in Kyrgyzstan;
- Kyrgyzstan entered top 20 reformer countries in the World Bank's Doing Business 2020 ranking, having improved its indicators in such areas as getting electricity, getting credit and paying taxes;
- Low cost of labor and utilities (e.g., average monthly wage is: \$230);
- Special tax regime for IT companies;
- Presence of MDBs in Kyrgyzstan (EBRD, ADB, IFC, EABR);
- Statutory visa-free regimes for 61 states including exemption from entry registration for 92 states.

The rapidly developing sector over the past years has attracted more and more foreign investors to the Kyrgyz Republic. After making a decision to relocate a business, at the initial stage, a foreign investor needs to duly execute the state registration of the company. In this article, we will provide you with the features of registering a company in the territory of the Kyrgyz Republic.

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1 Forms of legal entities

The current legislation of the Kyrgyz Republic provides various forms of commercial legal entity's incorporation. The most appropriate form for a private company in the territory of the Kyrgyz Republic is a limited liability company (hereinafter referred to as LLC).

According to the definition, the **LLC** is a company founded by one or more persons, the authorized capital of which is divided into shares of the sizes determined by the constituent documents; participants in a limited liability company are not liable for its obligations and bear

the risk of losses associated with the activities of the company to the extent of the value of their contributions.

The LLC concludes transactions on its own behalf and is an independent participant in civil legal relations, bears independent responsibility for its obligations, and the parent company (founder) is not liable for the obligations of a subsidiary, except within the contributed authorized capital.

2 What should a founder pay attention to?

- the number of participants in the LLC should not be more than thirty. Otherwise, such an LLC is subject to transformation into a joint-stock company within a year. After the expiration of this period a liquidation process will commence in a judicial proceeding, if the number of its participants does not decrease to the established limit;
- an executive body (collegiate or sole) must be created in the LLC, which carries out the current management of its activities and is accountable to the general meeting of its participants. The sole management body of the company may be elected from third parties outside of the LLC's participants;
- formation of the Board of Directors is not obligatory, and may be provided for by the charter of the LLC. Only an individual may be a member of the Board of Directors;
- establishment of an audit commission to inspect the activities of the LLC's executive bodies is not mandatory. However, if an audit commission is formed, it must be taken into account that a member of the company's Board of Directors cannot be both a member of the company's executive body (collegiate or sole proprietor) and also a member of the audit commission (auditor) of the company;
- according to the legislation of the Kyrgyz Republic, a company cannot have as its sole participant another legal entity consisting of one person;
- legislation of the Kyrgyz Republic does not contain requirements for the minimum amount of authorized capital for the LLC.

3 Which authority registers a company?

State registration of legal entities in the Kyrgyz Republic is carried out by the Ministry of Justice of the Kyrgyz Republic and its territorial subdivisions. The statutory registration period is 3 working days from the date of submission of all necessary documents. In practice, it can increase up to 7 working days.

After completion of registration with the Ministry of justice authorities, the company will have to additionally undergo registration with the tax authority and the social fund. The term for registration with the tax authority is 5 business days. The term of registration in the social fund is 1 working day.

The Ministry of Justice of the Kyrgyz Republic maintains a unified state register of legal entities, branches (representative offices) containing information on registered (re-registered) and terminated legal entities, branches (representative offices).

4 What set of documents is required from the founder of the company?

According to the general rules, in order to register the LLC in the territory of the Kyrgyz Republic, a foreign founder or a foreign parent company will have to submit the following documents to the Ministry of Justice:

- registration application;
- decision to establish a local company;
- an extract from the state register of the founder's country or other document certifying that the foreign legal entity is an active legal entity under the laws of its country. The term for filing such an extract should not exceed 6 months from the date of its issuance;
- a copy of the founder's passport (in case of establishment of an LLC by a foreign individual);
- copy of the passport of the head / director of the local company.

The constituent documents of the LLC are the founding agreement and the charter. The founding document of an LLC founded by one person is the charter. To register an LLC on the territory of the Kyrgyz Republic, where one of the founders is a local legal entity, it is necessary to provide a copy of the certificate of state registration (re-registration) of such a person.

It should be noted that depending on the country of origin of the foreign founder, the current legislation of the Kyrgyz Republic provides for various rules for the legalization of a certain category of registration documents (extract from the register, decision on creation, power of attorney, etc.).

With respect to the member countries of the Conventions on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed in Minsk on January 22, 1993 and in Chisinau on October 7, 2002, documents issued or certified by a competent institution or specifically for that by an authorized person within his competence in the prescribed form and sealed with the official seal, are accepted without any special certificate.

5 What are the requirements for the head of the company, including requirements concerning nationality and location (actually)?

The legislation of the Kyrgyz Republic does not contain specific requirements for the heads of IT companies. Moreover, on the basis of the law of the Kyrgyz Republic "On the ratification of international treaties on the accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union dated May 29, 2014" dated May 21, 2015 No. 111, citizens of the EAEU member states do not need to obtain a work permit in the Kyrgyz Republic.

6 Are there any statutory requirements regarding opening the bank accounts of the Kyrgyz Republic?

The current legislation of the Kyrgyz Republic does not establish the obligation to open a bank account of the LLC. However, a legal entity needs to open a bank account to carry out financial and economic activities.

The procedure for opening a bank account in different banks may vary slightly, but in general it includes the submission of the following documents:

- application for opening an account;
- customer profile;
- notarized copy of the state registration certificate;
- certificate of tax registration of the taxpayer;
- copies of documents confirming the right of individuals to manage a bank account;
- a copy of the license for the right to carry out activities subject to licensing;
- notarized card with samples of signatures and seal;
- a copy of the company's charter;
- the bank may request the charter of the parent company and a document confirming the authority of the person signing documents on behalf of the parent company (a translation will be required).

The banking legislation of the Kyrgyz Republic requires disclosure of the ultimate beneficiary.

In practice, opening a bank account takes approximately 2-3 business days.

7 Are there options for taxation systems and at what point should a company choose?

Under the general rules, the general tax regime applies, which includes:

- income tax – 10%;
- corporate tax – 10%;
- tax on income received from a source in the Kyrgyz Republic - 10%;
- VAT - 12%;
- sales tax - 2% for the sale of goods, works, services subject to VAT, paid in cash; 3% for the sale of goods, works, services exempt from VAT, paid in cash; until January 1, 2023, a tax rate of 0% is applied on the sale of goods, works, services subject to VAT and / or exempt from VAT, paid in a non-cash form. From January 1, 2023, a tax rate of 2% is applied on the sale of goods, works, services subject to VAT and / or exempt from VAT, paid in a non-cash form;
- property tax - depending on the type of property;
- excise tax - a fixed amount depending on the type and volume of the product;
- insurance premiums - 17.25% from the employer's funds, 10% from the employee's funds.

For IT companies in the territory of the Kyrgyz Republic, there is a special tax regime - the regime of the High Technology Park (hereinafter referred to as HTP) for legal entities and individuals who are residents of the High Technology Park and carry out the following activities:

- software development, including: analysis, design and programming of information systems, including those ready for implementation, analysis of information needs and problems of users, design, development, delivery and documentation of individual and / or finished software, including those that meet the orders of specific consumers, adjusting programs at the direction of the user;
- export of information technologies and software;
- creation and provision of services of interactive service centers.

A legal or natural person can be registered as an HTP resident, whose income consists of at least 90% of the income received as a result of the activities listed above.

An HTP resident is exempt from the following taxes:

- income tax;
- sales tax;
- VAT.

Employees of residents of the HTP and its directorate, residents of the HTP - individuals (except for employees providing maintenance and protection of buildings, premises, land plots), with the exception of retired employees, pay insurance premiums in the amount of 12% of the average monthly salary.

An HTP resident finances the activities of the HTP Directorate at the expense of quarterly deductions by HTP residents in the amount of 1% of the proceeds received in the previous quarter as a result of their activities of the HTP and other income and receipts.

At the same time, the period of validity of taxation of residents of the Park of High Technologies cannot exceed the period of validity of the regime of the Park of High Technologies.

After passing state registration, a legal entity is obliged, within 15 calendar days after the date indicated in the certificate of state registration with the tax authority, but no later than the date of submission of the first tax reporting in accordance with the selected taxation regime, to submit to the tax authority an application for the selected tax regime.