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# PPP PROJECTS IN KAZAKHSTAN

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# GRATA International

- Established in 1992;
- 250 lawyers in 18 countries, including all CIS countries, Eastern Europe, China, UK, Turkey and Mongolia;
- Highly recognized by Legal 500, Chambers Global, ILFR 100, AsiaLaw Profiles;
- Legal practice in all areas of law.



# Statistics on PPP projects in Kazakhstan

- End of September – 448 projects;
- Contracts are signed for 82 out of 448, other projects are at various stages of preparation – 69 projects are at the stage of tender, 297 are at the stage of development of pre-tender documentation.



# Legal Framework

- Law on PPP – 31 October 2015;
- Law on Concessions – 7 July 2006;
- Entrepreneurial Code of the Republic of Kazakhstan – 29 October 2015;
- Other specific laws and regulations.



# Forms of PPP Projects

- **Institutional form** – establishment of an SPV between state and private entity;
- **Contractual form** – signing a contract in one of the forms described below.



# Types of Contracts for PPP projects



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- Concession;
- Trust management of state property;
- Rent of state property;
- Finance lease;
- Contract for development of technology etc.
- Life-cycle contract;
- Services contract;
- Other.



# Concession

- Construction and operation of the facility (technical risk that Build-Transfer and Build-Transfer-Maintain may not be considered as concessions in Kazakhstan);
- “Social infrastructure”;
- Tax incentives;
- Only two parties to a contract, and only state entities as a partner (no quasi-state entities);
- Possibility to apply to foreign arbitration for certain categories of projects.



# Tax Incentives for Concession Projects

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- Facilities built within the frameworks of concession agreement are considered as fixed assets for purposes of tax deductions;
- Transfer of concession object for operation is not considered as a sale turnover for purposes of VAT calculation;
- Property tax shall not apply to concession objects;
- Payment for use of state-owned land plots shall not apply to concession objects for first 5 years.



# Terms and Stages

- PPP Projects could be realized within the term of 3 to 30 years;
- Main stages:
  - qualification;
  - preparation of tender documents;
  - tender or direct negotiations;
  - signing of PPP contract.



# Parties to PPP Project

- State or quasi-state entity;
- Private party;
- Financing party (possibility to enter into direct agreement);



# Coordination

- Center for Development of PPP projects – [www.kzppp.kz](http://www.kzppp.kz);
- Main functions – coordination of efforts of state and private parties for better implementation of PPP projects, expert evaluation of tender documents and draft PPP contracts.

# Main Risks

- Low quality of preparation of project documents – opportunities for private initiative;
- Absence of long-term cheap financing in KZT;
- Currency fluctuations.



# Several Examples

- Big Almaty Ring Road (BAKAD);
- North Kazakhstan – Aktobe Oblast electric line;
- Charsk-Oskemen railway;
- Aktau airport passenger terminal (first “real” concession project in Kazakhstan);
- Kindergardens in Karaganda.



# Any questions?



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