

Latest news on law, tax and business in  
Kazakhstan and Uzbekistan

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### State of the Nation Address made by the President: innovations for the SMEs from 2020

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On September 2, 2019 the Kazakh President, Kassym-Jomart Tokayev made the State of the Nation Address<sup>1</sup>, in relation to the modifications and changes to be effective from 2020. One of the basic ideas of the Nation Address covered the issues for improving the taxation and financial regulation of the small and medium-sized businesses (SMEs) in the Republic of Kazakhstan.

This article will highlight the specific principal points of the Nation Address relating the business climate, such as:

- basic exemption of companies from the tax audits;
- postponement of the additional pension contributions in the amount of 5 per cent until 2023;
- development of the digital economy;
- governmental financing of the support program for the small and medium-sized businesses.

The President of Kazakhstan declared about his decision for developing a legislative framework to exempt the small and medium-sized business companies from paying the income tax for a period of three years. Three-year prohibition on the tax inspections (audits) of the micro and small business entities is coming into force from January 2020.

The Government strives for the policy for supporting and protecting the enterprises. It is slated that the companies' profits will increase by the effect of lowering of the tax burden.

For the purpose of updating the system of the state financial support for small and medium-sized businesses, special priority is given to the development of new projects. Thus, the Government will allocate an additional amount of 250

billion KZ Tenge for the next three years under the new "Business Roadmap"<sup>2</sup>.

As evidenced in practice, the taxation system is an impediment to the investments in the context of the small and medium-sized businesses.

As stated in the Nation Address: "Improvement of the quality of the current taxation system is a special target". To resolve this problem the President of the Republic of Kazakhstan instructed the Government to postpone introduction of the additional pension contributions in the amount of 5 per cent until 2023. This measure is expected to promote and stimulate for creating new jobs, and accordingly it will result in raising and increasing the enterprises performance.



The Governmental support for SMEs will increase the enterprises' competitiveness and motivate them to introducing the new technologies, upgrading the production quality, and reducing the prices. Moreover the Program is an efficient instrument of a positive influence on the development of the digital economy of startup projects.

After adopting the National Program "Information Kazakhstan-2020"<sup>3</sup> in 2013, Kazakh-

<sup>1</sup> President of Kazakhstan Kassym-Jomart Tokayev's State of the Nation Address dedicated to the topic "Constructive Public Dialogue - The Basis of Stability and Prosperity of Kazakhstan" can be found on Website [www.akorda.kz](http://www.akorda.kz)

<sup>2</sup> President of Kazakhstan Kassym-Jomart Tokayev's State of the Nation Address // Website [akorda.kz](http://akorda.kz)

<sup>3</sup> Decree of the President of the Republic of Kazakhstan "On "Information Kazakhstan-2020" National Program" // Website [miid.gov.kz](http://miid.gov.kz)

stan is pursuing an objective for digitizing the national economy. In 2017 Kazakhstan ranked 52nd in the world rating of the Information and Communication Technologies Development Index (ICT). It is expected to hold the 30th place in the rating in 2022<sup>4</sup>.

According to the President of the Republic of Kazakhstan, it is required to adjust and regulate the legal base, and set the requirements for using the modern technologies, such as 5G, Smart Cities, Big Data, block-chain, etc. in order to keep the country's leading position in terms of the development level of the information and communication infrastructure within the region. Kazakhstan must become a country of moderate legislation as a basis for the technological partnership, by promoting formation and expansion of the data processing centers, development of data transit, etc.

Furthermore the Government is planning to support the small business in a rural area. Therefore around 100 billion KZ Tenge has been allocated for this purpose<sup>5</sup>.

In summarizing the foregoing, we can say that Kazakhstan is using the state stimulation tools for strengthening the necessary frame conditions for development of the small and medium business enterprises.

In our opinion, the declared reforms and modifications will be able to stimulate the economic development. Indeed – without having the sword of Damocles in the form of tax audits – the small and medium business enterprises could use and apply their resources more effectively for expanding and developing their business activity.

In addition, changes in the terms for paying the pension contributions will have a positive effect. Generally the Kazakhstani Government is creating a transparent economy, trying to strengthen the financial discipline, and seeking to reduce the unemployment level.

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<sup>4</sup> World countries rating in terms of the ICT Development Index // Website [gtmarket.ru](http://gtmarket.ru)

<sup>5</sup> President of Kazakhstan Kassym-Jomart Tokayev's State of the Nation Address // Website [akorda.kz](http://akorda.kz)

→ Kazakhstan

## Notion “Property, Plant and Equipment” according to the IAS 16

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Major issues of accounting of the Property, Plant and Equipment are recognizing the assets, measuring their carrying amounts, and measuring the depreciation charges and impairment losses to be recognized in relation to them. This article will highlight application of the standard in the inventories classification in construction-in-progress.

### TERMS AND DEFINITIONS

Pursuant to the IAS 16<sup>6</sup>, “Property, Plant and Equipment” mean the tangible items that are:

- held for use in the production or supply of goods or services, for rental, or for administrative purposes;
- expected to be used during more than one period.

Pursuant to the IAS 16, original cost of item of the property, plant and equipment includes the following:

- its purchase price, including the import duties and non-refundable purchase taxes, after deducting the trade discounts and rebates;
- all costs directly attributable to delivering the asset to the intended location and bringing it to ready for operation condition in the manner intended by the company management;
- initial designed estimate of dismantling and removing an item of the Property, Plant and Equipment and restoration of landscape occupied by such item in relation of which the organization assumes responsibility either when acquiring this item or following using it for a certain period of time for the purposes other than inventories produced during that period.

During recognition of the property, plant and equipment or construction-in-progress

in the accounting, the following items directly relate to the costs category:

- employee benefits costs (as the term is defined in the IAS 19<sup>7</sup>) arising directly following the construction or purchase of item of the property, plant and equipment;
- site preparation costs; initial costs for delivery and loading-unloading;
- installation and assembly costs;
- costs for verification of the proper functioning of the asset, remaining after deducting the net proceeds from the sale of products produced during the asset delivery to the intended location and bringing it to the required condition (for example, samples obtained during equipment testing process);
- Interest costs according to the IAS 23<sup>8</sup> “Borrowing Costs”;
- Amount of remuneration for the professional services rendered.

Moreover, inventories used in the facility construction are included in the cost of construction-in-progress/ property, plant and equipment.



According to IAS 2<sup>9</sup>, inventories cover the goods purchased and intended for resale, final

<sup>6</sup> IAS 16 “Property, plant and equipment” // Website [www.ifrs.org](http://www.ifrs.org)

<sup>7</sup> IAS 19 “Employee benefits” // Website [www.ifrs.org](http://www.ifrs.org)

<sup>8</sup> IAS 23 “Borrowing Costs” // Website [www.ifrs.org](http://www.ifrs.org)

<sup>9</sup> IAS 2 “Inventories” // Website [www.ifrs.org](http://www.ifrs.org)

products or production-in-progress of an organization, including the raw materials and materials intended for use during the production. Inventories are used in the ordinary course of business during the operating cycle or calendar year, i.e. whichever is shorter of these periods.

Spare parts are recognized in the reporting (statement) according to the IAS 16, if they satisfy the definition of the property, plant and equipment. Otherwise, such items are classified as inventories according to the IAS 2.

## APPLICATION

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Costs attributable to the work-in-process usually include the material costs, construction and installation operations, and overhead costs.

The Law on Architectural, Urban Planning and Construction Activities in the Republic of Kazakhstan regulates the facilities construction and performance of the construction and installation operations.

Based on complexity of the facility under construction, certain types of the construction activities shall be licensed. Therefore, if the company is not licensed for construction of the required facility, then such company involves the contractors those having the relevant license cat-

egory. Subsequently based on the terms and conditions of an agreement, inventories used for construction can be either acquired by the company itself and transferred to the contractor during the construction and installation operations, or purchased by the contractor itself and then reimbursed by the company.

In order to present the material costs in accordance with the IAS 16, inventories acquired by the company and used in construction shall be recognized as a part of construction-in-progress as of the reporting date. This interpretation reflects the principle that these inventories are not the short-term assets, but they represent the assets included as a part of construction and will be used over the long term after works completion.

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## → Uzbekistan



### Acknowledgement and execution of the court decisions of foreign countries or arbitration

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The government of Uzbekistan is paying much attention to the development of the structure and system for processing of personal data. The State Personalization Center under the Cabinet of Ministers developed a draft law “on personal data”, which was approved and signed by the President of Uzbekistan Shavkat Mirziyoyev<sup>10</sup>. The law came into force on October 1, 2019.

In accordance with the Law, the Cabinet of Ministers of the Republic of Uzbekistan carries out state regulation in the field of personal data and the authorized state body in the field of personal data is the State Personalization Center under the Cabinet of Ministers of the Republic of Uzbekistan.

The Cabinet of Ministers determines the procedure for maintaining the State Register of personal databases and approves the registration procedure in them; however, the Cabinet of Ministers has not yet approved such a procedure. It is likely that a personal database for processing and storage the data will be created on the territory of Uzbekistan.

The personal database is formed by collecting personal data necessary and sufficient to complete the tasks carried out by the owner and (or) operator, as well as by a third party. The State Personalization Center implements the state policy in the field of personal data, approves the standard procedure for processing, maintains the state register, issues a certificate of registration, etc.

In processing personal data, the important elements such as constitutional human rights and freedoms, the legitimacy of the goals and methods of processing personal data, the accuracy and reliability, the confidentiality and security, the equality of rights of subjects, owners and operators, the safety of individuals, society and the state much be observed and respected. The Law also states the rights and obligations of participants (subject, operator, owner).

The storage period of personal data is determined by the date of achievement of the purposes of their collection and processing. In addition, the consent of the subject in writing, including in the form of an electronic document is required for the processing of personal data.

Purposes of protection of personal data:

- exercise the right of the subject to protection from interference in his privacy;
- integrity and security of personal data;
- confidentiality;
- prevention of their illegal processing.



The Law contains new concepts, such as “personal data”, “database operator”, as well as definitions of the collection, systematization, storage, provision, distribution, depersonalization, processing and destruction of personal data. In addition, the Law also defines a list of special personal data that is prohibited to be processed, with an exception in some cases.

It should be noted, that the Law gives new concepts as biometric and genetic data, that were not indicated in the draft Law. The anatomical and physiological characteristics of the subject are referred as the biometric data whereas genetic data relates to the inherited or acquired characteristics of the subject, which are the result of the analysis of the biological sample of the subject.

<sup>10</sup> Law of the Republic of Uzbekistan “On Personal Data” // Website [lex.uz](http://lex.uz)

Persons who have received personal data in connection with the performance of professional, official and labor duties are required to ensure its confidentiality.

Sanctions are introduced for the illegal collection, systematization, storage, modification, addition, use, provision, distribution, transfer, de-personalization and destruction of personal data. The first violation, for example, threatens with a fine from three to five BCU<sup>11</sup> for citizens and from five to ten BCU for state officials (1 BCU = 223.000 UZ Sums). Cases of this category are subordinate to administrative courts.

Actions committed after an administrative penalty will entail criminal liability:

- fine of up to 50 BCU or
- deprivation of a certain right to occupy positions or carry out activities related to the processing of personal data up to three years or
- correctional labor up to two years.

If the crime is committed by prior conspiracy by a group of persons, repeatedly or dangerous recidivist, from selfish or other low motives, with the use of official position or entailed serious consequences, the penalty will be:

- fine from 50 to 100 BCU or
- correctional labor from two to three years or
- restriction of liberty from one to three years or
- imprisonment up to three years.

The accused can avoid criminal liability by pleading guilty, reconciling with the victim and making amends for the harm.

Personal data is destroyed in following cases:

- person revoked his consent to their processing;
- upon reaching the processing goal;
- upon the expiration of the processing of personal data;
- by court decision.

The Law is expected to help adjusting the processing system of personal data of individuals and improve the availability of this data. In fact, the sphere of protection and processing of personal data was not previously regulated in Uzbekistan.

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<sup>11</sup> BCU – base calculation unit



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