



Seizing opportunities

Newsletter Kazakhstan

Latest news on law, tax and business in Kazakhstan

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Content of this issue:

- > Chosen Aspects of Amendments to the Tax Code effective from 2017
- > Innovation in the Law “On Obligatory Social Health Insurance”
- > Actual changes in the field of a labor migration in the Republic of Kazakhstan

Chosen Aspects of Amendments to the Tax Code effective from 2017

From Galymbek Kereibayev, Rödl & Partner Kazakhstan

Please see two amendments chosen by Rödl & Partner Company in the Kazakhstani Tax Legislation substantially significant (in our opinion) for making business in Kazakhstan.

> The Minimum Limit of the VAT Taxable Turnover Will Be Reduced, Mandatory Registration as a VAT Payer

Currently, the minimum turnover for mandatory registration as a VAT payer is 30,000-fold amount of the monthly calculation index (30,000 * 2,269 (MCI),

68,070,000.00 KZ Tenge which is equivalent to Euro 192,958.6¹.

From January 01, 2018 to January 01, 2020, the Legislator will reduce this index to 15,000 MCI (Euro 96,479.2).

In reaching this threshold value, a taxpayer shall be registered as the VAT payer (Article 588.2 of the Tax Code (hereinafter referred to as the “TC”). Breach of this obligation will be subject to suspension of the bank account debit transactions (Article 568.9 of the TC), and a fine imposed at a rate from 10 to 30 percent of the total amount of taxable turnover for non-registration period (Part 3, Article 269 of the Administrative Offense Code).

Thus, amounts of the taxable turnover must be monitored by the taxpayer.

¹ According to the current exchange rate of National Bank EUR/KZT 352,77.

> Tax Audits: Improvement, Development of the Preliminary Tax Audit Report, Review Board Formation

A principle² will come into force on July 01, 2017 that will be used as a basis, when a taxpayer is issued preliminary tax audit report for making tax audit report. Such Report means a document of the tax audit preliminary results.

Issue (availability) of this document will let a taxpayer prepare its objections and claims more carefully, present the case to the tax authority in advance, it would eliminate the deliberately unsound arguments of the tax authorities and avoid judicial disputes with the tax authority in the future.

Tax audit period will be suspended for a period between the date of submission of the preliminary tax audit report to the taxpayer and a date of presenting the taxpayer's objections and claims relating the preliminary tax audit report, as well as between the date of receipt of the written objections and claims to such preliminary tax audit report from the taxpayer to the tax authority and a date when such claims related decision is made. Such suspension will let a taxpayer save time for getting prepared. Thus, a taxpayer will have a chance to get ready to litigate the tax authority's actions in the superior agency or superior court, if the tax authority does not agree with the taxpayer's arguments.

In this case, it is relevant to involve a tax adviser for litigation support.

It also envisages rules where taxpayer's claims relating the tax authority's³ decisions will be reviewed by the Competent Authority Review Board of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan. This collegial board will ensure more detailed review of the taxpayer's claims relating decisions and actions of the tax authority.

This type of support includes such particular aspects as cooperation with the auditors, examination of the tax audit report, disputes elimination (resolution) prior to their recording, professional training of all the required procedural instruments, and appealing of the audit notice targeted to achieving specific practical effects for the benefit of our clients.

It also envisages rules where taxpayer's claims relating.

Being practically qualified and experienced in the support services, Rödl & Partner Company will assist you in the tax audit process, from the very beginning to getting results of appealing actions of the tax authorities with the State Revenue Committee and courts of the Republic of Kazakhstan.

² § 636-1 on Introducing Amendments and Additions to Tax Legislation dated November, 2017 No. 26-VI (come into force July 1, 2017).

³ § 671 on Introducing Amendments and Additions to Tax Legislation dated November, 2017 No. 26-VI (come into force July 1, 2017).

Innovation in the Law “On Obligatory Social Health Insurance”

From **Zarina Yermukhambetova**, Rödl & Partner Kazakhstan

Health Insurance Program will be introduced in the Republic of Kazakhstan according to the Law “On Obligatory Social Health Insurance” dated November 16, 2015 (hereinafter referred to as the “Law”). This Program is based on the joint and several liabilities of three parties: Government, Employer and Employee.

Primarily the rights and obligations of the Kazakhstani residents will be governed under the Law above mentioned. It is important to note that the foreign citizens and non-residents permanently residing in the Republic of Kazakhstan will be amenable to law.

Joint and several liability means that the government, employers and individuals will be liable to pay the mandatory contributions and deductions to the Social Health Insurance Fund (hereinafter referred to as the SHI Fund).

The Employer will pay the estimation (deductions) and contributions to the SHI Fund to be paid by the Employee based on the Employee’s revenue.

Pursuant to the Article 27.1 of the Law, the Employer will pay the deductions at a rate of five percent (5 %). It is important to note that before 2020, the rate will increase. Accordingly, in 2017 the contributions rate will be 2 %, in 2018 it will be 3 %, in 2019 – 4 %, and in 2020 – 5 %.

In respect of Employees, according to the Article 28.1 of the Law, the contributions will start in 2019 at a rate of 1 %, in 2020 it will be 2 %.

Moreover under the Article 29 of the Law, the monthly income used to calculate the deductions and/or contributions must not exceed 15-fold amount of the minimum wage (MW) set for the respective budget year.

It should be noted, if a monthly wage of a person to pay the deductions and (or) contributions is less than the MW amount determined by the Law and valid as

of January 1 of the respective fiscal year, then the contributions and/or deductions shall be based on the MW amount in their payment or calculation.

Thus, the minimum and maximum limits of the Employer’s monthly deduction rates were determined to be paid to the SHI Fund for each employee in the relevant fiscal year. Pursuant to the Article 30.1, in 2017 the minimum monthly deduction rate will be KZ Tenge 489.18, and maximum monthly rate will be KZ Tenge 7,337.70.

> Calculation examples:

If a monthly employee’s salary is KZ Tenge 200,000, the deductions amount to be paid by the Employer in 2017 will be $200,000 * 2 \% = 4,000$ KZ Tenge.

If a monthly employee’s salary is KZ Tenge 400,000, the deductions amount to be paid by the Employer in 2017 will be $366,885 * 2 \% = 7,337.7$ KZ Tenge. The maximum deductions limit is used in this case: $MW 2017 = 24,459 * 15 = 366,885$ KZ Tenge.

> Implementation Period:

Due to amending and modifying the Law dated December 22, 2016, a term for deductions to the SHI Fund to be paid by the Employers, contributions to be paid by the individual entrepreneurs, private officers of justice, private notaries, professional mediators, lawyers, and individuals those obtaining their income under the civil law contracts, was postponed from the January 1, 2017 to July 1, 2017.

The Government will start paying the contributions to the SHI Fund from January 1, 2018.

Actual changes in the field of a labor migration in the Republic of Kazakhstan

From **Korlan Alikhanova**, Rödl & Partner Kazakhstan

At the beginning of November, 2016 we have already announced on our website that tightening of conditions for hiring foreign employees and entry of the respective amendments to the Regulations of hiring foreign employees⁴ (hereinafter referred to as the Regulations) into force is expected in the Republic of Kazakhstan effective from January 1, 2017.

A number of planned modifications were excluded from the final version of the Regulations based on frequent discussions.

Please see the summary of the major modifications in the new version of the Regulations entered into force on January 1, 2017:

- >Exemptions from getting a Work Permit for Directors of the branches and representation offices;
- >Privileges for small branches and representation offices;
- >Changes in the Work Permit Procedure under the intra-company transfer;
- >Exceptions in paying fees for Work Permit issue.

Regulations and conditions for issuing and (or) prolonging the Work Permits to the employers to hire the foreign employees, and for intra-company transfer (approved by the Order issued by the RoK Acting Health and Social Development Minister No. 559 dated June 27, 2016)

> Cancellation of exemptions from getting a Work Permit for Directors of the branches and representation offices

Final version of the effective Regulations does not include a clear and univocal requirement for getting a Work Permit for Directors of the branches and representation offices.

Currently, the rules related to getting Work Permit are not applicable to the persons working as the managers(directors) of branches and representation offices of the foreign legal entities.

In addition, a provision that provides for availability of relevant job offers in the domestic labor market (if a person willing to find employment gets a positive evaluation issued by the employer and job centre representative) as a justification for refusal to issue the Work Permit was excluded from the final version of the Regulations.

> Additional privileges for small branches and representation offices

Significant change was extension of the list of entities not covered by the enforced compliance of local content in personnel. A paragraph about representation offices and branches of the foreign legal entities was added.

Thus, from January 1, 2017, a rule for calculating local content in personnel is not applicable to the representation offices and branches, where staff number is less than 30 persons.

> Intra-company transfer

Categories of employees and basic requirements (terms, records of service, compliance of the internal company quota) in case of employee's intra-company transfer from the parent company to its subsidiary, representation office, or branch remained in force.

Procedure for formalizing and recording the employment relations under the intra-company transfer has been specified in the final version of the Regulations. Thus, an intra-company transfer related letter or agreement between the foreign employee and foreign entity (employer) that originates a temporary transfer to Kazakhstan will be sufficient to formalize the employment relations.

The legislator has also refused from requirement for having a certified level of state language knowledge minimum elementary both for the management personnel and professionals hired under the intra-company transfer.

⁴ Regulations and conditions for issuing and (or) prolonging the Work Permits to the employers to hire the foreign employees, and for intra-company transfer (approved by the Order issued by the RoK Acting Health and Social Development Minister No. 559 dated June 27, 2016)

> Work Permit Fee

From January 1, 2017 issue of a Work Permit to engage the foreign employees will be chargeable.

A tax levy for issuing Work Permit will be charged to employers subject to the approved fee rates for issuing and (or) prolonging the Work Permits to engage the foreign employees in the Republic of Kazakhstan. Rates amount depends on the type of economic activity, it varies from approximately Euro 850 to Euro 1,100 for a foreign top management employee (first category employee).

In this case, Work Permits to engage the foreign employees under the intra-company transfer will be issued free of charge.

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Seizing opportunities

*"Despite the political crisis in Brazil and more precisely because of it, the biggest economy in Latin America, due to its resilient economic fundamentals, continues to offer multiple possibilities for investors and entrepreneurs. Seize with us the unique business opportunities in Brazil."
Rödl & Partner*

*"Every hand grasped, every foot put on the shoulders of another Casteller is an opportunity for us to create a brand-new constellation of a human tower."
Castellers de Barcelona*



"Each and every person counts" – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today. „Força, Equilibri, Valor i Seny“ (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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