





Legislative Changes Review

Kazakhstan

Translation of the original
issue dated April 13, 2021

Major news of the issue:

-  Terms of issuing of the accompanying waybills have been postponed again
-  Rules and conditions of the goods import exemption from the VAT have been approved
-  New forms of tax and customs administration
-  Draft amendments to the Rules of work in the Unified system of labor contracts account

1. Terms of issuing of the accompanying waybills have been postponed again

Source: Order of Minister of Finance of the Republic of Kazakhstan dated March 26, 2021 No.253 «On amending and supplementing of certain Orders of Minister of Finance of the Republic of Kazakhstan».

According to the above Order, certain amendments have been made in the Order of First deputy of Prime-Minister of the Republic of Kazakhstan, Minister of Finance of the RK, dated December 26, 2019 No. 1424 «On approval of the List of goods towards which the obligation on development of accompanying waybills as well as the Rules of their development and document control are applied». According to the supplements, terms of issuing of the accompanying waybills are postponed upon the following goods categories:

- 1) Biofuel, manufacturing and turnover of which is regulated by the RK Law dated November 15, 2010 «On state regulation of manufacturing and turnover of biofuel» – **postponed for July 1, 2021** (the earlier term was January 1, 2020);
- 2) Ethyl spirit and/or alcohol products, manufacturing and turnover of which is regulated by the RK Law dated July 16, 1999 «On state regulation of manufacturing and turnover of ethyl spirit and alcohol products» – **postponed for July 1, 2021** (the earlier term was October 1, 2020);
- 3) Certain types of oil products, manufacturing and turnover of which is regulated by the RK Law dated July 20, 2011 «On state regulation of manufacturing and turnover of certain types of oil products» – **postponed for July 1, 2021** (the earlier term was October 1, 2020);
- 4) Tobacco products, manufacturing and turnover of which is regulated by the RK Law dated June 12, 2003 «On state regulation of manufacturing and turnover of tobacco products» – **postponed for July 1, 2021** (the earlier term was October 1, 2020);
- 5) Goods, code of the goods nomenclature of the external economic activity of the Eurasian Economic Union and titles of which are included into the List of goods towards which the Republic of Kazakhstan, based on the obligations undertaken as conditions for joining to the World Trade Organization, apply the customs duties rates lower than the rates of the Unified customs tariff of the EEU, approved according to the international contract, participated by the Republic of Kazakhstan (besides those mentioned in the item 9 of this List) – **postponed for February 1, 2022** (the earlier term was January 1, 2021);
- 6) Goods imported to the territory of the Republic of Kazakhstan from the territory of countries-members of the Eurasian Economic Union – **postponed for July 1, 2021** (the earlier term was October 1, 2020);
- 7) Goods exported from the territory of the Republic of Kazakhstan to the territory of countries-members of the Eurasian Economic Union – **postponed for July 1, 2021** (the earlier term was October 1, 2020);
- 8) The goods subject to marking based on the international contracts and legislation of the Republic of Kazakhstan – **postponed for February 1, 2022** (the earlier term was January 1, 2021);
- 9) The goods upon which the electronic invoices are issued by Virtual stock – **November 1, 2021** (the earlier term was October 1, 2020).

2. Prolongation of the Pilot project upon the accompanying waybills till October 1, 2021

Source: [Press-service](#) of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

For the purpose of fight against the black economy and provision of transparency of the entire chain of goods flow, the Pilot project on adoption of accompanying waybills is carried out at the present time.

Penalties or other sanctions are not applied while the Pilot project. The Pilot purpose is alignment of all systems involved into the process. That was informed by Zhaidar Inkerbayev, Deputy Chairman of the State Revenue Committee of the RK Ministry of Finance.

According to Mr. Inkerbayev, in order to implement the Head of the State entrustment, the Pilot will be prolonged till October 1, 2021.

3. The Rules of adjustment of the taxable turnover within the Eurasian Economic Union borders and the Rules of recall of the application on goods import and payment of indirect taxes have been amended

Source: Order of Minister of Finance of the Republic of Kazakhstan dated March 31, 2021 No.276 «On amending and supplementing of certain Orders of Minister of Finance of the Republic of Kazakhstan».

According to the above Order, certain amendments are made in the Order of Minister of Finance of the Republic of Kazakhstan:

- Dated February 1, 2018 No. 103 «On approval of Rules of taxable import adjustment within the Eurasian Economic Union borders»;

- Dated February 6, 2018 No. 133 «On approval of Rules of recall of the application on goods import and payment of indirect taxes».

The mentioned Orders have been amended for their bringing in correspondence with the applicable law due to cancellation of the form of declaration on indirect taxes in imported goods (form 320.00) and Rules of its development.

4. Term of issuing of the statistic reporting based forms 11 and 1-invest for 2020 gets over on April 15

Source: Bureau of official statistics of the Agency on strategic planning and reforms of the Republic of Kazakhstan.

Report based on form 11 «Report on fixed assets status» is provided by legal entities dealing with business, with staff number over 100 people and/or their branches and representative offices independently on employees' number. Besides, the report is provided by state (budget) enterprises, health and education agencies, banks, insurance companies, organizations dealing in legislative sphere, the Unified accumulative pension fund, public funds, associations independently on quantity of employees (CCEA 01-94200, 94920-96).

Report based on the form 1-invest «Report on investment activity» is provided by legal entities and/or their structural and separate subdivisions dealing with investment activity, independently on quantity of employees (CCEA 01-99).

5. The form 913.00 and Rules of its development for applying of the special retail tax mode is approved

Source: Order of Minister of Finance of the Republic of Kazakhstan dated March 30, 2021 No.268 «On amending and supplementing of certain Orders of Minister of Finance of the Republic of Kazakhstan».

Sample of the form 913.00 «Declaration for tax-payers, for applying the special retail tax mode» (tax form 913.00) has been added to the website of the State Revenue Committee.

Tax form 913.00 is presented on two pages and has no attachments. The form is submitted by small and mid-sized business holders applying the special retail tax mode, to the tax authority at the place of tax-payer location quarterly not later than on the 15th date of the second month following the reporting tax period.

Taxes mentioned in the declaration are paid to the budget not later than on the 25th date of the second month following the reporting tax period.

Corporate and individual income taxes, except for the taxes withheld from payment source are calculated by the tax-payer by itself by applying the 3% rate to the taxation object for the reporting tax period.

6. Rules and conditions of the goods import exemption from the VAT have been approved

Source: Order of Minister of Finance of the Republic of Kazakhstan dated March 29, 2021 No.262 «On approval of the Rules and conditions of the goods import exemption from the VAT, upon which the term of payment of indirect taxes and execution of requirements have been changed».

Rules are developed based on sub-item 18) item 1, article 399 of the Tax Code and determine a procedure and conditions of exemption from VAT at import of the goods upon which the term of indirect taxes payment based on the item 10, article 49 of the Tax Code is changed and requirements to VAT calculation and payment at goods export to the EAEU stipulated by the article 457 of the Tax Code are executed.

The full text of the Rules can be studied [here](#).

7. Certain forms of tax applications on registration account have been amended

Source: Order of Minister of Finance of the Republic of Kazakhstan dated March 31, 2021 No.284.

According to the above Order, certain amendments have been made in the Order of Minister of Finance of the Republic of Kazakhstan dated February 12, 2018 No. 160 «On approval of tax applications forms».

The following tax application forms have been amended:

- On removal from registration account;
- On putting to the registration account;
- On registration account of people dealing with private practice (private notary, court executor, lawyer, professional mediator);
- On removal of cash-register machines from account.

Form of tax application on registration account of electronic tax-payer (attachment 12 to the Order).

8. Rules of conclusion of agreement on the investment tax credit

Source: Order of Minister of Foreign Affairs of the Republic of Kazakhstan dated March 26, 2021 No. 11-1-4/106 «On approval of the Rules of conclusion of agreement on the investment tax credit for obtainment of the investment tax credit».

According to the article 49-1 of the Tax Code, the investment tax credit is such change of the previous period tax payment term under which the tax-payer can decrease own tax-payments by 100% in certain period with further stage-by-stage payment of the credit amount.

Investment tax credit can be granted upon the corporate income tax and/or the property tax up to three years. Procedure of decrease of tax payments is determined by the concluded agreement on investment tax credit.

In order to get the investment tax credit, the applicant submits the paper application to the state income authority in State and Russian language with the following documents attached:

- 1) identity document of the applicant or a power of attorney for representative with the identity document of authorized person;
- 2) copy of the investment contract with all attachments certified by the legal entity stamp (if any);
- 3) payment schedule.

Applicant develops the preliminary payment schedule by itself based on the standard agreement. Control over the timely fulfilment of tax obligations is made by the state income authority.

In case of violation of agreement terms by the applicant, the state income committee shall forward the notification to the investment authority during five working days for the early termination of the agreement.

The full text of the Rules can be studied [here](#).

9. Additional measures on support for the small and medium business

Source: Official site of Prime-Minister of the RK.

New business support measures were announced at the meeting of the State committee on restoration of economic growth with participation of Askar Mamin, Prime-Minister.

Set of additional below-mentioned business activity stimulation measures is formed for execution of the Head of the State entrustment:

- Adoption from April 1 to July 1, 2021 of the delay for all taxes and payments from salary fund (118 CCEA);
- Delay for payment of bank credits and micro-credits by small and mid-sized business in suffered industries (346 CCEA);
- Suspension of measures on enforced withdrawal of the tax and customs indebtedness;
- Decision on transfer of implementation of the Pilot project on development of accompanying waybills and electronic invoices for the goods from July 1 to October 1, 2021 has been made;
- Period of subsidization of percent rates upon credits of the small and mid-sized business in suffered spheres of economics (93 CCEA) will be prolonged up to July 1, 2021.

10. New forms of tax and customs administration

Source: Amendments and supplements made by the Order of Minister of Finance of the Republic of Kazakhstan dated March 31, 2021 No. 275 into the Order of Minister of Finance of the Republic of Kazakhstan dated February 8, 2018 No. 146 «On certain issues of tax and customs administration».

20 forms of tax and customs administration have been revised in new edition and 7 new forms are approved, including:

- The form of tax order on withdrawal of indebtedness from natural entity (see the attachment 11 to the Order No. 146);
- Form of act of withdrawal of documents or their copies (see the attachment 15 to the Order No. 146);
- Form of notification of results of audit (attachment 17 to the Order No. 146);
- Form of notification on conduction of tax audit (attachment 20 to the Order No. 146);

- Form of notification on calculated amounts of taxes, payments to budget and social payments for the period from the liquidation tax reporting submission date to the liquidation tax audit completion date (attachment 21 to the Order No. 146);
- Form of notification on violations found as a result of office control (attachment 22 to the Order No. 146);
- Form of notification on elimination of violations found as a result of office control (attachment 23 to the Order No. 146);
- Form of decision on taking-off from registration account as tax-payer dealing with certain types of activity (attachment 24 to the Order No. 146);
- Form of notification on non-submission of declarations of natural entities within the term determined by the tax legislation of the Republic of Kazakhstan (attachment 29-1 to the Order No. 146).

Order is brought into force from April 17, 2021.

11. The new form of the certificate on amounts of obtained income from sources in the RK

Source: Order of Minister of Finance of the Republic of Kazakhstan dated April 2, 2021 No. 297.

The new edition contains the form of certificate on amounts of obtained income from sources in the RK and withheld (paid) taxes approved by the Order of Minister of Finance of the Republic of Kazakhstan dated January 19, 2018 No. 38 based on the article 676 of RK TC.

Order is brought into force from April 19, 2021.

12. Confirmations for the Rules of calculation and return of deductions and contributions on obligatory social health insurance

Source: Order of Minister of Healthcare of the Republic of Kazakhstan dated February 27, 2021 No. ҚР ДСМ-21.

Amendments are made in the Order of Minister of Healthcare of the Republic of Kazakhstan dated June 30, 2017 No. 478 «On approval of the Rules of calculation (withholding) and transfer of deductions and contributions on obligatory social health insurance and Rules of return to payers of excessive (mistaken) calculated amounts of deductions, contributions and/or fine for untimely and/or incomplete payment of deductions and/or contributions», enacted from March 20, 2021.

Particularly, the Rules and terms of calculation (withholding) and transfer of deductions and contributions on obligatory social health insurance contains amendment of the sub-item 11) item 7, confirming that the state contribution on obligatory social health insurance are paid for «non-working kandasas» (in the previous edition – for «non-working oralman (repatriates)»).

Relevant amendment is made in the form of Application on demand for the budget funds in the form of state contribution on obligatory social health insurance for the persons relieved from payment of contributions into the fund of obligatory social health insurance (attachment 4 to the Rules).

In the Rules of return to payers of excessive (mistaken) calculated amounts of deductions, contributions and/or fine for untimely and/or incomplete payment of deductions and/or contributions, in the sub-item 2) item 3 the below paragraph 3 is cancelled:

«Payers making deductions and/or contributions by cash, shall attach the copy of the payment document or document confirming payment of deductions and/or contributions instead of the confirmation certificate».

Correspondently, the new edition contains the form of application for return of excessive (mistaken) deductions and/or contributions and/or fine (attachment 1 to the Rules).

13. On determination of incomes of natural entities

Source: Order of Minister of Finance of the Republic of Kazakhstan dated March 18, 2021 No. 231.

Amendments and supplements have been made into the Order of First deputy of Prime-Minister of the Republic of Kazakhstan, Minister of Finance of the RK, dated March 16, 2020 No. 275 «On approval of the Rules of determination of natural entities income subject to taxation by indirect method».

Items 1 and 2 have been amended, where the procedure of determination of natural entities income subject to taxation by indirect method in course of tax control, reflected in tax declarations.

Items 12 and 13 have been amended, where it is confirmed that the data determined by indirect method is compared to the data and amounts specified in tax declarations; supplemented by the item 13-1 specifying that non-submission by natural entity of the declaration is considered as confirmation of absence of such natural entity's income subject to taxation and property subject to state registration.

Besides, the item 14 was revised according to which in cases when the natural entity's income reflected in tax declarations does not correspond to its expenses for personal needs including purchase of the property, the state income authority will determine the income and tax based on the made expenses with account of the income of previous periods.

Amendments are published on March 31, 2021 and enacted upon expiration of ten calendar days from the publishing date.

14. Draft amendments to the Rules of work in the Unified system of labor contracts account

Source: Portal «Open regulatory legal acts».

Publishing of the draft amendments foreseeing changing the applicable Rules of submission and obtainment of the data on labor contract in the Unified labor contracts account system (Order of Minister of labor/social protection of RK dated September 3, 2020 No.353).

The draft amendments foresee prolongation of terms of entry of the data on labor contracts, for example:

- Conclusion of the new labor contract – from 5 to 10 working days;
- Correction of made mistakes in the additional data – from 30 calendar days to the term-less period;
- Labor contract termination – from 3 to 5 working days.

The draft also foresees the following amendments:

- According to the current revision of the Rules, the data can be registered in the Unified labor contracts account system only by the employer or Head of the HR service. The draft amendments foresee the work in the Unified labor contracts account system also for the HR service employee fulfilling the relevant obligation;
- The additional data on the employee registered by the authorized entity in the Unified labor contracts account system can contain the data on taking the social vacation by the employee, as presently it is possible to register in the system the additional information only about the work/rest modes, basis for the labor contract termination, military obligation.

Planned amendments are at the public discussion till April 16, 2021. After acceptance, the amendments shall come into force upon expiration of ten calendar days from the official publishing date.

15. Retrospective amendments upon the obligatory pension contributions from January 1, 2021

Source: Resolution of the Government of the Republic of Kazakhstan dated April 6, 2021 No. 210.

Amendments are made in the Resolution of the Government of the Republic of Kazakhstan dated October 18, 2013 No. 1116 «On approval of Rules and terms of calculation, withholding and transfer of obligatory pension contributions, obligatory professional pension contributions into the Unified accumulative pension fund and withdrawals upon them».

According to the data of the regulatory legal acts, item 6 of the Rules has been amended by the sub-item 3-1):

«3-1) specified in the item 1, article 341 of the Tax Code, except for those stipulated by sub-items 12), 26), 27) and 50) of the item 1, article 341, as well as sub-items 42) and 43) of the item 1, article 341 of the Tax Code (in a part of the lost revenue (income). Thus, the obligatory pension contributions into the Unified pension fund are not withheld from income foreseen by the paragraph 6 of the sub-item 17), item 1 of the article 341 of the Tax Code».

Resolution is enacted upon expiration of ten calendar days from its first official publishing date and shall be applied to the relations having occurred from January 1, 2021.

We remind, that earlier the sub-item 3 of the item 6 has been cancelled from the Rules based on resolution of the RK Government dated 28.05.2020 № 332. Therefore, the current Resolution has returned the mistakenly removed item, having redressed a justice.

16. Opening of accounts on voluntary pension contributions

Source: Official site of the Unified accumulative pension fund.

From May 1, 2021, basis for opening of the individual pension account for accounting the voluntary pension contribution will be the first voluntary pension contribution having arrived at the Unified pension fund.

Voluntary pension contributions can be made both by contributor – the natural entity – by its own income in its favor and contributor (natural or legal entity) in favor of the recipient. Thus, size and periodicity of contributions is determined by the contributor by itself.

Identification of natural entity, in favor of which the voluntary pension contributions are made, will be carried-out based on the personal data (name, IIN, date of birth), specified in the electronic payment order. The other data such as details of valid identity document confirming the natural entity personality, place of constant residence, and other data will be obtained by the Unified pension fund from relevant informational systems of state authorities.

17. Amendments to the laws on protection of personal information

Source: Portal «Open regulatory legal acts».

Amendments into the legislative acts of the Republic of Kazakhstan have been made upon the personal data protection issues.

It is suggested to make the amendments into the item 145 «Right for own picture».

The suggested version states that use and distribution of picture of the other entity (including its photos, video-records or art pieces on which it is reflected) is allowed only with consent of such entity or its legal representatives, and after its death – with consent of its heritors.

Such consent is not demanded if:

- Picture of the entity is obtained in course of film-shooting executed in free public places or at public events (meetings, conferences, concerts, performances, sport events and similar events) except for the cases when such picture is the main use object;
- The entity posed for certain payment;
- The entity has made the administrative or criminal legal violation;
- State official or employee of the quasi-governmental sector fulfills its official obligations at the working time;
- It is stipulated by legislative acts.

Besides, the amendment is made which foresees restriction of access to the personal data from state authority rendering the state services.

Moreover, the item is added stating that distribution of the personal data in public resources as well as collection, processing and distribution of the personal data in public resources is allowed in case of availability of consent of relevant entity or its representative.

The law is supplemented by the new article on notifications about the fact, start or termination of collection and processing of the personal data. For example, the operator, before start of collection, processing (in case of collection, processing) of the personal data as well as termination of collection, processing of the personal data shall inform the state authority.

Consent for collection, processing of the personal data shall be granted by clear confirming action with help of which the entity or its legal representative demonstrate the voluntary and certain consent for processing of the personal data related to such entity (trustor).



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